

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 4 | Issue 5

2021

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

Child Sexual Abuse: The Unheard Cry of a Child

ANUBHAV CHAUDHRY¹

ABSTRACT

A child is considered the key to unlocking the door to the growth of any country. If a child is cared for rightly, he can do wonders; however, these young minds are being tortured and abused in the present modern world. They are being indulged in unhealthy practices of pornography. There is the sword of Damocles on a child in the form of child abuse and sexual harassment. Neurological studies show that the early years are the most crucial in a child's life. Hence, optimizing these years of a child's life is the best investment we can make to develop their future. Thus, the hour requires to protect these young minds to preserve the country's future. POCSO Act 2012 showed a ray of hope to achieve the same motive. However, the recent increase shown in these crimes shows the futility of this Act. In the landmark judgment, the Supreme Court ruled that a man who has sex with his minor wife is culpable of rape. The move is presumed to go a long way in discouraging the practice of child marriage in India. It is also likely to bear the criminality of marital rape. This issue has been widely debated both by parliament and the courts. The exception carved out under S. 375 (which defines rape) exempting marital rape for minors is artificial and contrary to Article 21 (right to life) of the Constitution of India. The purposive reading down was done to align with the POCSO Act, 2012, in the spirit of other pro-child law enactment and the human rights of a married girl child.

Keywords: *Child, Sexual Abuse, POSCO Act, Rights, Protection.*

I. INTRODUCTION

This paper highlights the growing problem of sexual offences on children in India and the changes and challenges the Indian Legal system faces after the advent of the POSCO Act, 2012, with its main aims being to break down the mainstream accomplishments of POSCO and the growing areas of concerns in its execution primarily dealing with child marriages and consensual intimacy among adolescents.

This research tried to emphasize the increasing issue of sexual crimes on married children under 18 in India and the challenges and changes Indian law faces after the advent of the

¹ Author is a student at Amity University, Noida, India.

POCSO Act, 2012 with its fundamental purpose being to analyze the significant achievements of POCSO and the developing grounds of concerns in its execution mainly dealing with child marriages and consensual intimacy between adolescents.

The Act came into effect on the 14th of November 2012 ²in order to effectively deal with the growing crime rate against children, especially sexual exploitation and sexual abuse, through less equivocal and more stringent provisions, the ministry of Women and Child Development championed the establishment of the POCSO Act, 2012. The Act describes a child as a person under the age of 18 years. It regards the best concerns and well-being of the child as paramount importance at every stage to ensure the child's healthy physical, emotional, intellectual development. It describes different forms of sexual abuse, including non-penetrative and penetrative assault and pornography and sexual harassment. It regards a sexual assault to be "aggravated" under specific situations, such as when the abused kid is mentally ill or when the abuse is committed by an adult in a position of trust or authority vis-à-vis the kid, like a family member, teacher, police officer, or doctor. Individuals who traffic youngsters for sexual purposes are additionally culpable under the provisions identifying abetment in the Act. The Act advises severe punishment graded as per the offence's intensity, with a maximum term of rigorous incarceration for life and fine. ³

Section 44 of the POSCO Act, 2012 enables the NCPCR and State Commission for Protection of Child Rights to monitor the implementation of this Act's provisions in such manner as may be prescribed. In the discharge of its duties, NCPCR has been taking up the matter regarding the execution of the POCSO Act regarding the following aspects:

- Appointment of Special Public Prosecutors;
- Appointment of Special Courts.
- Designation and execution of modules for training of various stakeholders;
- Conceptualization of Guidelines u/s 39 of POCSO Act for different stakeholders;
- Setting up of Child Welfare Committees (C.W.C.s), District Child Protection Units (CPUs) and Special Juvenile Police Units (SJPU)s;
- Steps taken for laying out the awareness on the provisions of the POCSO Act;

²Press information Bureau government of India ministry of women and child development, Protection of Children from Sexual Offences (POCSO) Act, 2012 on 19/12/2014 16:11 available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=113750> last visited on 14/01/2017 00:19

³ Press information Bureau government of India ministry of women and child development under Protection of Children from Sexual Offences (POCSO) Act, 2012 on 19/12/2014 16:11 available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=113750> last visited on 14/01/2017 00:09

- The number of F.I.R.s filed under the Act, cases in which charge-sheet filed, reimbursement awarded to the victims, number of cases in which accused convicted/acquitted, number of cases in which witness turned threatening, cases in which appeal has been documented.
- Number of the trial of sexual abuse cases which have been pending with Special/Session Court for more than a time one year;
- Number of applications for compensation received by District Legal Services Authority, number of cases compensation awarded by the Special Court, number of cases pending for receiving compensation for more than 30 days.⁴

II. EVOLUTION OF POCSO ACT

During 2007, the Ministry of Women and Child Abuse surveyed what percentage of children had faced child abuse; shockingly, 53% of the total child population had been victims of child abuse. At the end of the survey, people were asked if there should be a law against this crime 99.6% of the people said "yes". This was one of the indications of increasing public pressure of law, which was passed by both houses of parliament on the 22nd of May 2012 and came into effect from children's day, i.e., the 14th of November 2012.⁵ Concerned about increasing offences against children, the government enacted the POCSO Act, 2012 to protect children from these offences while also keeping in mind to safeguard the interest of the child at every stage of the judicial process by making child-friendly mechanism for reporting, recording of evidence, investigation and speedy trial of such offences through the designation of a special court.

NCRB Report

National Crime Records Bureau gave the following report in 2014, which helped us analyze few states that needed immediate action and focus. Eight thousand nine hundred four incidences and 8990 victims were reported from 29 states and 7 Union Territories under the Protection of Children from Sexual Offences Act. Out of which Uttar Pradesh under the POCSO Act stood highest with 3637 number incidences and victims.⁶ The graphs herein will

⁴ Press information Bureau government of India ministry of women and child development under Protection of Children from Sexual Offences (POCSO) Act, 2012 on 19/12/2014 16:11 available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=113750> last visited on 14/01/2017 00:09

⁵DECODING POCSO The Protection of Children against Sexual Offences Act easily explained available at <http://www.satyamevjayate.in/sitemap.aspx> last visited on 15/01/2017 14:53

⁶ Srishti Agnihotri and Minakshi Das, The Pocso Act: A Quick Review, 10 YEARS OF KAFILA – OUR COMMON JOURNEY, 10/12/2015, available at <https://kafila.online/2015/12/10/the-pocso-act-a-quick-review-srishti-agnihotri-and-minakshi-das/>, last visited on 15/01/2017 21:39

help us analyze the states with the highest number of cases registered under POCSO. Although there could be several reasons that can lead to underreporting or over-reported. However, it is vital to act upon states that have actively registered and reported child sexual abuse (UP, Tamil Nadu and West Bengal). 2015 also had an increase of 5.3% in crimes against children as compared to 2014. With 41,893 kidnappings and kidnapping of young kids, the offence established 44.5% of total cases of crimes against kids. It was firmly trailed by sexual offences, which numbered 34,452. Rapes had the most significant share of this at 10,854 cases. Under the stringent POCSO, 14,913 cases were registered, of which 8,800 were rapes. Classification based on the relation between the accused and the victim shows that close to 95% of victims knew the accused.⁷ As indicated by information by the National Crime Record Bureau, a sum of 109 kids were physically mishandled each day in India in 2018, which showed a 22 per cent hop in such cases from the earlier year. According to the recently released NCRB data, 32,608 cases were reported in 2017, while 39,827 cases were reported in 2018 under the Protection of Children from Sexual Offences Act (POCSO). Child sexual abuse is a multi-dimensional issue having social, medical, legal, and psychological implications. POCSO⁸ Act has come up with a ray of hope to reduce this child sexual abuse, but still, there were many challenges before this Act.

III. DISSENSION ON THE AGE OF CONSENT

Suppose the 'victim' is under the age of 18 years. In that case, all the sexual acts with him/her under POCSO Act will be, without any exception, will be considered a criminal offence. This is regardless of the age of the perpetrator or issue of consent. When there is consensual sex between two minors, the concept of perpetrator and victim becomes interchangeable because the law inflexibly criminalizes the sexual behaviour for minors, i.e., under-18 years old. Moreover, this Act does not have any provision regarding sexual autonomy to children who may become responsible for sexual acts under the law.

Further, POCSO invariably criminalizes a juvenile committing child sexual abuse to be dealt with under the Juvenile Justice (care and protection of children) Act, 2000 [Section 34(i)]. However, a Special Court Judge in the 2013 case rejected the notion that the Human body of a person under 18 years of age is the state's property. In this case of 2013, a 15-year-old girl willingly eloped with a 22-year-old man and got married to him. Further, the court held in this

⁷ National Crime Records Bureau data, 2015: Slight dip in rape, crime against women Indian express 1 september 2016 available at <http://indianexpress.com/article/explained/national-crime-records-bureau-data-2015-slight-dip-in-rape-crime-against-women-3004980/> last visited on 15/01/2017 23:16

⁸ Sexual abuse in women with special reference to children: Barriers, boundaries and beyond. Behere PB, Sathyanarayana Rao TS, Mulmule AN Indian J Psychiatry. 2013 Oct; 55(4):316-9.

case that penalizing or criminalizing such behaviour will not serve the very purpose of the enactment of the Act.⁹ Hence, there is a tension between the letter of the law and its implementation in natural scenes. The actual intent of the law with which it was made. The determining factor for the allegation that underage sex was forced or consensual will significantly depend on an individual's interpretations of the conditions. The law is either exceptionally prohibitive of kids' autonomy or very permissive of child sexual abuse.¹⁰

IV. PROBLEMS WITH OBLIGATORY REPORTING

The obligatory reporting by any citizen, especially those working with children and young people working in educational, social, religious and health sectors, is already enshrined in section 19 of the POCSO Act. Furthermore, if failed to do so, will carry legal sanctions of imprisonment of up to 6 months and fines to encourage compliance with the law. It is evident from other countries(U.S.A., Australia) reports that mandatory report has had mixed success(Kim et al. 2012; Ainsworth 2002).¹¹ Moreover, it was reported from Report for the Royal Commission into Institutional Responses to Child Sexual Abuse¹² that since the very goal of mandatory reporting is to encourage the reporting not to police it, hence failures to report are rarely prosecuted under some jurisdictions¹³ Specific to the Indian context, this mandatory reporting obligation raises under POCSO Act three significant issues:-

- Criminalizing sex under 18 years of age will discourage those health professionals and academicians who might be reluctant to impart education on safe sex practices or treat the effects of unsafe sex practices with breaking the confidentiality of their patient and without getting involved in reporting the same to the authority concerned.
- The law raises many issues, especially the trust between institutions, charities and organizations who are reluctant to work with young people, inferior and backward communities

⁹ 11The Times of India. (2013). "Consensual sex with minor not a crime, Delhi court says", 26th August. <http://timesofindia.indiatimes.com/city/delhi/Consensual-sex-with-minor-not-a-crime-Delhi-court-says/articleshow/22056783.cms> , Jyoti Belur and Brijesh Bahadur Singh, An Interdisciplinary Journal 2015 available at <https://crimesciencejournal.springeropen.com/articles/10.1186/s40163-015-0037-2> last visited on 25.01.2017 at 10:31 am

¹⁰ Jyoti Belur and Brijesh Bahadur Singh, An Interdisciplinary Journal 2015 available at <https://crimesciencejournal.springeropen.com/articles/10.1186/s40163-015-0037-2> last visited on 25.01.2017 at 10:31 am

¹¹ Ainsworth, F. (2002). Mandatory reporting of child abuse and neglect: does it really make a difference? Child and Family Social Work, 7, 57–63, Jyoti Belur and Brijesh Bahadur Singh, An Interdisciplinary Journal 2015 available at <https://crimesciencejournal.springeropen.com/articles/10.1186/s40163-015-0037-2> last visited on 25.01.2017 at 10:31 am

¹²Jyoti Belur and Brijesh Bahadur Singh, An Interdisciplinary Journal 2015 available at <https://crimesciencejournal.springeropen.com/articles/10.1186/s40163-015-0037-2> last visited on 25.01.2017 at 10:31 am

¹³ <https://crimesciencejournal.springeropen.com/articles/10.1186/s40163-015-0037-2> last visited on 25.01.2017 at 10:31 am

and children. This breach of trust will severely jeopardize their endeavours to speak with and work with youngsters in case they lawfully will undoubt report any information on consensual, though underage, sex.¹⁴ The absence of preparation for experts (specialists, educators, analysts, social labourers, advocates) working with children to deal with the knowledge of sexual activity and respond appropriately can be an additional problem.¹⁵

- The enforcement of mandatory reporting is also a big problem because already police are overloaded with a bulk of works. Hence, they scarcely possess the capacity to do so. So, mere making an obligation to implement the law is not sufficient; instead, a proper enforcement plan to make a law successful. There is a peril that the law might be utilized just reflectively to rebuff offences instead of guarantee forthcoming detailing of suspected C.S.A. by competent authorities in appropriate cases.¹⁶

V. CONFLICTS ON AGE DETERMINATION

Age determination of the victim and the offender is brimful of troubles. According to Section 34(2), the special court is authorized to determine the age. However, there is no proper procedure prescribed to determine the age. It is generally acknowledged that forensic means of establishing the age of a living person can be inexact and quite complicated.¹⁷ The Supreme Court of India gave it in *Baboo Pasi vs State of Jharkhand and Anr.* 2008. Supreme Court of India.¹⁸ that it is complicated to determine the age, especially in the absence of birth certificate or other official documents. However, a specially constituted medical board may be helpful in age determination. However, it cannot be a conclusive factor to do so. The Supreme Court further stated that a hyper-technical approach should not be adopted. To avoid misuse of law, the court should lean towards giving the benefit of the doubt to the juvenile. Significantly, under POCSO Act, the age of the victim and the perpetrator plays a crucial role in deciding if and how the Act would apply and influence the outcome at the charging and trial stages. It is

¹⁴ Jyoti Belur and Brijesh Bahadur Singh, *An Interdisciplinary Journal* 2015 available at <https://crimesciencejournal.springeropen.com/articles/10.1186/s40163-015-0037-2> last visited on 25.01.2017 at 10:31 am

¹⁵ Goldman, J. (2010). Australian undergraduate primary school student-teachers' responses to child sexual abuse and its mandatory reporting. *Pastoral Care in Education: an International Journal of Personal, Social and Emotional Development*, 28(4), 283–294, Jyoti Belur and Brijesh Bahadur Singh, *An Interdisciplinary Journal* 2015 available at <https://crimesciencejournal.springeropen.com/articles/10.1186/s40163-015-0037-2> last visited on 25.01.2017 at 10:31 am

¹⁶ Jyoti Belur and Brijesh Bahadur Singh, *An Interdisciplinary Journal* 2015 available at <https://crimesciencejournal.springeropen.com/articles/10.1186/s40163-015-0037-2> last visited on 25.01.2017 at 10:31 am

¹⁷ 2003. Schmeling, A., Olze, A., Reisinger, W., Rosing, F., & Geserick, G. (2003). Forensic age diagnostics of living individuals in criminal proceedings. *HOMO Journal of Comparative Human Biology*, 54(2), 162–169 As given in <https://crimesciencejournal.springeropen.com/articles/10.1186/s40163-015-0037-2> visited on 25.01.2017 at 10:31 am

¹⁸ 2008. Supreme Court of India. (2008). *Baboo Pasi vs State Of Jharkhand and Anr.*, 3rd October. (<http://indiankanoon.org/doc/1923647/>) Available at <https://crimesciencejournal.springeropen.com/articles/10.1186/s40163-015-0037-2> ;last visited on 25.01.2017 at 10:31 am

double trouble for a developing country like India, where the majority of births are unregistered. Hence, it becomes a challenge to determine the age when there is no trace of official documents like birth certificates, school leaving certificates in some instances.

VI. THE JUDGMENT AND ITS REPERCUSSIONS

The judgment handled the ever-lasting question of whether sexual intercourse between a man and his wife aged between 15-18 is rape or not? The view in favour of girl child goes unsupported mainly by the 172nd Law Commission report where it was suggested that "a particular case be added to Section 375 of the I.P.C.; such that sex by a man with his better half, the spouse not being under 16 years old, is not rape".

The view is upheld by particular case 2 area 375, which unequivocally expresses that "Sex by a man with his significant other, the spouse not being under fifteen years old, does not assault". The present circumstance was held discretionary and filling no particular need by the court in the above situation where it held that "The special case cut out in the I.P.C. makes a superfluous and counterfeit qualification between a wedded young lady kid and an unmarried young lady youngster and has no levelheaded nexus with an indistinct target tried to be accomplished. The counterfeit differentiation is self-assertive and biased and is not to the greatest advantage of the young lady youngster. The counterfeit differentiation is in opposition to the way of thinking and ethos of Article 15(3) of the Constitution just as despite Article 21 of the Constitution and our responsibilities in global shows".

VII. EVIDENCE RELIED UPON

The court depended upon numerous global shows and reports that the circle of kid rights, particularly young lady rights, needs abundant security and care by the enactment. As indicated by Article 2 Clause 2 of the show on the right of the youngster (embraced by the General Assembly of United Nations on the 20th of November 1989), "State parties will take all proper means to guarantee that the kid is secured against all types of segregation or discipline dependent on the status, exercises, offered viewpoints, or convictions of the kid's folks, legitimate watchmen, or relatives". Any type of constrained sex by the spouse of a minor wife comes exceptionally close to the above provision and needs security.

In-State of Punjab v. Gurmit Singh¹⁹ "We should recollect that an attacker not just disregards the casualty's security and individual respectability yet definitely causes genuine mental just as actual mischief simultaneously. Assault is not simply an actual attack — it is regularly

¹⁹ (1996) 2 SCC 384

dangerous of the person's real character in question. A killer obliterates the actual body of his casualty, and an attacker corrupts the actual soul of the powerless female." Moreover, further assault against a minor kid has multi-dimensional repercussions for herself and her general being. As expressed in Para 77 of the judgment, "Initially, a youngster is and stays a kid paying little mind to the depiction or terminology is given to the kid. It is all around acknowledged in practically all significant rules in our country that a youngster is an individual under 18 years old". The Court additionally clarified and divided in Para 64". The conversation on the absolute trustworthiness of a young lady kid and the regenerative decisions accessible to her is fundamental to feature that she cannot be treated as aware of having any say over her body or somebody who has no privilege to deny sex to her better half. The fundamental liberties of a young lady youngster are exceptionally perfectly healthy if she is hitched and merit acknowledgment and acknowledgment."

In *Suchita Srivastava v. Chandigarh Administration*²⁰ the option to settle on a regenerative decision was compared with individual freedom under Article 21 of the Constitution, security, pride and substantial trustworthiness. It incorporates the option to go without multiplying. In passage 22 of the report, it was held: "There is no question that a lady's all in all correct to settle on regenerative decisions is likewise a component of "individual freedom" as perceived under Article 21 of the Constitution of India. Perceive that conceptive decisions can be practised to reproduce and go without multiplying. The essential thought is that a lady's all in all correct to security, pride and real honesty ought to be regarded. This implies that there ought to be no limitation at all on the activity of conceptive decisions; for example, a lady is more right than wrong to deny support in sexual movement or the emphasis on the utilization of preventive techniques."

VIII. INDIAN LEGISLATIONS

The Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act) is a fundamental resolution viable. The Statement of Objects and Reasons requiring the institution of the POCSO Act alludes to information assembled by the NCRB, which demonstrated an expansion in sexual offences against youngsters. The review authenticated the information gathered by the NCRB on Child Abuse: India 2007, directed by the Ministry of Women and Child Development of the Government of India. The Preamble to the POCSO Act expresses that it was ordered concerning the Constitution's Article 15(3). The Preamble recognizes that the best interest should be secured; a child is defined under Section 2(d) as any person below

²⁰ (2009) 9 S.C.C. 1

18 years. Securing the child's best interest is an obligation cast upon the Government of India that has acceded to the convention on the Child's Rights (the C.R.C.).

The POCSO act characterizes Penetrative rape and Aggravated Penetrative rape and condemns any sex before 18 years old. The duality, consequently, is that having sex with a young lady youngster somewhere in the range of 15 and 18 years old, the spouse of the young lady kid is said to have not submitted assault as characterized in Section 375 of the I.P.C.; yet is said to have submitted bothered penetrative rape as far as Section 5(n) of the POCSO Act.

It is noticed that because of the oddity between the I.P.C. furthermore, POCSO, the Criminal alteration, 2013, was authorized, which embedded segment 42A was expressing "42-A. Act not in defaming of another law. The courses of action will be in any case and not in the analysis of the plans of another law for the time being in power. In addition, if there ought to emerge an event of any irregularity, the arrangements of this Act will overriding affect the arrangements of any such law to the degree of the irregularity". However, it is put forward that the courts have made a lukewarm effort to implement the amendment as mentioned earlier and have continued to differentiate between married and unmarried women below 18 years of age.²¹

That is precisely where the importance of the above judgment comes into the fold. It juxtaposes the special laws enacted with I.P.C. as seen by the reference made to the Juvenile Justice Act, 2015. A youngster needing care and insurance is characterized in Section 2(14) of the J.J. Act, in addition to other things. As a youngster "who is at impending danger of marriage before achieving the period of marriage and whose guardians, relatives, watchman and some other people are probably going to be liable for solemnization of such marriage".

Essentially, Section 3 of the Protection of Women from Domestic Violence Act, 2005 (for short 'the DV Act') gives that if the spouse of a young lady youngster hurts or harms or jeopardizes the well-being, security, life, appendage, or prosperity, regardless of whether mental or physical, of his better half including by causing actual maltreatment and sexual maltreatment, he would be obligated to have an insurance request gave against him and pay to his significant other. Clarification, I (ii) of Section 3 characterizes 'sexual maltreatment' as including any lead of a sexual sort that maltreatments, embarrasses, debases or in any case disregards the nobility of a lady. In this manner, it is clear that Indian enactments have the necessary arrangements to guarantee the insurance looked for kids under the global shows.

²¹ Yubusbai Usmanbai Shaikh v. the State of Gujarat, Mujamil Abdul Sattar Mansuri v. the State of Gujarat

IX. THE SOLUTION TO THE PROBLEM

The court hung on the above contemplations held that "Special case 2 to Section 375 IPC ought to be perused down to bring it inside the four corners of law and make it reliable with the Constitution of India. 88. Due to the above conversation, it is plainly of the assessment that Exception 2 to Section 375 IPC to the extent that it relates with a young lady kid under 18 years is responsible for being struck down on the accompanying grounds:– (I) it is discretionary, and violative of the privileges of the young lady youngster and not reasonable, just and sensible and, accordingly, violative of Article 14, 15 and 21 of the Constitution of India; (ii) it is biased and violative of Article 14 of the Constitution of India and; (iii) it is conflicting with the arrangements of POCSO, which should win. Accordingly, Exception 2 to Section 375 IPC is perused down as follows: "Sex or sexual demonstrations by a man with his better half, the spouse not being 18 years, isn't assault". It is, nonetheless, clarified that this judgment will have a planned impact.

The judgment is straightforwardly in consonance with the need of great importance. It orchestrates the specific laws which respect the period of agreeing to be 18 and the reformatory law in the country. Does the judgment take care of the consistently developing issues of persevering youngster relationships and absence of Reporting under POCSO? Maybe not.

As plainly set down in *Muthamma Devaya and Anr. v. Association of India and Ors.*²² The approach of the threat of kid marriage is without a doubt a worry for Indian officials. Area 3 of the PCMA gives that youngster marriage is voidable at the alternative of any of the gatherings to the kid marriage – kid marriage is not void, however just voidable. Albeit the criminalization of kid relationships is available, the harmonization between PCMA, H.M.A., 1955, POCSO, I.P.C. is essential so no law can impel the insurance under some other law. Accordingly, the judgment conveyed by the Supreme Court has, without a doubt, filled the hole among POCSO and I.P.C. The enactment has far to go. The mindfulness programs need a push, so kids are made mindful of their privileges and that the compulsory announcing problem is addressed.

X. CLASH OF CHILD MARRIAGE AND POCSO ACT

Law should be made with practicality instead of ideality and keeping in mind the veracity of the general public where it is expected to be joined. Otherwise, even the noblest intentions to make law will get staggered by some real-life cases. This deems fit in the Indian scenario. In India, POCSO Act, in conjunction with the Child Marriage Act 2006, is intended to prevent

²² Writ Petition No.11154/2006

minor girls from being forced into early marriages. However, this is a worthwhile goal to achieve. However, cultural and social norms in supporting child marriages in India create a significant obstacle in achieving this goal and a miscarriage of justice.

Moreover, in combination with the questions on consented age, mandatory reporting and age determination criteria, child marriage worsens the situation even though the level of ladies weddings at age 21 years or more is at 64.5% at the general level. In the example enlistment framework factual report delivered by the recorder general and registration magistrate of India, the information for 2018 shows that girls who were married before reaching 18 years of age were 2.3%. So, there might be millions of potential lawsuits in India. This could ultimately lead to enormous wastage of time and resources of the criminal justice system while dealing with cases of consent to marriage by a girl between the age of 15-18 years. Thus, it is highly hazardous and may make obstacles in the path of justice.

XI. THE MEDICAL DILEMMAS

POCSO Act is an excellent approach to deal with the children protection Act, but it still needs to cover a long distance. POCSO Act makes provisions for the protection of children from sexual abuse. It makes some provisions for medical examination of children in the least distressful manner. Moreover, it also states clearly that a doctor should not demand any legal document or legal records or procedure be completed before the initiation of the examination process. It also mandates that doctors must register the medico-legal case in all cases of child sexual abuse. Failure to penalize (six months and fine) the doctor under Section 21 of the POCSO Act, 2012. The enlisted clinical specialist delivering clinical consideration will:

- Treat The Physical and Genital Injuries,
- Collect Evidence After a Thorough Medical Examination,
- Conduct Age Assessment of The Victim,
- Offer Prophylaxis for Sexually Transmitted Diseases Including H.I.V.,
- Do Baseline Evaluation for Mental Health Issues,
- Talk about Emergency Contraceptives with The Pubertal Child and Her Parent,
- Help The Court in Interviewing The Child And Testifying In The Court
- Do Family Counseling And

- Month to month Follow Up At Least For Six Months to Look for Development of Psychiatric Disorders,²³

One more essential provision made in this direction under this law is that no hospital under the jurisdiction of the Indian Constitution can deny the admission and treatment of the victim of child sexual abuse. This issue has been re-emphasized in Section 23 of the Criminal Law Amendment Act, which supplements Section 357C into the C.P.C., 1973.²⁴ This section also provides that hospitals provide first-aid or medical treatment to sexual abuse victims free of cost. It has been mentioned in the amended Act Section 166B of the Indian Penal Code that no hospital, whether private or public, can deny the treatment of a rape victim. It should be immediate and free of cost. There is the provision of imprisonment of hospital staff for seven years if found involved in rape. Despite all these provisions to support victims of child sexual abuse, still, at many points, it is silent enough to create a situation of dilemma and dissensions. POCSO Act is silent and does not specify any direction when the question comes to the child/adolescent's consent to undergo a medical examination, especially when there is denial from his/her side; however, the relatives or exploring official prompt for the clinical assessment. Notwithstanding, it will be a judicious advance to take the parent's consent when the child is below 12 years of age and take the consent of the adolescent victim, i.e., between the age group of 12-18 years. Nevertheless, in cases of immediate treatment, consent or legality to protect a child's life should not be considered.

The POCSO Act specifies clearly under Section 27(2) that in the instance of clinical assessment of female youngster/juvenile casualty, it ought to be finished by the female specialist, as it were. Nonetheless, in the event of crisis clinical therapy, any clinical official should be available. Simultaneously, The Criminal Amendment Act, Section 166A of the Indian Penal Code, orders that the public authority clinical official be available to examine rape victims without fail. Hence, a conflicting legal position situation arises when a female doctor is absent in such a situation.

XII. HELPLESSNESS OF JUDICIARY

Judiciary is a giant ray of hope for proper delivery of justice and reliving the victims. POCSO Act also contains provisions for quick delivery of justice. Section 35 of the POCSO Act

²³ Sydney Moirangthem, Naveen C. Kumar, and Suresh Bada Math, Child sexual abuse: Issues & concerns, *Indian J Med Res.* 2015 Jul; 142(1): 1–3. doi: 10.4103/0971-5916.162084 Indian journal of medical research As available on <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4557243/> last visited on 25.01.17 at 10:31 am

²⁴ The Criminal Law (Amendment), 2013. [accessed on October 10,2014]. Available from: <http://indiacode.nic.in/acts-in-pdf/132013.pdf> available on <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4557243/> last visited on 25.01.17 at 10:31 am.

specifies that the testimony of a child to be taken within the month of taking of cognizance of court and the trial within a year of the same. Nevertheless, due to the overburden on our courts, this is often flouted instead of being strictly complied with.

Moreover, adjournments (either due to the lawyer's tendency to take or external factors such as strikes in courts) also add to the late delivery of justice. Sometimes, it happens that the date for the next hearing is given six to seven months later. In similar cases, it can happen that the child victim may not recall all the incidents accurately and hence, reducing the accuracy of facts and incidents.

XIII. SEXUAL INTERCOURSE WITH A MINOR WIFE

There are plenty of laws in India like the Protection of Children from Sexual Offences Act (POCSO), Prohibition of Child Marriage Act (P.C.M.), Protection of Women from Domestic Violence Act (PWDV), Commissions for Protection of Child Rights Act (CPCR) and Indian Penal Code (I.P.C.) which protects children from the menace of the Child marriage and their sexual exploitation at the hands of their husbands.²⁵

Recently, Bachpan Bachao Andolan (B.B.A.), an organization that works for the government assistance of the kids in India, documented a Writ Petition under the watchful eye of the Supreme Court of India in February 2016. This Writ Petition was documented to shield the kids from the scourge of youngster marriage conceded by the general public in previous days and still solicited by individuals because of the absence of mindfulness and instruction. It additionally looked to shield the kids from the evil of kid relationships and conjugal assault in their relationships through the POCSO Act.

The primary issue raised by this petition is regarding the immunity from the offence of rape granted by Section 375 of the Indian Penal Code (I.P.C.), which renders the children deprived of any recourse to remedy when they are married before the age of 18 years. The I.P.C. grants immunity to the husband of the wife above the age of 15 years. This problem is said to be covered by the offence committed under the POCSO Act, which is called penetrative rape and disturbed penetrative rape. Opposite, Courts in India do not apply the POCSO Act because of the insusceptibility. They do not consider the abrogating part of 42A of the POCSO Act. They neglect to recognize two offences.

The S.C provided a fitting Order on 05.01.2017, after hearing the writ as referenced above appeal. It unmistakably expressed that this matter should be taken to the Ministry of Women

²⁵ <https://thelawblog.in/2017/01/21/pocso-v-ipc-menace-of-child-marriage-in-india/>

and Child Development.²⁶ Section 46 of the POCSO Act gives the capacity to Central Government to eliminate any trouble that emerges in offering impact to arrangements referenced under the Act. Indian Penal Code, 1860 also protects the wife under section 498A, which defines cruelty and may cover the offences that the POCSO Act illustrates. Further, PWDV Act also provides standard solutions for such kinds of offences.

Of late, Gujarat High Court experienced a case concerning youngster marriage under the Sharia Law, which disregarded the P.C.M. Act. This case was petitioned for the subduing of F.I.R. against a Muslim significant who solemnized his marriage with a minor Muslim young lady who had achieved pubescence.²⁷ At the point when the arrangements of the POCSO Act and P.C.M. Act alongside the I.P.C. are applied to, then, at that point, the offence is made out for the seizing of a kid under section 361 read with section 363 of I.P.C., alongside the offence of irritated penetrative rape under segment 5 and 6, endeavour and abetment of such offence under the segment 18 of the POCSO Act, and segment 9, 10 and 11 of the P.C.M. Act, for directing a kid marriage. Lamentably, no case was enlisted under the POCSO Act and P.C.M. Act in the last case. The case was documented distinctly under I.P.C. Further, Justice J.B. Pardiwala held that no coercive measures ought to be taken against the charged while researching the case by the police for the seizing of the minor. He also requested that the examination be sought after according to the standards set somewhere near him on account of Yunusbhai Usmanbhai Shaikh v. the State of Gujarat.

In the Yubusbhai Usmanbhai Shaikh v. the State of Gujarat case²⁸, a similar Judge, Equity Pardiwala, suppressed the F.I.R. against the candidate, expressing the explanation that he depended upon the Delhi Court Judgment of Lajja Devi v. State.²⁹ The Delhi Court set out that if the young lady is over the age of 16 years and gives an assertion in regards to the assent concerning the marriage, then, at that point, that assertion could be considered for subduing of F.I.R. accusing the blamed for the offence of capturing and assault. However, he left the F.I.R. open similar to the P.C.M. Act was concerned.

While quashing the F.I.R. regarding the offence of kidnapping and rape under I.P.C., Justice Pardiwala also absolved the accused from the charge under section 18 of the POCSO Act. There was no observation in the above-mentioned Delhi High Court Judgment. Further, it is

²⁶ Bachpan Bachao Andolan v. Union of India and Ors., Writ Petition (Civil) No. 1032/2015, Order dated 05.01.2017

²⁷ Jainulaabedin Yusuf Ganji v. State OF Gujarat & Anr., Criminal Misc. Application (For Quashing & Set Aside FIR/Order) No. 30537 of 2016

²⁸ Yunusbhai Usmanbhai Shaikh v. State of Gujarat, 2015 (3) G.L.R. 2512

²⁹ Lajja Devi v. State, 2013 Criminal Law Journal 3458

pertinent that the POCSO Act does not mention anything about the child's consent as to offences, which makes assent of such unimportant.

Marimuthu v. Monitor of Police, 2016 S.C.C. Online Mad 10175, then, at that point additionally Gujarat High Court in the Yunusbhai Usmanbhai Shaikh v. Territory of Gujarat case imported such matter of agreeing to the POCSO Act. Equity Pardiwala additionally proclaimed in Yubusbhai Usmanbhai Shaikh v. the State of Gujarat that the law set down in Mujamil Abdul Sattar Mansuri v. the State of Gujarat.

Mujamil Abdulsattar Mansuri v. Territory of Gujarat, Criminal Miscellaneous Application No. 19811 of 2013 chose 01.12.2014 as lousy law as it did not discuss the impact of the P.C.M. Act all things considered and subdued the F.I.R., expressing that the assent of the minor young lady was supportive of the candidate. Equity Pardiwala likewise settled on the Mujamil case. In this manner, cases like Jainulaabedin Yusuf Ganji v. Province OF Gujarat and Anr., Yunusbhai Usmanbhai Shaikh v. the State of Gujarat Mujamil Abdul Sattar Mansuri v. the State of Gujarat and a lot more as them does not take the infringement of the POCSO Act and P.C.M. Act truly. POCSO Act does not refer to anything about youngster marriage. Nonetheless, it covers the people identified with the youngster through marriage, blood, or reception under the meaning of exasperated penetrative rape if they submit a penetrative rape. A spouse is covered under the POCSO Act.

On the off chance that Section 42A of the POCSO Act is followed, the spouse would likewise be obligated, regardless of his invulnerability under I.P.C. Thus, assault and irritated penetrative rape are isolated offences under the ambit of the various Acts. For example, on account of the Yunusbhai case, Gujarat High Court thought about the assent of the youngster. It cleared the charge, which brought about choosing the instance of penetrative rape on the lines of assault. On the off chance that that case is followed, the insusceptibility given to the spouse ought to likewise be given under the POCSO Act.

Utilization of the POCSO Act in the marriage would forestall conjugal assault in the marriage. This would imply that individuals under 18 years who are as yet hitched would be given assurance against conjugal assault, while over 18 years would have no plan of action to any such insurance. Wouldn't that be an imbalance?

To fit Exception 2 to Section 375 IPC of the with the Protection of Children from Sexual Offenses Act, 2012 (POCSO Act), the soul of other supportive of kid enactment and the fundamental liberties of a wedded young lady youngster, the seat of Madan B. Lokur and Deepak Gupta, JJ held that the Exception 2 to Section 375 of the I.P.C. to should now be

genuinely perused as: "Sex or sexual demonstrations by a man with his better half, the spouse not being under eighteen years old, is not assault." Both the appointed authorities composed agreeing, however, different decisions.

Lokur, J, expressing that holding sex with a minor spouse was the primary way by which the goal of social equity to the wedded young lady youngster and the protected vision of the composers of the Constitution could be saved, said:

"Seen according to any viewpoint, there is by all accounts no real excuse to self-assertively victimize a young lady youngster who is hitched somewhere in the range of 15 and 18 years old. Despite what is generally expected, there is each motivation to give an agreeable and purposive development to the supportive of kid rules to safeguard and secure the common liberties of the wedded young lady youngster."³⁰

Drawing a similarity between different laws land particularly with POCSO Act, Lokur, J said that while the spouse of a wedded young lady kid probably will not have submitted the rape for the I.P.C., he would nevertheless have committed aggravated penetrative sexual assault for the POCSO Act. He added that there is likewise no genuine qualification between the assault of a wedded young lady kid. He disturbed penetrative rape culpable under Section 6 of the POCSO Act. He said:

"Conjugal assault of a young lady youngster is adequately only exasperated penetrative rape, and there is no reason why it ought not to be culpable under the arrangements of the I.P.C."

Gupta, J, on the question of regardless of whether the court was making another offence, clarified that the court was only perusing down Exception 2 to Section 375 IPC to get it consonance with the Constitution and POCSO since the offence as of now exists in the focal piece of Section 375 IPC just as in Section 3 and 5 of POCSO. He said:

"This Court is not making any new offence yet just eliminating what was illegal and hostile."

He additionally saw that Exception 2 to Section 375 IPC was the central arrangement in different corrective laws that offered resistance to the spouse. He said:

"The spouse is not insusceptible from indictment taking everything into account. Like this, if the spouse beats a youngster and has persuasive sex with her, he might be charged for offences under Sections 323, 324, 325 IPC. By and by, he cannot be accused of assault."

"It does not make sense that just for the offence of assault the spouse ought to be allowed such

³⁰ Prachi, Sexual Intercourse with minor wife is rape, <https://blog.scconline.com/post/2017/10/11/sexual-intercourse-wife-18-years-age-rape-sc-holds/>

an invulnerability particularly where the "casualty wife" is matured under 18 years, for example, underneath the lawful period of marriage and is additionally not legitimately equipped for offering to agree to have sex."

The court, consequently, held that Exception 2 to Section 375 IPC was self-assertive, fanciful, capricious and violative of Articles 14, 15 and 21 of the Constitution of India. It was, nonetheless, clarified that the decision will apply tentatively—[Independent Thought v. U.O.I.]³¹

XIV. FINDINGS FOR FUTURE IMPROVEMENT

Though POCSO Act had come up with a noble idea of protecting children from sexual abuse, its provisions justify lawmakers' vision. However, there are still miles to be covered to wipe off the tears of minor victims of sexual abuse and make that silent sobs audible to the world. Hence, few more amendments should be made related to implementation issues.

- However, there are obligations on medical fraternity and establishment to provide accessible medical facilities to the survivors. However, when an expensive procedure is needed, their hospitals may provide substandard facilities. So, the state should take responsibility for reimbursing the costs so that proper facilities can be provided.

- Proper training should be provided to advocates, medical professionals, teachers, judicial and law enforcement agencies to meet the biggest challenges of research, information, monitoring and sensitizing the public. This will provide comprehensive care and justice. Moreover, medical undergraduates and primary health care professionals should also be appropriately trained to provide a child-friendly interview, structured assessments, collecting evidence, prophylaxis for sexually transmitted diseases and H.I.V., family counselling, and regular follow up.

- The definitive signs of genital trauma are seldom seen in cases of child sexual abuse.³² Hence, particular skill is required while dealing with child sexual abuse victims during forensic interviews, history taking, and medical examination as victims might be going through short-term or long-term trauma. Hence, medical health professionals examining them in the court of law must be given proper training about the emergence of psychiatric disorders to provide individual counselling, family therapy and rehabilitation.³³

³¹ 2017 SCC OnLine SC 1222, decided on 11.10.2017

³² Examination findings in legally confirmed child sexual abuse: it's normal to be normal. Adams JA, Harper K, Knudson S, Revilla J *Pediatrics*. 1994 Sep; 94(3):310-7. As available on <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4557243/> last visited on 25.01.2017 at 10:30 am.

³³ athyanarayana Rao TS, Nagpal M, Andrade C. Sexual coercion: time to rise to the challenge. *Indian J*

- A golden rule to all medical professionals working with children is to report all reasonable suspicion of child sexual abuse to the legal authorities. Hence, professionals need to keep watch on sexual abuse, explore and assess the child thoroughly.³⁴
- The provision of interim compensation is a very nice approach to provide relief to the victim. Nevertheless, it should be confined to medical expenses only and the other needs of the victim, which can ensure proper rehabilitation of him/her.
- Lawyers play a very crucial role while assisting the prosecution. Hence, there should be proper coordination between the public prosecutor and the lawyer of the child. Moreover, how the victim's lawyer fits into the scheme with well-defined roles for both the public prosecutor and the child's lawyer in the adversarial justice system should also be adequately monitored.
- There must be immediate registration of F.I.R. and conduct of M.L.C. by the police. Moreover, police should be well acquainted with the best methods for collecting forensic evidence (because most of the time, F.S.L. samples get contaminated or putrefied due to improper storage), ensuring a smooth appreciation of evidence during the trial process.³⁵
- From time to time, an imperial study should be conducted on the procedures established by NCPCR and SCPCR (who are responsible for monitoring the implementation of the Act regularly and creating awareness about the provisions of the Act among the public, which is also established under Section 43-44 and Rule 6 of POCSO Act) and evaluation should be done on the same to generate an impactful outcome.

Lastly, the POCSO Act has tried its best to recognize every known form of sexual abuse against children as a punishable offence. However, few challenges remain, and now, the primary concern should lie with proper implementation. A multi-tier approach, multi-agency team and multi-dimensional, including access to psychosocial support, must be made open to comprehensive care, delivered holistically under one roof for victims of child sexual abuse.³⁶

Psychiatry. 2013;55:211–3.As available on <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4557243/> last visited on 25.01.2017 at 10:30 am

³⁴ Sathyanarayana Rao TS, Nagpal M, Andrade C. Sexual coercion: time to rise to the challenge. *Indian J Psychiatry*. 2013;55:211–3.As available on <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4557243/> last visited on 25.01.2017 at 10:30 am

³⁵ Srishti Agnihotri and Minakshi Das, *The Pocso Act: A Quick Review, 10 YEARS OF KAFILA – OUR COMMON JOURNEY*,10/12/2015,available at <https://kafila.online/2015/12/10/the-pocso-act-a-quick-review-srishti-agnihotri-and-minakshi-das/> , last visited on 25/01/2017 10:30 am

³⁶ Harbishettar V, Math SB. Violence against women in India: comprehensive care for survivors. *Indian j Med Res*. 2014;140:111–3.As available on <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4557243/> last visited on 25.01.2017 at 10:30 am

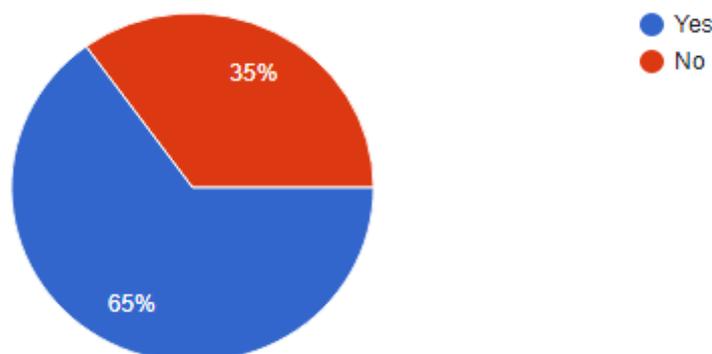
XV. SURVEY

I surveyed people's knowledge on child marriage and what are their opinions on child marriage. Out intention of conducting this survey was to learn whether there is awareness about child marriage. Also, I intended to find out whether it is still being practised and how prevalent it is even today. Our survey selection criteria include people from background comprising from different socio-economic backgrounds and educational backgrounds. Also included are both men and women.

SURVEY RESULTS

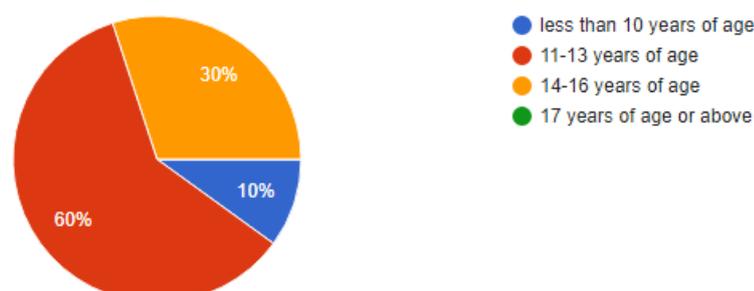
(A) Knowledge about Child Marriage

My survey results show that 65% of our survey participants know child marriage, and 35% had no idea about it or did not remember what it is now. Of the 35% who did not know about child marriage also had no idea that it was illegal. Whereas, of the 65%, all of them knew that child marriage is a criminal offence.



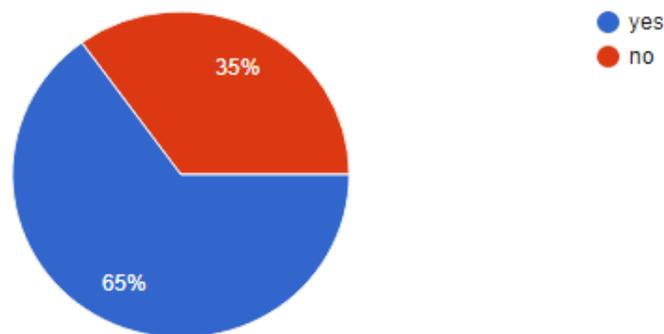
(B) Age Considered As Child Marriage

I asked at what age do they think would be considered child marriage. 60 % answered that marriage between the ages of 11-13 is considered child marriage. They believe that 14 years of age is the marriageable age. 30% consider marriage between 14-16 years of age in child marriage, and 10% think marriage at less than ten years of age is considered child marriage.



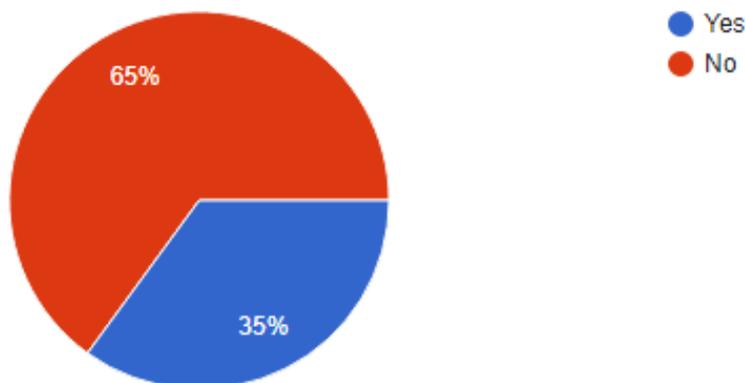
(C) Marriage Of Girl Child

When asked about the marriage of girl children in their community. 65% said they know/attended/their child was married at a young age. 35% answered that they do not know anyone or cannot remember.



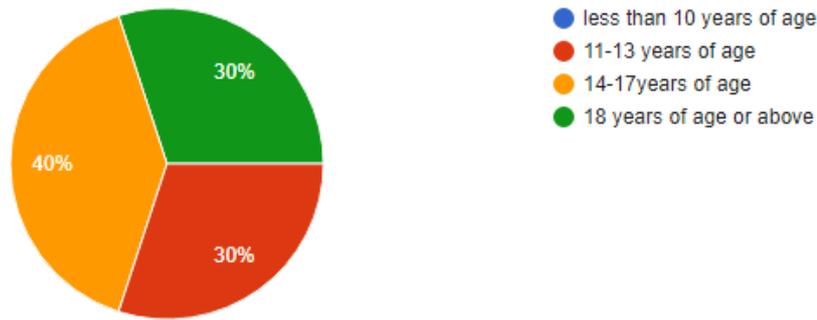
(D) Marriage of Boy Child

When asked about the marriage of a boy child in their community, 65% answered no, whereas 35% answered they know or their son has been married at a young age. The reason behind this, according to them, is "an older boy would be able to care for his wife better". The reasoning for some was that "it would make the boy mature or responsible".



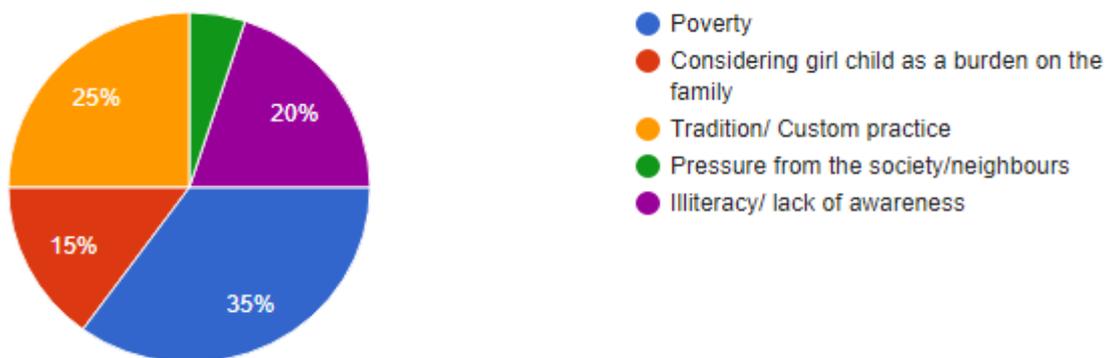
(E) Appropriate Age For Girls' Marriage

Appropriate age for girls' marriage, 40% answered that the appropriate age should be between the age of 14-17 years of age, 30% answered between the age of 11-13 years of age and 18 years of age or above. The reasoning behind this was that a young wife would help the husband's family, and their marriage would last longer. Some said that as the girls grow older, their expenses increase which as well the family of the girl cannot bear.



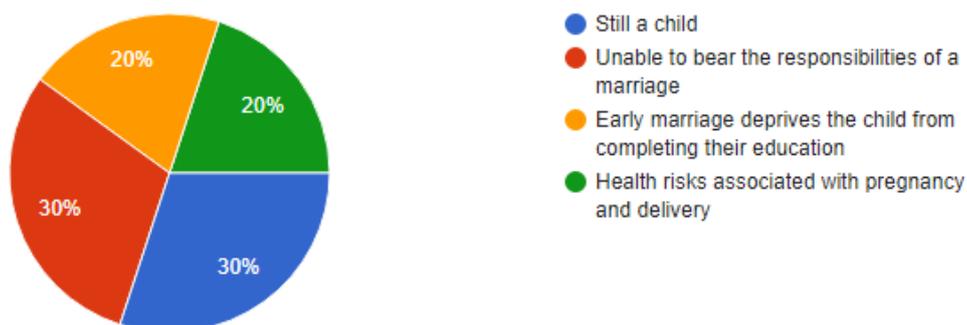
(F) Why Is Child Marriage Still Practiced

On why child marriage is still practised, 35% believed poverty is the main reason. They believe that they will not be able to bear the expenses of the girl. 25% believed it is a custom/tradition/practice because child marriage is still practised. 20% believe that illiteracy, lack of knowledge is the main reason. People lack the knowledge of the physical, mental, emotional effect it has on the girl child.



(G) Why do you oppose child marriage?

Out of everyone we asked, many of them were against child marriage. As to why they were against child marriage. 30% answered because she is still a child and will not handle the household responsibilities that come with marriage. 20% said that child marriage deprives the child of getting her education, and the rest said they are against child marriage because of the health risks associated with early pregnancy and delivery.



XVI. CONCLUSION

The Supreme Court decision emphasized the legal age of consent for sexual intercourse as 18 years with no exceptions. It expressed that any change must come from the legislature. A survey of high court cases referring to the PCMA undertaken by the Center for Reproductive Rights and Centre for Law and Policy Research uncovers that young ladies utilize this law to safeguard their rights. Most of these cases are filed by parents trying to prevent their little girls from self-starting marriages or entering sexual relationships without their endorsement. Such activities represent a misuse of the law. I never really promote the judiciary's guarantees the upholding girls' right to bodily autonomy. One essential measure to ensure that this decision is not exploited to harass and control adolescent girls is for lawmakers to recognize the possibility of consensual sex outside of marriage between adolescents who are close in age.

Furthermore, therefore do not typically have the same unequal power dynamics with much older partners. This is an essential venture towards finishing the stigma around adolescent sexuality that often leads parents to choose child marriages despite its grave dangers. The Supreme Court judgment likewise perceived the critical physical and emotional well-being hazards hitched young ladies face in light of early pregnancy. The court found that assault inside kid relationships abuses girls' bodily integrity, causes trauma, and "destroys her freedom of reproductive choice". Urgent law and policy reform are needed to ensure all girls (married or unmarried) can get to conceptive well-being administrations without uplifted examination or procedural necessities. For instance, POCSO incorporates compulsory revealing necessities for sexual maltreatment of kids, characterizes any sexual movement including kids under 18 years. This has prompted medical care labourers to expect to report all young ladies looking for early termination. Additionally, young ladies are denied conceptive independence due to prerequisites for parental assent in the Medical Termination of Pregnancy Act to remove the fetus.

Likewise, there is a need to grow thorough sexual instruction for all young people to improve their office in settling on educated decisions for their conceptive well-being and rights. Like this, the public authority should desperately eliminate limitations in maternal well-being plans that prohibit pregnant young ladies under 19 years, regardless of their expanded danger of death and injury from pregnancy. The Supreme Court certified that "the basic freedoms of a young lady kid are especially perfectly healthy if she is hitched and merit acknowledgment and acknowledgment." Now policymakers, law requirements, the legal executive, and others should find tangible ways to carry out this choice and guarantee fundamental liberties for ladies

and young ladies. This choice ought to convert into the substantial independence of each lady and young lady, including destigmatizing and decriminalizing consensual sexual activity amongst adolescents and upholding their reproductive rights.

In many cases, the petitioner has noticed that despite being a child by definition (younger than 18), provisions of POCSO are not being applied. The benefit of a particular act is not being afforded to children in a marital relationship but above the age of fifteen. "Hence, a child's status as a child till she attains the age of 18, otherwise assurance by the state, is opposed to her once she is forcibly or otherwise wed.

The N.G.O. also sought rehabilitation under the provisions of the Juvenile Justice (Care and Protection of Children) Act, whose marital status has been pronounced void/voidable under the provisions of the Prohibition of Child Marriage Act. It is also looked around for a direction to the Centre to formulate a national action plan with detailed roles, obligations and responsibilities of the various government divisions to guarantee the safeguarding of the girl child from the menace of child marriage.

XVII. REFERENCES

1. Harbishettar V, Math SB. Violence against women in India: comprehensive care for survivors. *Indian j Med Res.* 2014;140:111–3
2. Goldman, J. (2010). Australian undergraduate primary school student-teachers' responses to child sexual abuse and its mandatory reporting. *Pastoral Care in Education: an International Journal of Personal, Social and Emotional Development*, 28(4), 283–294,
3. Sydney Moirangthem, Naveen C. Kumar, and Suresh Bada Math, Child sexual abuse: Issues & concerns, *Indian J Med Res.* 2015 Jul; 142(1): 1–3.
4. Press information Bureau government of India ministry of women and child development, Protection of Children from Sexual Offences (POCSO) Act, 2012 on 19/12/2014 16:11 <http://pib.nic.in/newsite/PrintRelease.aspx?relid=113750>
5. National commission for protection of child rights government of India, introduction to POCSO, <http://www.ncpcr.gov.in/index1.php?lang=1&level=1&&sublinkid=14&lid=6071>
6. National Crime Records Bureau data, 2015: Slight dip in rape, crime against women *Indian express* 1 September 2016 <http://indianexpress.com/article/explained/national-crime-records-bureau-data-2015-slight-dip-in-rape-crime-against-women-3004980/>
7. Jyoti Belur and Brijesh Bahadur Singh, *An Interdisciplinary Journal* 2015 available at
8. <https://crimesciencejournal.springeropen.com/articles/10.1186/s40163-015-0037-2>
9. Jyoti Belur and Brijesh Bahadur Singh, *An Interdisciplinary Journal* 2015 available at <https://crimesciencejournal.springeropen.com/articles/10.1186/s40163-015-0037-2>
10. <https://thelawblog.in/2017/01/21/pocso-v-ipc-menace-of-child-marriage-in-india/>.
