

**INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES**
[ISSN 2581-5369]

Volume 3 | Issue 4

2020

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The Reality of Child Sexual Abuse in India

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ABSTRACT

Child sexual abuse is a dark reality that is high prevailing in India and with numerous harmful impacts. Child sexual abuse is a universal problem and also a human right issue. The objective of this study is to aware the people about this evil. Child sexual abuse is an extensive problem and even the lowest frequency contains a large number of victims. Child sexual abuse has been publicly acknowledged as a serious problem in India when the Government of India has brought in a special law to deal with child sexual abuse, namely, "The Protection of Children against Sexual Offences (POCSO) Act, 2012". The act criminalizes a wide range of acts including child rape, harassment, assault, and pornography, etc. This act has been a major step forward in securing every child's right. This study highlights the types of child abuse, child sexual abuse, types of child sexual abuse, different forms of child sexual abuse, such as child marriage, online child marriage and child trafficking, legal provisions of child sexual abuse in India, risk factors for victimization and the consequences of child sexual abuse. The study also highlights the situation of child sexual abuse in India.

I. INTRODUCTION

The Childhood is the most amazing, memorable, and fun time in everyone's life. This is the very first stage of life, in this stage children, have no worries, no stress and they are free from the worldly life. This is the time that shapes up the future of a child or an individual. Parents' love and care are the most important thing for the children and parents and the other family members are responsible for shaping a child's future and also in making the childhood of their child precious and memorable. And the memories of childhood ultimately become the lifelong memories which always remains with us in our heart and mind. Those memories always bring smiles on our faces.

But what if a child has a bad memory in his/ her mind and heart?

Bad memories haunt the person their entire life. Bad memories like Child abuse either it is physical, sexual, or emotional, or any other. Children are very innocent. That's why people take advantage of their innocence. Child abuse is very harmful to children. Child abuse has

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adverse and long-term consequences. Child abuse infringes on the dignity and rights of children and robs them of the joys of their childhood.

What is Child Abuse?

Child abuse is a critical human right issue and an adverse childhood experience. It is also a social evil prevailing in society since time immortal. Child abuse is any intentional harm or mistreatment to a child under the age of eighteen years. This issue includes all types of abuses and neglects against a child by a parent, caregiver, or another person in a custodial role like a coach, teacher, neighbor, relative, and strangers. Child abuse can impact the lives of children at the physiological, psychological, and social levels and affect their sexual behavioral patterns.

II. TYPES OF CHILD ABUSE:

There are five types of Child Sexual Abuse as defined by the United Nations:

1. **Physical Abuse:** The intentional use of physical force against a child or putting him/her at risk of harm that can result in – physical injuries, harm for the child’s health, survival, development, or dignity. This includes hitting, beating, burning, suffocating, poisoning, kicking, shaking, burning, or other shows of force against a child. There may be a single or repeated incident.
2. **Sexual Abuse:** Sexual child abuse is forcing and pressuring a child to engage in sexual acts. It includes fondling, oral-genital contact, intercourse, penetration, exploitation, or exposure to child pornography.
3. **Emotional Abuse:** Emotional child abuse means injuring a child’s self-esteem, child’s worth, or emotional well-being. It includes verbal and emotional assault – such as continually belittling or berating a child – as well as name-calling, shaming, isolating, ignoring, rejecting a child, and threatening. It also includes the failure to provide a supportive environment.
4. **Mental Abuse:** Medical child abuse occurs when someone gives false information about illness in a child that requires medical attention, putting the child at risk of injury and unnecessary medical care.
5. **Neglect:** Child neglect is the failure to provide the basic physical and emotional needs of a child. These needs include adequate shelter, food, clothing, education, supervision, medical care, and affection.

“Children who have experienced abuse and neglect are therefore at increased risk for several problematic developmental, health, and mental outcomes”.

III. CHILD SEXUAL ABUSE:

Child sexual abuse is a universal problem with grave lifelong outcomes. Child sexual abuse is a violation of the human rights of children. It also violates a person's right to health, the right to security and physical integrity, the right to be free from torture and cruelty. Child sexual abuse is also violating the right to life when it results in death.

Child sexual abuse is a very painful traumatic family secret that has rippling effects upon the child as well as upon the entire family. Child sexual abuse happens when a person uses a child for his/her sexual gratification. Child sexual abuse is any sexual activity that a child cannot understand or consent to. It involves forcing or enticing a child to take part in sexual activity, whether or not the child is aware of what is happening with her/ him. Child sexual abuse may be physical, visual, or verbal in nature. This may include activities such as involving children in looking at, or in the production of, sexual images, watching sexual activities.

Types of Child Sexual Abuse:

There are two types of Child Sexual Abuse. They are:

- **Physical Contact:** Sometimes, there will be clear physical contact between the accused and the child/ victim such as penetrative sex, fondling of the child's genitals or making the child touch the accused's genitals, or making a child touch some other person's genitals, touching any part of the child's body with sexual intent, kissing with sexual intent, etc.
- **Non-Physical Contact:** Child sexual abuse can also occur without any physical contact between the accused/ person and the child. These may include using the child in pornographic material, verbal abuse, showing pornographic pictures or videos, making obscene/ lewd gestures to the child, playing sexualized games, stalking the child, or chatting with sexual intent with the child over the internet, etc.

IV. ONLINE CHILD SEXUAL ABUSE:

Online child sexual abuse is any type of abuse that happens on the web, whether playing online games, through social networking websites, using mobile phones, or using a computer or laptop. Online child sexual abuse is very dangerous because abusers can contact children at any time either day or night, the abusers can come into the safe places of children like their homes, their schools, bedrooms, playrooms. And after doing chat, video calls they cleverly tell children to delete all the chat records and call records so their parents and guardians can never find it out. And most important, images and videos of the children can be saved and shared

with other people.

Online Child Sexual Abuse can take several numbers of different forms which may include:

1. **Live Streaming** - Abusers provoke victims to commit or watch sexual acts via video call. They also stream or watch live sexual abuse or indecent images of children with other abusers.

According to a research “*Trends in Online Child Sexual Exploitation: Examining the Distribution of Captures of Live-streamed Child Sexual Abuse*” by Internet Watch Foundation funded by Microsoft,²

The key findings of this research were:

- 96% depicted children on their own, typically in a home setting such as their bedroom.
- 98% of the imagery depicted children assessed as 13 years or younger.
- 96% of the imagery featured girls.
- 40 % of the imagery was category A or B. (Category A- Images involving penetrative sexual activity with an animal or sadism. Category B- Images involving non-penetrative sexual activity).
- 100% of the imagery had been harvested from the original upload location and was being redistributed on third party websites.
- 4% of the imagery was captured from mobile-only streaming apps.
- 73% of the imagery appeared on 16 dedicated forums with the purpose of advertising, paid downloads of videos of webcam child sexual abuse.

2. **Online coercion and blackmail** - The coercion or blackmail of a child by using sexual images or videos depicting that child, for sexual gain.

3. **Indecent Images of Children** - These are images of a child or part of a child or depicting a child or part of a child, which are judged to be in breach of recognized standards of propriety. Indecent Images of Children includes photographs, videos, pseudo-photographs. Indecent images are those images depicting a child engaging in sexual activity or a sexual manner.

4. **Prohibited Images of Children** - These images of children are non-photographic images for example cartoons, computer-generated imagery, etc., which portray a child

² Internet Watch Foundation, Trends in Online Child Sexual Exploitation: Examining the Distribution of Captures of Live-streamed Child Sexual Abuse, Internet Watch Foundation (Aug. 13, 2020, 02:46 PM), <https://www.iwf.org.uk/sites/default/files/inline-files/Distribution%20of%20Captures%20of%20Live-streamed%20Child%20Sexual%20Abuse%20FINAL.pdf>

engaging in sexual activity, a sexual act being performed in the presence of a child or focus on the child's genitals or anal region.

5. **Possession, production, and sharing of Indecent Images of Children** - Online Child Sexual Abusers use online platforms so they can store and share Indecent Images of Children and prohibited images.

Child Sex Tourism:

Child sex tourism is a type of child sexual abuse. This is a serious issue of child dignity and their rights globally. Child sex tourism involves people who travel from their own country to another and engage in commercial sex acts with children. Tourists engaging in Child sex tourism often travel to developing countries. The crime typically happens in those countries which are flawed law and enforcement, corruption, the internet, greed, peer and community pressure, social inequality, and travel.

Child Marriage:

“Child marriage threatens the lives, well-being, and future of girls around the world.”³

Child marriage is also a type of child sexual abuse. Child marriage is an illegal act and a violation of the child's human rights. It refers to any formal marriage or informal relationship between two children or a child with an adult. According to UNICEF, child marriage has decreased worldwide from one in four girls married a decade ago to approximately one in five today.

“If efforts are not accelerated, more than 150 million girls will marry before their eighteenth birthday by 2030” – UNICEF⁴

V. CHILD SEXUAL ABUSE IN INDIAN CONTEXT:

Historically, child sexual abuse has been a hidden problem in India. This problem/ issue is largely ignored in public discourse and by the criminal justice system of India. Now child sexual abuse has reached a critical situation in India. The issue of child sexual abuse is widespread across India, impacting children of all ages, socio-economic classes, and genders. Half of the country's children face some form of sexual abuse.

Despite its high prevalence, violence against children is often hidden, ignored, unseen, or under-reported. In a country where sexuality is a taboo, the vocabulary to communicate around

³ UNICEF, Child Marriage, UNICEF (Aug. 13, 2020, 02:52 PM), <https://www.unicef.org/protection/child-marriage>

⁴ UNICEF, Child Marriage, UNICEF (Aug. 13, 2020, 02:52 PM), <https://www.unicef.org/protection/child-marriage>

sexuality and sexual abuse is non-existent.

Some major findings of “*Study on Child Abuse: India 2007 by Ministry of Women and Child Development, Government of India*”⁵:

1. 53.22% of children reported having faced one or more forms of sexual abuse.
2. 21.90% of child respondents reported facing severe forms of sexual abuse and 50.76% other forms of sexual abuse.
3. Out of the child respondents, 5.69 % reported being sexually assaulted.
4. Children on the street, children at work, and children in institutional care reported the highest incidence of sexual assault.
5. 50% of abusers are persons known to the child or in a position of trust and responsibility.

According to the annual report 2018-2019 of Ministry of Home Affairs: (Annual Report 2018- 2019 - Ministry of Home Affairs):⁶

a) Crime against Children

Crime Incidence			Crime Rate			Percentage Variation	
2014	2015	2016	2014	2015	2016	2014 - 2015	2015 - 2016
89,423	94,172	1,06,958	20.1	21.1	24.0	5.3%	13.6%

b) Higher incidence of crime was reported in the following heads:

Crime Head	Total Cases Report
Kidnapping & Abduction	54,723

⁵ Ministry of Women and Child Development, Study on Child Abuse: INDIA 2007, Ministry of Women and Child Development, Government of India (Aug. 13, 2020, 03:00 PM), <http://www.indianet.nl/pdf/childabuseIndia.pdf>

⁶ Ministry of Home Affairs, Annual Report 2018-2019, Ministry of Home Affairs, Government of India (Aug. 13, 2020, 03:03 PM) https://www.mha.gov.in/sites/default/files/AnnualReport_English_01102019.pdf

POCSO Act, 2012	36,022
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c) Juvenile in Conflict with Law:

Crime Incidence			Percentage Variation	
2014	2015	2016	2014 - 2015	2015 - 2016
38,455	33,433	35,849	-13.1%	7.2%

d) Higher incidence of crime was reported in the following heads:

Crime Head	Total Cases Reported
Theft	7,717
Rape	1,903
Arms Act, 1959	228
Juvenile Justice (Care & Protection of Children) Act, 2000	224

Missing Persons:

A total of **1,11,569** children in which **41,175 males** and **70,394 females** were missing in 2016 (including missing from previous years). Out of total 1,11,569 missing children during the year 2016, a total of 55,944 children in which 20,364 males and 35,580 females were traced by the end of the year.⁷

According to a “*Report on Missing Women and Children in India of the National Crime*

⁷ Ministry of Home Affairs, Annual Report 2018-2019, Ministry of Home Affairs, Government of India (Aug. 13, 2020, 03:03 PM), https://www.mha.gov.in/sites/default/files/AnnualReport_English_01102019.pdf

Records Bureau, dated 3rd June 2019". During the year 2016 a total number of **63,407** children; during the year 2017, **63,349** children; and during the year 2018, a total of **67,134** children have been reported as missing.⁸

"Every day, around 150 children go missing in India - kidnapping and abduction is the largest crime against children in our country." (National Crime Record Bureau 2016)⁹

VI. LEGAL PROVISIONS IN INDIA:

Until 2012, child sexual abuse was not acknowledged as a criminal offense. The only sexual offenses against children recognized by the law were covered by only three sections of The Indian Penal Code, 1860¹⁰ and were not specific to only children. The only crimes registered were outraging the modesty of a woman (Section - 354 of IPC¹¹), rape (Section - 375 of IPC¹²), and unnatural offenses that are carnal intercourse against the order of nature with any man, woman or animal (Section – 377¹³).

The framework of The POCSO Act:

The POCSO Act was one of the most awaited steps taken by the Government of India to address child sexual abuse and enabling children to access justice as well as psychological and rehabilitation support.

A listing of landmark cases that laid the framework for Protection of Children from Sexual Offences Act (POCSO), 2012:

Ghanshyam Misra vs The State, 1956 - The offense was committed by a person in a position of trust or authority for the child. Ghanashyam Misra, a school teacher who raped a 10-year-old girl in the school premises. The judgement reads - "He was her School teacher and he took advantage of his position by inducing her to come inside the Schoolroom and committed such an atrocious act, the consequence of which might as well be the complete ruin of the future life of the girl. I am unable to find any extenuating circumstances in his favor. I would, therefore while maintaining the conviction of the petitioner under Section 376 I.P.C enhance the sentence to seven years of rigorous imprisonment. The sentence of fine of Rs. 200/- and the order for

⁸ National Crime Records Bureau (Ministry of Home Affairs), Report on Missing Women and Children in India, National Crime Records Bureau (Ministry of Home Affairs), Government of India (Aug. 13. 2020, 03:40 PM), <https://ncrb.gov.in/sites/default/files/missingpage-merged.pdf>

⁹ CRY, Statistics of Children in India, CRY (Aug.13 2020, 03:42 PM) <https://www.cry.org/statistics-on-children>

¹⁰ The Indian Penal Code, 1860, Government of India

¹¹ Section 354, The Indian Penal Code 1860, Government of India, <https://indiankanoon.org/doc/203036/>

¹² Section 375, The Indian Penal Code 1860, Government of India, <https://indiankanoon.org/doc/623254/>

¹³ Section 377, The Indian Penal Code 1860, Government of India, <https://indiankanoon.org/doc/1836974/>

payment of compensation to the father of the girl are both maintained."¹⁴

Gorakh Daji Ghadge v/s The State of Maharashtra, 1980 - In this case, a father was accused of raping his 13-year-old daughter at home.¹⁵

Bharwada Bhoginbhai Hirjibhai v. State of Gujarat, 1983 - The accused, a middle-aged man had confined 2 friends of his daughter aged around 10, who had come to his house to meet the daughter and had raped them.¹⁶

Delhi Domestic Working Women's Forum vs UOI and others, 1989- Six young domestic workers traveling on a train from Ranchi to Delhi were brutally harassed, assaulted, and raped by army personnel.¹⁷

State Vs. Pankaj Choudhary, 2011- In this case, the accused could only be prosecuted for outraging the modesty of a woman for digital penetration of the anus and vagina of a 5-year-old child.¹⁸

The POCSO Act

The Indian government has brought in a special law to deal with the child sexual abuse cases in the country, namely, "*The Protection of Children from Sexual Offences (POCSO) Act, 2012*"¹⁹. The POCSO Act has come into force from **14th November 2012**. The Act criminalizes sexual assault, sexual harassment, and pornography involving a child and mandates the setting up of special courts to accelerate trials of these offenses.

The aims and objectives of this act were:

1. To secure a child's right to safety, security, and protection from sexual abuse.
2. To protect children from inducement or coercion to sexual activity.
3. To prevent exploitative use of children in prostitution and generation of pornographic material.
4. To provide a comprehensive legislation to safeguard the interest of a child at every stage - reporting, recording of evidence, investigation, and trial of offenses.
5. To provide for the establishment of special courts for sensitive and speedy trials.

¹⁴ Ghanashyam Misra vs The State, 1956, AIR 1957 Ori 78, 1957 CriLJ 469 (India)

¹⁵ Gorakh Daji Ghadge vs The State of Maharashtra, 1980, 1980 CriLJ 1380 (India)

¹⁶ Bharwada Bhoginbhai Hirjibhai vs State of Gujarat, 1983, 1983 AIR 753, 1983 SCR (3) 280 (India)

¹⁷ Delhi Domestic Working Women's vs. Union of India and Others, 1994, 1995 SCC (1) 14, JT 1994 (7) 183 (India)

¹⁸ State vs Pankaj Chaudhary, 2011 (India)

¹⁹ The Protection of Children from Sexual Offences (POCSO) Act, 2012, Government of India

The POCSO Act protects children from both physical and non-physical forms of abuse. It addresses a wide range of sexual offenses which include anything from complete and partial penetration, non-penetrative sexual assault, stalking of a child, incest, showing children pornography, engaging children in pornographic things. The POCSO Act is gender-neutral law, which means this law applies to sexual crimes committed against both girls and boys under the age of 18 years. This act ensures punishment for all perpetrators irrespective of age and gender. This act defines “**Penetrative Sexual Assault**” in Section-3²⁰ and also provide punishment for penetrative sexual assault in Section-4²¹. This act also defines “**Aggravated Penetrative Sexual Assault**” which means the sexual offense is committed by a person in a position of trust or authority such as police officer, member of armed forces, public servant or in case child get pregnant, blood relative or any relative or attempts to murder the child, etc. in Section-5²² and provides stronger penalties and punishments in Section-6²³.

This act defines “**Sexual Assault**” in Section-7²⁴ and provides punishment in Section-8²⁵. The act also defines “**Aggravated Sexual Assault**” in which the sexual offense is committed by a person in a position of trust and authority such as public servant, blood relative or any kind of relative, gang sexual assault, commits offense using deadly weapons, causing grievous hurt, etc. in Section-9²⁶ and provides stronger penalties and punishment in Section-10²⁷.

The act also defines “**Sexual Harassment**” in Section-11²⁸ and provides punishment in Section-12²⁹.

The act also mentions about the “**Use of a child for pornographic purposes**” in Section-13³⁰

²⁰ Section 3, The POCSO Act, 2012, Government of India, https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686&orderno=3

²¹ Section 4, The POCSO Act, 2012, Government of India, https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686&orderno=4

²² Section 5, The POCSO Act, 2012, Government of India, https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686&orderno=5

²³ Section 6, The POCSO Act, 2012, Government of India, https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686&orderno=6

²⁴ Section 7, The POCSO Act, 2012, Government of India, https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686&orderno=7

²⁵ Section 8, The POCSO Act, 2012, Government of India, https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686&orderno=8

²⁶ Section 9, The POCSO Act, 2012, Government of India, https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686&orderno=9

²⁷ Section 10, The POCSO Act, 2012, Government of India, https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686&orderno=10

²⁸ Section 11, The POCSO Act, 2012, Government of India, https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686&orderno=11

²⁹ Section 12, The POCSO Act, 2012, Government of India https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686&orderno=12

³⁰ Section 13, The POCSO Act, 2012, Government of India, https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686&orderno=13

and provides punishment in Section-14³¹. And also provides “***Punishment for storage of child pornography***” in Section-15³².

This act mentions that the child need not be taken to the police station to report a case of a sexual offense. Rather it directs the police to reach out to the child, based on the child's preference and convenience (to be not in uniform and as far as practicable a woman officer not below the rank of sub-inspector) Section-24³³.

This Act takes into account that handling a sexual offense is not easy for both the child and family so, it makes provisions for experienced individuals to be associated with the pre-trial and trial stage to assist the child (Sections 39³⁴ and 40³⁵).

This act makes it mandatory for every citizen to report the cases of sexual offenses against children to the police in Section 19³⁶.

The courts cannot exercise their discretionary powers in POCSO cases. They cannot reduce the term of imprisonment to a term less than the minimum term stipulated under the act. The media has to secure the identity and privacy of the child. Disclosing or publishing the identity of the child victim by mentioning the name, address, neighborhood, school name, and other particulars are punishable with imprisonment of not less than six months but extendable to one year or with fine or with both. It also prohibits making negative reports that cause harm to the child's reputation. Provided that for reasons to be recorded in writing, the Special Court may permit such disclosure, if in its opinion such disclosure is in the interest of the child (Section 23³⁷)

The Protection of Children from Sexual Offences (Amendment) Act, 2019:

Recently, the parliament has amended certain sections of the POCSO Act, 2012 to include the provision of a death penalty in cases of sexual offenses against children. The Amendment Bill was introduced in Rajya Sabha prepared by the Ministry of Women and Child Development

³¹ Section 14, The POCSO Act, 2012, Government of India, https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686&orderno=14

³² Section 15, The POCSO Act, 2012, Government of India, https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686&orderno=15

³³ Section 24, The POCSO Act, 2012, Government of India, https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686§ionId=12873§ionno=24&orderno=24

³⁴ Section 39, The POCSO Act, 2012, Government of India, https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686§ionId=12888§ionno=39&orderno=39

³⁵ Section 40, The POCSO Act, 2012, Government of India, https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686§ionId=12889§ionno=40&orderno=40

³⁶ Section 19, The POCSO Act, 2012, Government of India, https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686§ionId=12868§ionno=19&orderno=19

³⁷ Section 23, The POCSO Act, 2012, Government of India, https://www.indiacode.nic.in/show-data?actid=AC_CEN_13_14_00005_201232_1517807323686§ionId=12872§ionno=23&orderno=23

and presented by Smt. Smriti Zubin Irani on 18 July 2019 and was passed on 29 July 2019.

The POCSO Act would still apply where the offense is committed by a child, the only difference is that the procedure would be as per the Juvenile Justice (Care and Protection of Children) Act, 2015³⁸.

Provisions of The Indian Penal Code, 1860:

- **Section 305** – Abetment of suicide of child or insane person³⁹
- **Section 312** – Causing miscarriage⁴⁰
- **Section 313** – Causing miscarriage without woman's consent⁴¹
- **Section 314** – Death caused by act done with intent to cause miscarriage. If the act is done without woman's consent⁴²
- **Section 315** – Act done with intent to prevent a child being born alive or to cause it to die after birth.⁴³
- **Section 316** – Causing the death of a quick unborn child by act amounting to culpable homicide.⁴⁴
- **Section 317** – Exposure and abandonment of child under twelve years, by parent or person having care of it.⁴⁵
- **Section 360** – Kidnapping from India (for extortion).⁴⁶
- **Section 361** – Kidnapping from lawful guardianship.⁴⁷
- **Section 363 A** – Kidnapping or maiming a minor for purposes of begging.⁴⁸
- **Section 364 A** – Kidnapping for ransom.⁴⁹
- **Section 366** – Kidnapping, abducting or inducing woman to compel her marriage.⁵⁰

³⁸ The Juvenile Justice (Care and Protection of Children) Act, 2015, Government of India, <https://www.indiacode.nic.in/bitstream/123456789/2148/1/201602.pdf>

³⁹ Section 305, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/255359/>

⁴⁰ Section 312, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/1990693/>

⁴¹ Section 313, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/140515/>

⁴² Section 314, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/1317800/>

⁴³ Section 315, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/1637773/>

⁴⁴ Section 316, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/1184459/>

⁴⁵ Section 317, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/9383/>

⁴⁶ Section 360, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/243306/>

⁴⁷ Section 361, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/1515807/>

⁴⁸ Section 363A, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/1892519/>

⁴⁹ Section 364A, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/1374258/>

⁵⁰ Section 366, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/796352/>

- **Section 366 A** – Procurement of a minor girl.⁵¹
- **Section 367** – Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.⁵²
- **Section 369** – Kidnapping or abducting child under ten years with the intent to steal from its person.⁵³
- **Section 370** – Trafficking of person.⁵⁴
- **Section 372** – Selling minor for purposes of prostitution, etc.⁵⁵
- **Section 373** – Buying minor for purposes of prostitution, etc.⁵⁶
- **Section 375** – Rape.⁵⁷
- **Section 376** - Punishment of Rape.⁵⁸
- **Section 376 A** – Punishment for causing death or resulting in a persistent vegetative state of the victim.⁵⁹
- **Section 376 AB** – Punishment for rape on women under twelve years of age.⁶⁰
- **Section 376 C** – Sexual Intercourse by a person in authority.⁶¹
- **Section 376 D** – Gang Rape.⁶²
- **Section 376 DA** – Punishment for gang rape on women under sixteen years of age.⁶³
- **Section 376 DB** – Punishment for gang rape on a woman under twelve years of age.⁶⁴
- **Section 376 E** – Punishment for repeated offenders.⁶⁵

⁵¹ Section 366A, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/1559723/>

⁵² Section 367, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/1324577/>

⁵³ Section 369, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/1684623/>

⁵⁴ Section 370, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/1153041/>

⁵⁵ Section 372, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/1938563/>

⁵⁶ Section 373, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/530949/>

⁵⁷ Section 375, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/623254/>

⁵⁸ Section 376, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/1279834/>

⁵⁹ Section 376A, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/668689/>

⁶⁰ Section 376AB, The Indian Penal Code, 1860, Government of India, <http://devgan.in/ipc/section/376AB/>

⁶¹ Section 376C, The Indian Penal Code, 1860, Government of India, <https://indiankanoon.org/doc/1553346/>

⁶² Section 376D, The Indian Penal Code, 1860, Government of India, <http://devgan.in/ipc/section/376D/#:~:text=IPC%20Chapter%20XVI%3B%20S.%20376%20D%20Gang%20Rape%3A,of%20that%20person%E2%80%99s%20natural%20life%2C%20and%20with%20fine%3B>

⁶³ Section 376DA, The Indian Penal Code, 1860, Government of India, <http://devgan.in/ipc/section/376DA/>

⁶⁴ Section 376DB, The Indian Penal Code, 1860, Government of India, <http://devgan.in/ipc/section/376DB/>

⁶⁵ Section 376E, The Indian Penal Code, 1860, Government of India, <http://devgan.in/ipc/section/376E/>

VII. MAJOR CONSTITUTIONAL PROVISIONS OF CONSTITUTION OF INDIA:

Article 14: Equality before law.⁶⁶

Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth.⁶⁷

Article 15 (3): Nothing in this article shall prevent the State from making any special provision for women and children.⁶⁸

Article 19(1)(a): All citizens shall have the right to freedom of speech and expression.⁶⁹

Article 21: Protection of life and personal liberty.⁷⁰

Article 21A: Right to education.^{71 72}

Article 23: Prohibition of traffic in human beings and forced labor.⁷³

Article 24: Prohibition of employment of children in factories.⁷⁴

Article 39: The state shall, in particular, direct its policy towards securing -

(e) that the health and strength of workers, men, and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.⁷⁵

(f) That children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against

⁶⁶ Article 14, The Constitution of India, 1949, Government of India, <https://indiankanoon.org/doc/367586/>

⁶⁷ Article 15, The Constitution of India, Government of India, <https://indiankanoon.org/doc/609295/#:~:text=Article%2015%20in%20The%20Constitution%20Of%20India%201949,sex%2C%20place%20of%20birth%20or%20any%20of%20them>

⁶⁸ Article 15(3), The Constitution of India, Government of India, <https://indiankanoon.org/doc/1603957/>

⁶⁹ Article 19(1), The Constitution of India, Government of India, <https://indiankanoon.org/doc/1142233/#:~:text=Article%2019%281%29%20in%20The%20Constitution%20Of%20India%201949,and%20expression%3B%20%28b%29to%20assemble%20peaceably%20and%20without%20arms%3B>

⁷⁰ Article 21, The Constitution of India, Government of India, <https://indiankanoon.org/doc/1199182/>

⁷¹ Article 21-A, The Constitution of India, Government of India, <https://www.mhrd.gov.in/rte>

⁷² Inserted by the Constitution (Eighty-sixth Amendment) Act, 2002, w.e.f. 1-4-2010 vide SO 427(E), dt.16-2-2010.

⁷³ Article 23, The Constitution of India, Government of India, <https://indiankanoon.org/doc/1071750/#:~:text=Article%2023%20in%20The%20Constitution%20Of%20India%201949,be%20an%20offence%20punishable%20in%20accordance%20with%20law>

⁷⁴ Article 24, The Constitution of India, Government of India, <https://indiankanoon.org/doc/1540780/>

⁷⁵ Article 39(e), The Constitution of India, Government of India, <https://indiankanoon.org/doc/129471/#:~:text=Article%2039%20%28e%29%20in%20The%20Constitution%20Of%20India,enter%20avocations%20unsuited%20to%20their%20age%20or%20strength%3B>

exploitation and against moral and material abandonment.⁷⁶

Article 45: Provision for early childhood care and education to children below the age of six years.⁷⁷

Article 46: Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes, and other weaker sections.⁷⁸

Article 47: Duty of the State to raise the level of nutrition and the standard of living and to improve public health.⁷⁹

National Policies and Legislation related to children health and welfare:

The Government of India has passed various policies and laws to protect children from various illegal acts, to protect their rights and as well as health. Some are:

National Policies:

- The Child Marriage Restraint Act, 1929⁸⁰
- National Policy of Children, 1974
- National Policy on Education, 1986⁸¹
- National Policy on Child Labour, 1986
- Report of the Committee on Prostitution, Child Prostitutes and Children of Prostitutes and plan of action to combat trafficking and commercial sexual exploitation of women and children, 1998
- The persons with disabilities (Equal opportunities, protection of rights and full participation) Act, 1995⁸²

⁷⁶ Article 39(f), The Constitution of India, Government of India, <https://indiankanoon.org/doc/1139107/#:~:text=Central%20Government%20Act%20Article%2039%20%28f%29%20in%20The,against%20exploitation%20and%20against%20moral%20and%20material%20abandonment>

⁷⁷ Article 45, The Constitution of India, Government of India, <https://indiankanoon.org/doc/1791268/>

⁷⁸ Article 46, The Constitution of India, Government of India, <https://indiankanoon.org/doc/352126/>

⁷⁹ Article 47, The Constitution of India, Government of India, <https://indiankanoon.org/doc/1551554/>

⁸⁰ The Child Marriage Restraint Act, 1929, Government of India, <https://wcd.nic.in/child-marriage-restraint-act-1929-19-1929>

⁸¹ National Policy on Education, 1986, Government of India, https://www.mhrd.gov.in/sites/upload_files/mhrd/files/document-reports/NPE86-mod92.pdf

⁸² The Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act, 1995, Government of India, <http://legislative.gov.in/sites/default/files/A1996-1.pdf>

- The Pre-Conception and Pre-Natal Diagnostic Technique (Prohibition of Sex Selection) Act, 1994⁸³
- National Nutrition Policy, 1993
- The Infant Milk Substitutes, Feeding bottles and Infant Foods (Regulation of Production, Supply, and Distribution) Act, 1922⁸⁴
- National Health Policy, 2002⁸⁵
- National Charter for children, 2004
- National plan of action for children, 2005
- National Policy, 2013⁸⁶

National Legislations:

- Guardian and Welfare Act, 1890⁸⁷
- Factories Act, 1948⁸⁸
- Hindu Adoption and Maintenance Act, 1956⁸⁹
- Probation of Offenders Act, 1958⁹⁰
- Bombay Prevention of Begging Act, 1959⁹¹
- Orphanages and other Charitable Homes (Supervision and Control) Act, 1960⁹²

⁸³ Pre-Conception & Pre-natal Diagnostic Techniques Act, 1994, Government of India, <https://www.indiacode.nic.in/bitstream/123456789/8399/1/pre-conception-pre-natal-diagnostic-techniques-act-1994.pdf>

⁸⁴ The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply, and Distribution) Act, 1992, Government of India, <http://www.bpni.org/documents/IMS-act.pdf>

⁸⁵ National Health Policy, 2002, Government of India, https://nhp.gov.in/sites/default/files/pdf/National_Health_Policy.pdf

⁸⁶ The National Policy for Children, 2013, Government of India, https://wcd.nic.in/sites/default/files/npcenglish08072013_0.pdf

⁸⁷ The Guardians and Wards Act, 1890, Government of India, <https://www.indiacode.nic.in/bitstream/123456789/2318/1/189008.pdf>

⁸⁸ The Factories Act, 1948, Government of India, <https://labour.gov.in/sites/default/files/TheFactoriesAct1948.pdf>

⁸⁹ The Hindu Adoptions and Maintenance Act, 1956, Government of India, <https://tcw.nic.in/Acts/Hindu%20adoption%20and%20Maintenance%20Act.pdf>

⁹⁰ The Probation of Offenders Act, 1958, Government of India, https://www.tiss.edu/uploads/files/Probation_of_Offenders_Act_1958.pdf

⁹¹ The Bombay Prevention of Begging Act, 1959, Government of India, <https://womenchild.maharashtra.gov.in/upload/576a36908c083Mumbai%20Prevention%20of%20Begging%20Act%201959.pdf>

⁹² The Orphanages and Other Charitable Homes (Supervision and Control) Act, 1960 <https://indiankanoon.org/doc/1759043/>

- Bonded Labour System (Abolition) Act, 1976⁹³
- Immoral Traffic Prevention Act, 1956⁹⁴
- Child Labour (Prohibition and Regulation) Act, 1986⁹⁵
- Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1987⁹⁶
- Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994⁹⁷
- Persons with Disabilities (Equal Protection of Rights and Full Participation) Act⁹⁸
- Juvenile Justice (Care and Protection) Act, 2000⁹⁹
- Commission for Protection of the Rights of the Child Act, 2005¹⁰⁰
- Prohibition of Child Marriage Act, 2006¹⁰¹

International Conventions and Declarations:

Some International Conventions related to child rights and welfare are:

- Convention on the Rights of the Child (CRC)¹⁰²
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)¹⁰³
- SAARC Convention on Prevention and Combating Trafficking in Women and Children for Prostitution¹⁰⁴

⁹³ The Bonded Labour System (Abolition) Act, 1976, Government of India, [https://labour.gov.in/sites/default/files/TheBondedLabourSystem\(Abolition\)Act1976.pdf](https://labour.gov.in/sites/default/files/TheBondedLabourSystem(Abolition)Act1976.pdf)

⁹⁴ The Immoral Traffic (Prevention) Act, 1956 <https://indiankanoon.org/doc/69064674/>

⁹⁵ Child Labour (Prohibition and Regulation) Act, 1986, Government of India, <https://clc.gov.in/clc/acts-rules/child-labour-prohibition-and-regulation-act-1986>

⁹⁶ The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988, Government of India, <https://www.indiacode.nic.in/bitstream/123456789/1887/1/a1988-46.pdf>

⁹⁷ The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994, Government of India, <https://indiankanoon.org/doc/19033/>

⁹⁸ The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 1996, Government of India, <https://indiankanoon.org/doc/48618833/>

⁹⁹ The Juvenile Justice (Care and Protection of Children) Act, 2000, Government of India, <https://indiankanoon.org/doc/148942/>

¹⁰⁰ The Commissions for Protection of Child Rights Act, 2005, Government of India, <https://www.indiacode.nic.in/bitstream/123456789/2056/1/200604.pdf>

¹⁰¹ The Prohibition of Child Marriage Act, 2006, Government of India, <https://www.indiacode.nic.in/bitstream/123456789/2055/1/A2007-06.pdf>

¹⁰² UNICEF, The Convention on the Rights of the Child: The children's version, UNICEF (Aug. 13, 2020, 08:16 PM), <https://www.unicef.org/child-rights-convention/convention-text-childrens-version>

¹⁰³ UNICEF, The Convention on the Elimination of all Forms of Discrimination against women), UNICEF (Aug. 13, 2020, 08:18 PM), https://www.unicef.org/gender/files/CEDAW_In_Brief_For_Adolescent-Web_Version.pdf

¹⁰⁴ SAARC, SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, SAARC (Aug. 13, 2020, 08:20 PM), https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new_delhi/documents/genericdocument/wcms_251026.pdf

VIII. RISK FACTORS FOR VICTIMIZATION:

Any child or teenager is at risk of being sexually abused. It is important to remember that child sexual abuse can happen to any child either girl, boy, or transgender.

In most cases, children who have been sexually abused were abused by someone they know. This could be a family member, a relative, a friend, a school teacher, a tuition teacher, or someone who has targeted them.

There are some risk factors:

Individual Risk Factors:

- Alcohol use
- Drug use
- Physically or mentally handicapped children
- Social Isolation
- Children in foster care, adopted children, stepchildren

Community Factors:

- Poverty
- Lack of education
- Lack of employment opportunities
- Lack of institutional support from police, government, and judicial system.

Relationship Factors:

- Single parent homes
- Broken homes
- A family environment characterized by physical violence and conflict
- Bad parent-child relationships
- Emotionally unsupportive family environment
- Parent(s) with mental illness, or alcohol or drug dependency.

Society Factors:

- Societal norms that support male superiority.
- Societal norms that maintain women's inferiority.

- Societal norms that support sexual abuse.
- Weak laws and policies related to sexual abuse

IX. CONSEQUENCES OF CHILD SEXUAL ABUSE:

The impact of Child sexual abuse can be diverse and numerous. Many psychological, physical, or sexual effects of child sexual abuse are observed in children of any age and of any gender. They are:

Physical consequences - Physical consequences range from minor injuries to severe brain damage and even death. sexually transmitted diseases, pregnancy, tears to the vaginal or anal area, repeated urinary infection, chronic abdominal pain, chronic pelvic pain, menstrual irregularities, and psychosomatic illness.

Social consequences - sudden withdrawal, overly pleasing behavior, increased hostility, aggression, and drastic change in academic performance.

Sexual consequences - Drastic and visible change in sexual conduct and mannerisms like Overdressing, underdressing, sexual anxiety, and repetitive sexual behavior like excessive masturbation, continuous sexual play, use of sexually abusive language, or sexual aggression.

Long term Consequences –

Self-esteem	Guilt
Shame	Depression
Isolation	Antisocial behavior
Aversion to intimate relationships	Aversion to sex
Attachment and interpersonal relationship problems	Learning and developmental problems
Mental health problems	Youth suicide
Alcohol and drug use	Behavioral problems
Aggression	Violence
Criminal activity	Physical health problems
Teenage pregnancy	Homelessness

X. INDICATORS OF CHILD SEXUAL ABUSE:

In general, children do not talk about sexual abuse because they feel that it is their fault or they have been threatened by the abuser or they have been convinced by the abuser that this is normal or it is their special secret. And sometimes children won't understand that what's happening to them is wrong. And, most of the time, parents were not there when the act takes place. But parents or guardian can detect the possibility of their child being abused. Some of the signs to know that your child is been abused sexually are:

Physical Indicators: Pregnancy, Sexually transmitted infections, pain on urination, bruises, urinary tract infection, unexplained genital injury, vaginal or penile discharge, presence of sperm, bleeding, and anal complaints.

Sexual Indicators: Usually, sexually abused children do not engage in sexual behavior but the presence of inappropriate sexual behavior may be an indicator such as unusual interest in the genitals of others, acting out adult sexual behavior with adults, other children or with toys, repeated public masturbation.

Behavioral Indicators: Eating disorders, social problems, depression, school performance, depression, poor self-esteem, sleeping disorders, clingy behavior, poor peer relationships (family or friends), isolation, excessive bathing, feeling irritable and angry, nightmares and bedwetting, and fecal soiling beyond the usual age.

Online Sexual Abuse Indicators:

- Spending a lot more or a lot less time online, in texting, in gaming, or in using social media.
- Having lots of new phone numbers, email addresses, or text messages on their mobile phone, tablet, or laptop.
- They seem upset, angry, or distracted after using the internet.
- Being secretive about what they're doing online or with whom they're talking.

Prevention:

Child sexual abuse is a very serious public health matter. It is the parents' responsibility to keep their children safe and also our duty to protect children around us. According to scholars, the two most productive methods to prevent abuse are education and training of adults and also skills training for children. Workshops and programs organized by schools are the most important. Simultaneously, parents have to teach their children some important things. That is:

- Teach your child that some body parts are private.
- Teach your child about body boundaries.
- Teach your child that body secrets are not okay.
- Teach your child that no one should take pictures of their private parts.
- Teach your child how to get out of uncomfortable situations.
- Have a code word or codesign with your child which your child can use when they feel unsafe.
- Tell your child that these rules apply even with the people they know like a relative, cousin, neighbor, teacher, coach, or anyone and even with another child.

And If your children reveal to you about sexual abuse so it is important to you, to listen to your children carefully, to tell them that this is not their fault, to let them know that they have done the very right thing by telling you and you will protect them. And most important, take care of their emotional health.

XI. CONCLUSION

Child sexual abuse "gets under the skin" to have an extreme and often lasting effect on growth. This paper was intended to understand the magnitude, consequences, and issues related to child sexual abuse. The POCSO Act, 2012 has unquestionably made a significant contribution to tackling the issues of Child Sexual Abuse in India. But the condition of child sexual abuse in India was found critical with grave lifelong outcomes. The number of cases is increasing rapidly. The major issues have been identified that are, Firstly, people don't know about child sexual abuse. Secondly, very few victims and their families informed the police about the abuse because of notoriety. Thirdly, most of the children don't speak up about the abuse. For these issues, we should start spreading awareness with the help of government among the people through the campaigns, making short movies, audios, and plays. We should involve ourselves in government schemes, NGOs which are working for the victims of child sexual abuse. And most importantly, we need sex education in our education system for the prevention of child sexual abuse. By educating children about body boundaries, they will get to know about the signs and symptoms of the upcoming danger, so they can protect themselves. We also need sex education because parents and guardians are also not aware of child sexual abuse and different forms of child sexual abuse. Conclusively, lack of proper support and professional assistance to the victims and their families can cause serious psychological injuries and trauma.

***"It's never a child's fault they were sexually abused – it's too important to make sure that
your child knows this."***
