



CHILD SEXUAL OFFENCE AND HUMAN RIGHTS

Dr Harishchandra Ram

Assistant Professor of Law

Faculty of Law, University of Lucknow, Lucknow

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Received	August 11 th 2020	There are sex-related offenses in every culture. Physical and mental health may be severely and irreparably damaged as a result of committing a sexual offense, especially when it involves sexual assault. Increased sexual and reproductive health risks are associated with physical injuries. Its effect on mental health may be just as severe as physical injury's impact on mental health. It is possible for victims of sexual offenses who are sexually assaulted to commit homicide or take their own lives. Human rights violations are both a cause and a result of human trafficking. Any efforts adopted to prevent and eliminate human trafficking must, therefore, put the preservation of all human rights at the forefront. Sexual abuse of children by adults/older people is defined as abuse of a kid by an adult or older person for the purpose of sexual gratification. Despite the adoption of many international legal agreements and increasing national legal and societal concern for the terrible CSA issue, CSA statistics have skyrocketed all across the globe. Indian society's dark side is clearly exposed by CSA—whether it be molestation, incest or rape—and it is unavoidable. No of their gender, socioeconomic class or status, children in India are at danger of sexual assault. As a result of CSA, the victim's life may be filled with horrors that will last a lifetime, reducing the quality of life for the rest of their lives.
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INTRODUCTION

The term "sexual violence" encompasses any acts of coercion aimed against a person's sexuality by any individual regardless of their connection to the victim, in any place including but not limited to home and work, including but not limited to unwelcome sexual remarks or approaches. All around the globe, people are subjected to sexual violence. As a result, few studies have been carried out on the issue in most countries. However, the available data suggests that nearly one out of four women may have experienced sexual violence by an intimate partner, and up to one-third of adolescent girls report that their first sexual experience was forced.

It is well-known that child sexual abuse is a major issue in India. At many cases, children are sexually assaulted by individuals who are familiar with them: family members, neighbors, school instructors, and employees in residential care institutions for orphans and other at-risk children. Many individuals do not disclose child sexual abuse because of fear of social shame or a lack of trust in institutions. Protecting Children from Sexual Offences Act, passed in 2012, was a major move for the Indian government to acknowledge the widespread sexual abuse of children in the nation and to address the problem. However, in order to be successful, the government must ensure that the act and other related laws and regulations are properly implemented. Protection, prevention, inquiry, and reparation for children are insufficient.

As a result, child sexual abuse (CSA) in India has been largely overlooked by the public and the criminal justice system for decades. Jusqu'à récemment, the crime of child sexual abuse (CSA) was not recognized as a criminal offence in India. Since there was no law against child sexual abuse, harassment, and exploitation for pornographic purposes, there was no legal punishment for these types of behaviors. The 'conspiracy of silence' has been broken in recent years by activists, non-governmental organizations (NGOs), and the central government's Ministry of Women and Child Development. This has created significant political and public impetus to address the problem. Protection of Children from Sexual Offences (POCSO) 2012 was a result of the campaign launched by the Ministry of Women and Child Development.

Child sexual abuse is the act of inducing or coercing minors to participate in any kind of sexual behavior. Violence in this context may be both physical and mental in nature. Sexual abuse and exploitation of children are both forms of sexual violence against children.

As a result, physical and mental health are adversely affected by sexual assault. Additionally, it increases the chance of a variety of sexual and reproductive health issues, which may have both immediate and long-term effects. As with its physical effects, it may have a negative influence on mental health as well. Suicide, HIV infection, or murder are all possible outcomes of sexual violence, with the latter happening either during or after the attack, as a

murder of "honour". Individuals may be branded and shunned by their family and others as a result of sexual violence. In certain cases, coerced intercourse may lead to sexual satisfaction for the offender, but its underlying goal is often to demonstrate control over the victim. Male coercers often feel that their acts are justified since they are married to the woman they are pressuring.

As a general rule, human trafficking refers to the act of placing or maintaining people in an exploitative position for economic benefit. Human trafficking may take place inside a nation or beyond boundaries. People are trafficked for a variety of reasons, including forced and exploitative labor in factories, farms, and private homes, sexual exploitation, and forced marriages among others. Most nations and areas of the globe are affected by human trafficking.

LITERATURE REVIEW

Majel McGranahan et al. (2021) These goals, which are based on human rights, include empowering women and girls, as well as providing access to reproductive health and rights for everyone (Goal 5). As far as we know, this is the first systematic study to describe treatments using rights-based methods for sexual and reproductive health concerns such as gender-based violence and pregnancy, as well as HIV and sexually transmitted diseases in low- and middle-income countries. Review the evidence on the use of rights-based approaches to sexual and reproductive health in poor and middle-income countries.

Joseph D. Tucker et al. (2019) A condition of physical, mental and social well-being in connection to sexuality is sexual health, and human rights offer a way to achieve the greatest quality of sexual health for all people on earth. To begin, Jonathan Mann explained how sexual health and human rights are inextricably linked throughout the AIDS epidemic. Human rights violations and HIV transmission were shown to be intertwined in his work, and sexual health and human rights were seen as intrinsically connected.

Choudhry V, Dayal R, Pillai D, Kalokhe AS, Beier K, Patel V. (2018) Human rights and public health are at stake when it comes to child sexual abuse (CSA). CSA in India has been the subject of a systematic review of quantitative and qualitative studies published over the past decade in order to examine the distribution of prevalence estimates for both genders, to improve understanding of the determinants and consequences of CSA, and to identify gaps in the current state of research.

Laura K. Murray et al. (2015) In many countries, children and adolescents are sexually abused. Children's sexual abuse (CSA) is often misunderstood to be an uncommon occurrence committed by male strangers in impoverished inner-city neighborhoods. False. Child Sexual Abuse (CSA) is an all too frequent event resulting in the injury or death of millions of children from all walks of life. Men and women, strangers, trusted friends and family members, and individuals of various sexual orientations, social levels and cultural backgrounds commit these crimes.

Melissa Hall and Joshua Hall (2011) In recent years, the issue of child sexual abuse has gotten a lot of attention. Of the women and males, 28 to 33 percent were abused as children or adolescents. The signs and long-term consequences of childhood sexual abuse must be understood by counselors in order to assist them better grasp what is required in therapy. It will describe childhood sexual abuse, examine the long-term consequences and symptoms, and address therapeutic implications.

CHILD SEXUAL OFFENCE IN INDIA

Millions of children are abused and abused. They are physically and emotionally fragile, and they are at risk of being permanently damaged by maltreatment. Sexual abuse of children is a serious issue in our culture, although it is seldom spoken. As a result, a variety of health issues and other repercussions result from it.

The number of reported cases of child sexual abuse is decreasing, although there is no obvious cause. One in ten youngsters will be sexually assaulted by the time they reach the age of 18. In spite of a decline in the number of sexual abuse reports, the public is still unaware of the extent of the issue. Indian culture has always struggled with the issue of child sexual abuse. Over the years, many instances of horrific crimes have been recorded.

In our society, adult rape is seen as more serious than child sexual abuse. However, children are sometimes unaware that they have been sexually assaulted, or they are too afraid to tell their parents. For some, privacy is a dreadful concept. POCSO was created by the Indian government in 2012 to combat the issue of child sexual abuse in India.

Previous legislation had been lacking, but now this act is administered by Women and Children's Development Ministry and works to eradicate child sexual abuse, educate children about sexual abuse, and provide safe spaces for children who have been victims of violence as well as punitive punishment for those found guilty.

FORMS OF SEXUAL ABUSE

Physical

Physical contact is evident in most instances between the perpetrator and victim. Penetrative sexual contact, fondling of the victim's organs or having the kid do it are all examples of sexual contact. Touching and kissing with sexual intent is considered a physical form.

Non-Physical

Abuse may occur without any physical contact between the victim and the perpetrator. This includes acts such as passing along pornographic images and movies, as well as involving children in such material. Obscene

gestures, verbal abuse and sexualized games are all examples of lewd gestures. Over time, items like stalking and conversation with sexual material will be added to the list of prohibited activities. As long as the kid is not charged with any criminal offenses under the Juvenile Justice (Care and Protection of Children) Act, 2015, the POSCO Act will continue apply.

Incest

For example, a brother and sister or parent and child incest is a prohibited sexual connection. In accordance with Section 5 (n) of the POSCO Act, anyone who commits penetrative sexual assault on a child who is a relative of the child by blood, adoption, marriage, foster care, domestic relationship with a parent of the child, or who is living or sharing a household with such child, is punishable for penetrative sexual assault with rigorous imprisonment.

CHILD AND CSA: CONCEPTUALIZATION AND NATURE

In most cases, unless specifically specified by law, the word kid refers to anybody under the age of eighteen, which includes people other than children. Immature intelligence and poor judgment prevent a person from anticipating and understanding the repercussions of his own actions.

Physical abuse, sexual abuse, emotional abuse, and neglect are all types of child abuse. When an adult engages a child in a sexual act or exposes the youngster to improper sexual behavior or material, CSA is committed against them. The term may refer to any situation in which a kid is forced to engage in sexual behavior by another child. If the kid is forced into thinking that it is an act of love, threats and physical force may be used. There is no need that a perpetrator make physical contact with the victim. 6 Examples of CSA include making obscene phone calls and sending inappropriate text messages, fondling, exposing oneself (indecent exposure of genitals) to a minor, masturbation in the presence of a minor or requiring a minor to masturbate, intercourse, and any form of sexual activity with a minor, including vaginal, oral or anal sex.⁷ When dependent children and adolescents are involved in inexplicable sexual behaviors for which they are unable to provide informed permission, this is called child sexual abuse (CSA). In addition, it breaches the social taboos of social roles and is designed to satisfy the sexual needs and desires of the abuser.

On the contrary, the majority of CSA takes place in juvenile justice facilities, i.e. in observation or special homes for children or shelters for children as well as in schools and day care centers. Child safety should be prioritized in these areas. CSA is a legal term that encompasses both criminal and civil crimes when an adult engages in sexual contact with a child or exploits a youngster for sexual pleasure. Kid abuse occurs when an adult has a sexual connection with a child without their permission.

Victims are naïve youngsters who are readily persuaded by little gifts. Some of the reasons of CSA include poverty, working parents, and children who are left alone at home. Desperately hoping to cure those with syphilis and gonorrhoea by having sexual relations with young girls, the criminals try their sexual skills. Other reasons of CSA include marital instability and physical abuse, as well as a lack of support from the extended family.

THE CONSEQUENCES OF SEXUAL CRIME

Rape does not always involve physical force, and bodily injuries are not usually the result. Victims of rape may and do die; the number of deaths varies widely throughout the globe. The effects of sexual assault on reproductive, emotional, and social well-being are some of the most prevalent.

A. Pregnancy and Gynaecological Complications

Forced intercourse has repeatedly been linked to gynecological problems. Included in the list are vaginal bleeding or infection; fibroids; reduced sexual desire; genital irritation; discomfort during intercourse; persistent pelvic pain; and urinary tract infection. There is a greater risk of health issues for women who are subjected to both physical and sexual abuse by their romantic relationships.

B. Sexually Transmitted Diseases

Rape is known to cause HIV infection and other sexually transmitted illnesses. Women in shelters who have been sexually and physically abused by intimate partners have a substantially higher risk of contracting sexually transmitted illnesses, according to research. HIV and other sexually transmitted illnesses are expected to be especially prevalent among women who have been trafficked into sex industry.

C. Mental Health

A variety of mental health and behavioral issues throughout childhood and adulthood have been linked to sexual assault. Women with a history of sexual abuse as adults were 33 percent more likely to have symptoms or signs suggestive of a psychiatric disorder than women with a history of physical abuse by an intimate partner, and women without a history of abuse were 6 percent more likely to have these symptoms or signs. An intimate partner's physical abuse exacerbates the mental health consequences of physical abuse.

D. Suicidal Tendencies

Children and adults who have been sexually assaulted are more prone to try or commit suicide than other women. People who have been victimized by sexual violence are more likely to take their own lives. Prior sexual abuse was shown to be a major predictor of various health risk behaviors, including suicidal thoughts and suicide attempts, in a study of teenagers in Brazil Suicidal behavior and emotional problems may also arise from severe

sexual harassment. Female teenagers in Canada were found to be suicidal in 15 percent of the cases when they were subjected to regular, unwanted sexual intercourse.

LAWS, HUMAN RIGHTS AND THEIR IMPORTANCE FOR SEXUAL HEALTH

They are formalized in international and regional treaties and constitutions. Human rights criteria outlined in international and regional human rights treaties that nations ratify, are therefore recognized at the national level via national constitutions, legislation, and highest court judgments. As a result, national legislation may have a significant effect on sexual health, both good and bad. Laws that encourage the distribution of objective and complete sexuality education, for example, help individuals understand what protects or harms their sexual health, and where they may go for further information, counseling, and treatment if required. While laws demanding third-party permission for services or criminalizing some consensual sexual behavior limit people's access to health information and services, they have the effect of excluding them from the health information and services they need.

Responsibility is a fundamental human rights concept, and laws may play an essential role in promoting accountability at many levels. As a result of such review procedures, it is possible to discover laws that are detrimental or that violate human rights. As part of accountability, laws may also ensure that individuals who have had their rights infringed have access to justice, restitution, and reparations procedures. States must also safeguard individuals from non-state actors that violate human rights. Example: a health insurance business that bans some individuals from being insured based only on their religious affiliation or gender.

PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

Sexual Offences against Children Act (POCSO) of 2012 is a gender-neutral law that requires victims to report abuse, specifies all types of sexual offenses against children, and protects them throughout the legal process. POCSO mandates include:

- Child Welfare Committee within 24 hours after receiving a report.
- The statement of the minor must be recorded in the presence of a person whom the minor trusts.
- As a result of the law, special courts have been established to conduct fast and in-camera proceedings. Courts have a duty to ensure that minors are not exposed to the accused while recording their statements, that their identities are kept secret, that they are not asked to repeat their testimony in court, and that they can also give their testimony through video, that cases are not delayed and are resolved within a year of being reported, and that there is an interpreter available to assist the minors in their testimony.

PUNISHMENTS UNDER THE ACT

• Penetrative sexual assault

Permeation of the genitalia may occur through the vaginal orifices or the urethral, urethral, anal or penile canals. According to section 4 of the legislation, the maximum penalty is 7-years-to-life imprisonment and a fine.

• Aggravated penetrative sexual assault committed by a person of trust or authority

According to section 6 of the legislation, a jail sentence of at least 10 years, but up to life in prison, and a fine may be imposed as punishment.

• Non-penetrative sexual assault committed with a sexual intent

To touch the kid's vagina, penis, anus or breast or to urge the child to do so on the perpetrator or any other person is a non-penetrative sexual assault, as is any other conduct done with sexual intent. This section 10 stipulates a minimum of 3 years of imprisonment, which may be increased to 5 years, and a fine.

• Aggravated non-penetrative sexual assault done by a person of trust and authority

Section 10 sets out the penalty, which should not be less than 5 years and may potentially extend to 7 years, as well as a fine of up to \$10,000. (Section 10).

• Sexual harassment

For example, mocking, jeering, and asking for a sexual favor are all forms of sexual harassment. The sentence is 3 years in prison and a fine (Section 12).

• Using a minor for pornographic purposes

Print or electronic production or distribution of pornographic material is included under this definition. It is punishable by 5 years in prison and a fine, or by 7 years and a fine for a second conviction (section 14 (1)).

• Attempt of offence

There is also a one-year prison sentence and fine under section 18 of the legislation.

• Abetment

IPC Section 107 defines abetment similarly to IPC Section 108, which defines defiant conduct. If you are found guilty, you will be sentenced in accordance with Section 17 of the Act.

• Failure to report an offence

There is a six-month prison sentence and fine under Section 21 of the legislation.

CHILDRENS RIGHT TO PROTECTION

When children are in the care of their parents or any other person they have the right to be safeguarded from physical and mental abuse, neglect, sexual abuse and exploitation under Article 19. The kid has a right to protection and care under Article 3 paragraph 2. The right to excellent care, in particular, extends beyond the right to be protected from different kinds of abuse, which shows the fuzzy line between protection and provision of services. Article 37 (a) prohibits torture and other cruel, brutal or humiliating treatment or punishment, comparable to what is prohibited by Article 7 of the International Covenant on Civil and Political Rights and Article 3 of the European Convention on Human Rights, which are applicable to everyone. As a result, addressing and eradicating all kinds of violence against or mistreatment of children is seen as a priority under CRC Article 19.

CLAIMS BY ACCUSED CHILD ABUSERS

In these tough situations, child abuse victims are not the only ones who depend on their rights under the Convention. The European Court of Human Rights hears cases brought by those accused and convicted of sexually abusing minors. Because of the danger presented by child predators as well as "social shame" associated with claims of child abuse, the Court takes child abuse allegations seriously and takes action accordingly. To avoid future attacks, the state has the authority to detain sexual predators who are mentally ill forever. Preventative detention is only permitted when a state follows stringent criteria. Determinants include lawfulness, location, foreseeability, and evidence that the person is truly "unsound-of-mind". While the state has an obligation under Article 3 to safeguard people from harm, the Court also considers the individual's right to liberty.

CONCLUSION

Violence against women and children is generally denounced as a form of sexual abuse. Any civilized community would find this kind of crime repugnant. It depicts a backward age dominated by patriarchy. These crimes are multi-cause and multi-dimensional, regardless of whether overt or covert violence has crept into the mind of offenders. As a result, they are symptoms of an illness that is deeply entrenched in social, economic, cultural, and political factors. Multidisciplinary approach is required for complete treatment, including psychological assistance for the victim and their family, according to the study. Act for Preventing Children from Sexual Offences (POCSO, 2012) defines CSA, establishes duties for doctors, and outlines treatment recommendations as well as a set of legal processes for its administration. To prevent CSA, parents, school instructors, and the general public must overcome the old hostile attitudes of silence and shame. In reality, it is a worldwide issue that frequently defies myth and caricature, and it does not seem to be getting any better over time. As a result of the various definitions of CSA, measuring, assessing and treating it is difficult. However, globalization and contemporary technology may raise the danger of abuse and exploitation, but they may also provide possibilities to improve our responses, especially in places with few resources. However, resilience processes have also revealed many protective characteristics that may be enhanced by preventive and early intervention efforts.

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