

Child Sexual Abuse in India : Socio-Legal Issues

Isha Kansal

L L B, Disha Law College, Raipur, Chhattisgarh, India

ABSTRACT

“Child Sexual Abuse or child molestation is a form of child abuse in which any person uses a child for sexual stimulation. Child Sexual Abuse can be of many kinds like touching in private parts, taking obscene photos, showing child pornography picture to child etc. In India, sexual abuse against girl child has added fuel to the fire and it had made its place in one of the hot topic for debate and research in India. In Delhi, a girl aged 5 years was brutally raped by 2 men and she was left in the bushes with bleeding in her genital area. A girl who don't know the meaning of rape is raped and due to the failure of our executive as well as judiciary system still now the culprit are moving free in search of new victim and are not arrested yet due to absconding. A survey by United Nations International Children Education Fund (UNICEF) on demographic and health was conducted in India from 2005 to 2013 and it reported that 10% of Indian girls experience sexual abuse between 10-14 years of age. It is believed to be true that mostly the cases of Child Sexual Abuse include the people who are well known with the victims. As a result of this, the family members don't go to police station for complaining about Child Sexual Abuse. Child Sexual Abuse in India is governed by 'Protection of children from Sexual Offences Act 2012'. Instead of having a strong law for Child Sexual Abuse, due to the lack of awareness among people and old mentality of harm to reputation of families in society, they avoid to register complaints. Through this research paper I will discuss about the socio-legal issues of Child Sexual Abuse and its remedy.”

Keywords: Child Sexual Abuse, Protection of children from Sexual Offences Act 2012, socio-legal issues.

I. INTRODUCTION

According to Medem, child sexual abuse is “any sexual act with a child performed by an adult or an older child”. “It is a fact that millions of girls and boys worldwide are being sexually abused within homes and outside.” As stated above in the abstract that Child Sexual Abuse in India is a hot topic for debate and research in India, it had really provided the researchers a wide area of research and had made its place in the society as a very big social problem. “Child Sexual Abuse has been a reality that children in India have been facing continuously irrespective of their gender or societal strata they belonged to”. In India people consider their reputation above all. Even in cases of sexual assault of small girl, no complaint is registered due to the reputation of families. This is injustice to the victim and this motivates the other criminals to do such kind of acts more and more with other child. The laws relating to the

Child Sexual Abuse are given in the **Protection of Children from sexual offences Act, 2012**. Before this Act, the cases of Child Sexual Abuse were dealt under the **Indian Penal Code (sec-376,354,509)**. “In 2007, the **ministry of Women and Child development** released a study report on child abuse. The report discusses incidence of child abuse nationwide. It is estimated that **150 million girls and 73 million boys under 18** have been subjected to forced sexual intercourse or other forms of sexual violence”. In 2013, **India's Hell Holes: Child Sexual Assault in Juvenile Justice Homes**, the Asian Centre for Human Rights said that sexual offences against children in India have reached epidemic proportion.” “The report stated that **more than 48,000 child rape cases** were recorded from 2001 to 2011 and that India saw an **increase of 336%** of child rape cases from **2001 (2,113 cases) to 2011 (7,112 cases)**.”

As said by Aamir Khan in popular Television show in India, **Satyamev Jayate**:

“Aamir quoted from a survey conducted in 2007 by the **Women and Child Development Ministry and the NGO Prayas in association with UNICEF and Save the Children across 13 states and with a sample size of 12,447**. The shocking details were laid bare to the entire nation.

The survey found that **53.22 per cent** of children reported having faced one or more forms of sexual abuse. Andhra Pradesh, Bihar, Assam and Delhi had reported the highest percentage of such incidents at that time. In 50% of the cases, the abusers were known to the child or were in a position of trust and responsibility and most children did not report the matter to anyone.

The National Study on Child Abuse is one of the largest empirical in-country studies of its kind in the world. This study also complements the UN Secretary General's Global Study on Violence against Children 2006.”

II. METHODS AND MATERIAL

A. Protection Of Children From Sexual Offences Act, 2012 (Highlights) :

- The act has defined a child as any person who is below the age of 18 years and it provides protection to all those children who are below the age of 18 years “from the offences of sexual assault, sexual harassment and pornography.”
- This is the first time that the Act has listed aspects of **touch as well as non touch behavior** (eg: photographing a child in an obscene manner) under the ambit of sexual offences.”
- “The Act incorporates **child friendly procedures** for reporting, recording of evidence, investigation and trial of offences.”
- If a person **attempts to commit an offence under the Act** will be liable for punishment for up to half the punishment that has been prescribed for the commission of the offence.
- This Act has also provided for the **Abetment of the offence** that is same as the punishment given for the committing of offence. This will also cover trafficking of children for sexual purposes.

- “For the heinous offences of Penetrative Sexual Assault, Aggravated Penetrative Sexual Assault, Sexual Assault and Aggravated Sexual Assault, the **burden of proof** is shifted on the accused.”
- The Act also says that media cannot or is barred from **disclosing the identity of child** without the permission of court required.

B. Incidents Relating To Child Sexual Abuse In India:

- In kanyakumari, a girl named Shanta was a daughter of daily labourer and she was sexually abused by her neighbour, she told her parents about this and when the family went to the police station for lodging a report, the police did not register their complaint as the person who sexually abused Shanta was an influential person and was in a position to dominate others. As the parents of Shanta knew about Childline they asked for the assistance and with the help of Childline they succeeded in registering the complaint. After this, the family was harassed further and the police also did not help the family. So the Childline took the case and passed it to the state women commission and the commission arrested the person and imprisoned him. The girl was sent for the counseling and she is continuing her studies now.
- A recent incident of Bhilai of February in which a nursery going school girl was sexually abused by the sweeper of the school for about 3 days. The girl told the incident to her parents and the parents took her for medical examination and it was clarified by doctor that it is a case of molestation and school on the next morning. A complaint was registered and the sweeper was taken under custody.
- “This incident has shocked the entire security as well as state, but the reality is that at least four children below the age of 14 years were found to have been raped at different parts of Chhattisgarh every week in 2015 and 2014 with the cases registered under the Protection of Children from Sexual Offences Act and National Crime Records Bureau. The record of the National Crime Records Bureau states that after Uttar Pradesh, West Bengal, Madhya Pradesh, Maharashtra, Delhi and Tamil

Nadu, Chhattisgarh recorded the maximum number of child abuse or sexual offence cases in a year.”

- Sunitha Krishnan is an inspiration to all women. She was gang raped at the age of 16 but she didn't stop and started her own anti-trafficking NGOs for the rehabilitation of the women who are sex trafficked instead of facing serious death issues.

C. “Good Touch, Bad Touch Workshop For Children:

Aamir conducted a 'Good Touch, Bad Touch' workshop for children across the nation to teach them about the importance of understanding sexual abuse, recognising predators and confiding in their parents if abuse happens. Through interactivity and a series of diagrams he taught the children the importance of having a 'bodyguard' or someone they implicitly trusted to take care of them. Aamir appealed to people to press the government to pass the Protection of Children from Sexual Offences Bill in Parliament and pledge their support against child sex abuse by SMSing Y to 5782711.”

III. SUGGESTIONS

- The Protection of Children from Sexual Offences Act should be implemented strictly so that any person before committing such kind of sexual abuse think of the circumstances which will be faced by commission of such offence.
- Also there must be setting up of some rehabilitation centers for the victims of such offence so that they recover soon.
- Parents also play a vital role in the recovery of the child from the mental trauma which her daughter is going through at the initial stage after such incident of sexual abuse also they should support their child and should also register the complaint without thinking of any societal aspects of their reputation also they must start telling about all the abuses and make them understand that if anything happens with them they should first come to the parents and tell them about it. There must be a good bonding between the child and the parents so that the child doesn't hesitate to share these incidents with parents.
- As in the incident of rescuing Shanta from the sexual abuse which she was going through, the

police did not registered the complaint initially which is injustice to the victim Shanta and the government should take strict action against these kind of police officers.

- Every city should have a call centre which receives call for such cases and immediate steps should be taken for registering complaints of such cases in the police station and the police who deny registering the complaint, action should be taken against them.
- Active Non-Governmental Organizations like Childline (1098) should be popped out in every state so that they can provide relief to all the victims of sexual abuse.
- Schools also play an important role in providing knowledge about sexual abuse and should also discuss the problem of sexual harassment with the students.
- Awareness should be spread in the society among people regarding the social evil of child sexual abuse so that the parents can safeguard their child from such evil.

IV. CONCLUSION

Through this research paper, I got to know about the Protection of Children from Sexual Offences Act, 2012 popularly known as POCSO Act. The Protection of Children from Sexual Offences Act, 2012 was passed on May 22, 2012. I got to know about the data collected by different surveys regarding Child abuse in India. The very popular show among Indians i.e., Satyamev Jayate also included an episode regarding Child Abuse in India which gave the data of Child Sexual Abuse. Also, the society plays an important role in implication of the law. If people become alert and give respect to the laws no one can dare to do anything against the laws.

V. REFERENCES

- [1] Medem, Pandoras project, <http://www.pandys.org/whatissexualabuse.html> (March 2, 2016, 12:50 p.m.)
- [2] Dr. Asha Bajpai, Child protection and child rights, excerpts from Dr. Asha Bajpai's chapter on “sexual abuse and law”, <http://www.childlineindia.org.in/Child-Sexual-Abuse-and-Law.htm> (March 2, 2016, 2:21 p.m.)

- [3] Breaking the Silence Finally on Child Sexual Abuse, <http://www.scoop.co.nz/stories/WO1303/S00236/breaking-the-silence-finally-on-child-sexual-abuse.htm> (March 2, 2016, 6:30 p.m.)
- [4] Child abuse and child rights, Abuse and violence , <http://www.childlineindia.org.in/child-abuse-child-violence-india.htm> (March 2, 2016, 2:37 p.m.)
- [5] Staff reporter, At least four children get raped in C'garh every week, Cityline, The Hitavada (25th February, 2016)
- [6] Rituparna Chatterjee, Satyamev jayate: grisly talks on child sex abuse, <http://www.ibnlive.com/news/india/satyamev-jayate-grisly-theses-of-child-sex-abuse-473846.html> (March 4, 2016, 8:58 p.m.)
- [7] Mamta Rao, Constitutional Law, (Abhinandan Malik, 1st ed, 2013)
- [8] K.D.Gaur, Textbook On The Indian Penal Code, (Universal Law Publishing Co. Pvt.Ltd, 4th.ed. 2009)