

Mapping Sexual Abuses towards Children in India

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Abstract

There are 444 million children in India under the age of 18 years. This constitutes 37% of the total population in the country. Children have all the rights as equal to citizens of India, just as any other adult male or female. But the irony is that there is a huge upsurge of violations of children rights in our society in different forms including rapes in its brutal form, some are traced and some untraced. In order to deal with the problem, the mechanism that is right now in force is the Protection of Children from Sexual Offences Act (POCSO), 2012. The statistics and the observations made by the author through this paper is an attempt to highlight the most contemporary discourse of the hour on the issue that is the sexual abuses towards the children. It argues that though there are a number of civil society organizations and framed legislations, the menace of such abuses is not being truly contained which in turn raises serious questions on the existing state legislations, machineries and societies role in this regard.

Keywords: *children rights, Protection of Children from Sexual Offences Act (POCSO)*

I. Introduction

Martin Luther King Jr. once said “Injustice anywhere is a threat to Justice everywhere”. The human beings claims certain special guarantees calling them as “rights” in living a good and sound life, for being a human. As explained by a renowned scholar in the field, Andrew Fagan, the doctrine of human rights provides individuals with a powerful means for morally auditing the legitimacy of those contemporary national and international forms of eco-political authority which confront us and which claim jurisdiction over us. However, the irony opposite to it is that violation of such so called human rights also takes place in different forms. Among all, the sexual abuses towards children forms the core rights violations of our beloved children who actually need special care and protection. Such cases take place every day, including rapes in its brutal form, some are traced and some untraced.

Objectives

The paper attempts to map the intensity of violations of children rights in the form of sexual abuses towards the children both in Indian as well as Assam since the year 2015 to 2018.

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II. Methodology

It is based on the quantitative and qualitative study of the problem. The sources of data mainly include the secondary sources like existing literatures, government reports, books, magazines, articles, journals, commentaries etc on the subject.

III. Results and Discussion

There are 444 million children in India under the age of 18 years. This constitutes 37% of the total population in the country (Census 2011). The Indian constitution provides the same fundamental rights to the children that are being enjoyed by any citizens of the country. In other words, children have all the rights as equal to citizens of India, just as any other adult male or female. Moreover, the Directive Principles of the State policy also articulates various social and economic rights. In a milestone event, India in 1992 ratified the United Nations Convention on the Rights of the Children (CRC) of 1989. The Convention on the Rights of the Children (CRC) is the most comprehensive single treaty in the field of children rights. It is important to note here that Article 33 to Article 35 of the Convention on the Rights of the Children (CRC) deals in protecting children from situations of exploitation. Article 34 specifically focuses on freedom of children from sexual exploitations and sexual abuses.

Sexual abuse is an umbrella term of unwanted sexual contact, under which rape too falls. Child sexual abuse has been defined as the involvement of dependent and immature children in sexual activities they do not fully comprehend, to which they are unable to give informed consent. Frequently, a child confides in a trusted person that she/he has been sexually assaulted. Different signs include difficulty in walking or sitting, torn, strained or bloody underclothes, pregnancy (in early adolescence). The child may appear withdrawn or retarded or may display bizarre or unusual sexual knowledge. Garden and Gray however provides a limited definition of child sexual abuse where he claimed 'children who have received serious physical injury caused willfully rather than by accident'. In similar discourse, Kempe defined child abuse as a situation in which one is physically assaulted. However, scholars like Burges have provided a much wider definition. According to Burges, 'any child who receives non-accidental physical and psychological injury as a result of acts and omissions on the part of his parents or guardians or employers' comes under child abuse.

The Juvenile Justice Act, 1986, in India defines child sexual abuse as "interaction between a child (under the age of 18 for girls and 16 for boys) and an adult (who is significantly older than the victim and is in position of power or control over the child, or may even be an acquaintance or an unknown person) in which the child, or may even be an acquaintance or an unknown person) in which the child is being used for sexual stimulation of the perpetrator or another person".

India seems to be the home to the largest number of sexually assaulted children in the world. In the year, 2017, a Government of India's agency report, 'National Crime Records Bureau', claimed that in India a child is sexually abused every 15 minutes. The previous year i.e. 2016, another report from Indian Home Ministry declared that in 2016, 106, 958 cases of crimes against children were recorded, of these 36, 022 cases were sexual abuse cases against child (under POSCO, Act). Again, in 2007, according to a study conducted by

India's Ministry of Women and Child Development (MWCD), 535 of children surveyed had been exposed to some form of sexual abuse. It is estimated that 150 million girls and 73 million boys under the age of 18 have been subjected to forced sexual intercourse or other forms of sexual violence.

Table 1: Year Wise Trends of Cases of Sexual Abuse Against Children		
SL. No	Year	Cases
1	2018	109
2	2016	106
3	2007	535

The state of Assam also sounds alarming in context of child sexual abuse. A report by the National Crime Records Bureau in 2015, expressed that crime against children went up by over 104 per cent in 2015 compared to 2014, placing Assam among the top 10 states with maximum number of crimes against kids. The others are Maharashtra (13,921), Madhya Pradesh (12,859), Uttar Pradesh (11,420), Bengal (4,963), Chhattisgarh (4,469), Karnataka (3,961), Rajasthan (3,689), Haryana (3,262) and Gujarat (3,623). Of which includes 1317 cases of trafficking, kidnapping 441 cases, and abduction for marriage 189 cases, child marriage 14 cases, 4 cases of kidnapping for ransom and sexual offence 145 cases.

Table 1: State Wise Trends of Total Crime Against Children		
SL. No	State	Cases
1	Maharashtra	13,921
2	Madhya Pradesh	12,859
3	Uttar Pradesh	11,420
4	Bengal	4,963
5	Chhattisgarh	4,469
6	Karnataka	3,961
7	Rajasthan	3,689
8	Rajasthan	3,689

9	Haryana	3,262
10	Gujarat	3,623

In 2016, a report of the Assam State Commission for the Protection of Child Rights (ASCPCR) gave a shocking revelation that over 600 children in the state were reported to have been sexually exploited in 2015. It said that as many as 618 cases were recorded in the state under the POSCO, Act. Among the districts, upper Assam's Dibrugarh district topped the list, with as many as 68 cases booked under the Act. Morigaon district registered the second highest number of cases, with some 53 cases. The Guwahati city came third with at least 41 such cases and Kamrup district registered 23 cases under the act. Sonitpur, Sivasagar, Nagaon and Dhubri districts recorded 36, 35, 31 and 30 cases respectively. Hojai and Majuli have the lowest numbers of cases, with one case reported in each district.

These statistics clearly involve a lot of cases both minor and major in extent. Among them, there are few recent incidents which had shocked the entire humanity. For instance, in January, 2018, in Jammu and Kashmir's Kathua, an eight-year-old girl was repeatedly gang raped and later murdered. Also, a minor of class V died after she was gang raped and set on fire on March 23, 2018 at Lalunggaon, about 125 km from Guwahati, under the Batadraba police station. The sexual assault case of 2017 in school at Dwarka, New Delhi where a four-year-old girl child is sexually abused by her classmate with his pencil in her private parts. A 13-year-old Adivasi girl who was sexually assaulted several times by a Professor of Assam Agricultural University who employed the girl at his home at Panjabari, Guwahati, as a maid and was working for two long years till 2017.

In the 2015, another case came to light where sexual abuse of 20 minor girls in an orphanage in Dibrugarh district in Assam was alleged. In the year 2014, a school teacher was arrested over molestation charges of a minor of 8 years old of Maxfort School, at Rohini, Delhi. In another sad incident in 2014 itself, a hearing-impaired student studying in a reputed Prabhadevi School for the Deaf and Aphasic, Mumbai was molested by the school principal along with a teacher. The victim had named six other students who had gone through the same horrible ordeal. The principal, under the pretext of giving her chocolates, behaved indecently and touch her inappropriately, while the teacher showed her obscene pictures.

In order to deal with the problem, the mechanism that is right now in force is the Protection of Children from Sexual Offences Act (POCSO), 2012. It is a comprehensive law to provide protection of children from the offences of sexual assault, sexual harassment and pornography. It also provides for mandatory reporting of sexual offences. The Act defines "a child as any person below eighteen years of age". It defines different forms of sexual abuse, including penetrative and non-penetrative assault. Before the enactment of the act, all such crimes were dealt under Indian Penal Code (IPC).

The official document of the act further states that "while safeguarding the interests of the child at every stage of the judicial process by incorporating child-friendly mechanisms for reporting, recording of evidence, investigation and speedy trial of offences through designated Special Courts". "People who traffick children for sexual purposes are also punishable under the provisions relating to abetment in the said Act. The

said Act prescribes stringent punishment graded as per the gravity of the offence, with a maximum term of rigorous imprisonment for life, and fine” (POSCO, 2012).

Though the act has been enacted in way back in 2012, but the ground reality is that till date, most of the people are unaware about the mandate of the act. Most of the NGOs, police personnel, child care institutions and etc. are not well acquainted with the act. So, in this regard an effective step is required so that every stake holder is enlightened effectively with the law. For this, the act may be included as a subject of study in schools, colleges, and all institutions of higher educations. Moreover, from time to time discussion sessions involving different sections of people regarding the issue of sexual abuse and protection need to be arranged by the government which is the need of the hour. But such events shall not only be followed in the national capital or any central place but also in the peripheries of India, especially in the rural areas.

The child must also be provided with lessons at home as well as school regarding their bodily private parts and make them understand the nature of exploitation of his/her body, in form of good touch and bad touch. In other words, the heinous issue of sexual abuse towards children must be brought under the contemporary public discourse on violence. The POSCO Act has received serious criticisms. It has been alleged that most of the provisions of the act is actually is in paper. Due to lack of awareness and sometimes due to lack of willingness, the school authorities, parents, common people are reluctant to report and register their voices against the practice of such crimes with their near and dear ones. One in 4 families doesn't even come forward to report such cases.

Dealing with cases of sexual abuse of children is not an easy deal. Extra sensitivity is required on part of police, parents, law courts, psychologist, media and public to prevent further trauma of the victim post an abuse. There must be sufficient mechanism at place to assist the victims to come under effective psycho-social rehabilitation programs. Besides, creation of special fast track courts, creation of special hospitals, police stations, counselors etc to deal with such cases effectively, confidentially, extra sensitively and above all within a specific time frame and to deliver justice to the victim and their family.

The introduction of Death penalty by the Indian parliament for such offences which was introduced all over the country in the year 2019 in order to send a strong message against the practice of the act is a welcoming step of the government to thwart the disturbing rise in the trend of sexual abuses towards our children in our country. There are also some remarkable civil society organizations that have been performing very effectively in addressing such crimes. To note a few, Childline, Milaap, Bachan Bachao Andolan, Prayas, Save the Children and etc are worth mentioning. The government must provide them with all resources and especially financial supports to carry out their activities. In fact, the government and such NGOs must work shoulder to shoulder.

Lastly, making laws is not only the ultimate solution to the problem. The menace would sure to emerge from time to time in one form or other but we much also be able to provide the antidotes. As such, all political parties should come forward rising from party levels, building up a consensus on the issue. At any cost, there must not be any politicization of such issues. The next time any such assault on our beloved children takes place it is to be kept in mind by the so-called political personalities neither politicized nor communalized any such event rather should follow a zero-tolerance attitude against the crime. Moreover, the media must also not make such issue a TRP matter.

“Rape is Rape” and “it is a crime against society”, as declared by our Prime Minister of India, Narendra Modi at an international event held at Britain in 2018, signifies that time has come where the issue of sexual abuses towards children need to be addressed as soon as possible because it is about the most valued jewels of our nation- the children. The existing laws, legal provisions and honest and efficient attitude of all the stakeholders are required so that we could end up the practice of this inhuman act from the source of its origin i.e. the human mind. The statistics and the observations made by the author through this paper is an attempt to highlight the most urgent discourse of the hour on the issue that is the sexual abuses towards the children.

References

1. Vijapur P. Abdulrahim (2010). *Human Rights in International Relations*. Manak Publications. pp. 241-42.
2. Ahuja Ram (2011). *Social Problems in India*, Rawat Publications. pp. 218-222.
3. Basu, D. D. (2015), *Introduction to the Constitution of India*. pp. 86-162.
4. Crime Statistics-2016, National Crime Records Bureau, (Apr. 12, 2018). Retrieved from <http://ncrb.gov.in/StatPublications/CII/CII2016/pdfs/Crime%20Statistics%20-%202016.pdf>.
5. Agarwal H.O. (2005). *Human Rights*, Central Law Publications, pp. 2-3.
6. Kacker Loveleen, &”, Varadan Srinivas, &”, Kumar Pravesh (2007). *Study on Child Abuse India*. pp. 71-74.
7. Narayana P. S (2012). *Universal's Commentary on the Protection of Children from Sexual Offences Act, and Rules*. pp. 01-02.
8. Karmakar Sumir (Sept. 1, 2016), Child abuse up by 104%, The Telegraph, p. 1.
9. Ministry of Women and Child Development (2013). *Model Guidelines under Section 39 of The Protection of Children from Sexual Offences Act, 2012*. Retrieved from <https://wcd.nic.in/sites/default/files/POCSO-ModelGuidelines.pdf>.
10. Curtis, Lynn A. *Criminal violence*. Lexington Books. Kentucky. 1974
11. Wolfgang, M.E. Violence in the Family. In Kutash et al. *Perspective in Murder and Aggression*, John Wiley, New York. 1978.