

INTERNATIONAL JOURNAL OF LEGAL STUDIES AND SOCIAL SCIENCES [IJLSSS]

ISSN: 2584-1513 (Online)

Volume 3 | Issue 2 [2025] | Page 69 - 85

© 2025 International Journal of Legal Studies and Social Sciences

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

In case of any queries or suggestions, kindly contact editor@ijlsss.com

FROM SHADOWS TO SAFEGUARDS: EVALUATING LEGAL MECHANISMS AGAINST CHILD ABUSE IN INDIA

-Puneet Singh Parihar¹

ABSTRACT

Child abuse in India remains a pervasive issue despite robust constitutional and legal frameworks designed to protect children. This paper examines the various forms of child abuse—physical, sexual, emotional, and neglect—and evaluates the efficacy of existing legal protections, including constitutional provisions, national policies, and specialized legislation such as the Protection of Children from Sexual Offences (POCSO) Act, 2012, and the Juvenile Justice (Care and Protection of Children) Act, 2015. Drawing on multiple studies and reports, the paper highlights alarming statistics, such as the finding that 53% of Indian children face some form of sexual abuse, with boys equally vulnerable as girls. The study also explores the socio-economic factors contributing to child abuse, including poverty, lack of awareness, and systemic failures in implementation. While India has made significant legislative strides, gaps remain in enforcement, victim support, and societal awareness. The study concludes with a comprehensive set of recommendations focusing on strengthening enforcement mechanisms, increasing public awareness, improving victim support systems, and enhancing inter-agency collaboration to ensure a more effective and holistic approach to child protection.

Keywords: Child abuse, POCSO Act, Juvenile Justice Act, constitutional protections, child rights.

INTRODUCTION

Child sexual abuse is a form of abuse where an adult or older adolescent uses a child for sexual stimulation. Child sexual abuse is a civil and criminal offence wherein an adult take part in sexual activity with a minor or exploits a minor with the end goal of sexual gratification and which never can be viewed as typical or socially acknowledged conduct. We have the custom that all children are our own, and we love and support them; we have the laws that children reserve an option to

¹ 2nd-year student, Jagran Lakecity University, Bhopal

life, dignity, regard, and protection; however, we have the practice where we keep quiet about child sexual abuse since it is an unpardonable and shocking subject.

Child abuse is a worldwide issue, but in India, its expressions are worsened by socio-economic disadvantages, socio-cultural norms, and systemic ineffectiveness. According to the World Health Organization (WHO), child abuse is defined as "all forms of physical and/or emotional ill-treatment, sexual abuse, neglect, or commercial exploitation, resulting in actual or potential harm to the child's health, survival, development, or dignity" (WHO, 2006). India, with the largest child population in the world and having 42% of its population under 18 years old (Census 2011), has critical challenges in terms of keeping children safe, despite constitutional guarantees and progressive legislation.

Human rights are those rights gotten from the inborn dignity of being brought into the world a human being. These fundamental rights are basic to empower a person to lead a satisfactory life. We still see child abuse persist in various forms, and we need urgent policy and societal intervention to address this issue. This paper intends to discuss the protections available for children under the law and the constitution, discuss the types and the prevalence of child abuse, discuss the laws and policies formulated to address these concerns, and examine the gaps to adequately protect children from abuse and exploitation.

HISTORICAL PERSPECTIVE OF CHILD ABUSE

The recognition of children as individuals with human rights is a relatively modern development. In ancient times, societies often placed children on a level similar to animals rather than viewing them as autonomous human beings. Historical examples from Babylonian and Roman civilizations show that children were expected to conform strictly to societal norms and expectations, with little regard for their individual rights or well-being. In India, child sexual abuse remains a deeply taboo subject, despite being a harsh and undeniable reality. This issue is made worse by inadequate legal measures and a culture of silence that discourages open discussion. A significant number of people still believe that child sexual abuse is primarily a Western problem and overlook its prevalence in India.

It wasn't until the 1970s and 1980s that child sexual abuse began to be publicly acknowledged as a serious issue. Prior to that, it was largely kept in the shadows, treated as a taboo subject unfit for open discussion. Research on child molestation was virtually nonexistent until the 1920s, and it wasn't until 1948 that the first national estimate of child sexual abuse cases was officially published.

Children in ancient Indian legal systems, especially the Laws of Manu, were thought to be at the lower end of society. However, they were still given some measure of protection by society. This protective tendency was best seen in the manner of administration of discipline. For example, when punishing children, the rules laid down the use of a rope or a split bamboo rod. The thought was that although such an instrument could make a loud noise—much like those used in clown acts in circuses—it would not cause severe pain. Further, the punishments were to be limited to the back of the child and were never to be administered to the head or chest. From a modern, progressive viewpoint on child discipline, the notion of physical punishment may not appear "protective" at all. However, compared to the harsh and often brutal punishments meted out to children in other ancient civilizations, the Manu Smriti's comparatively mild approach offers insight into a more restrained and perhaps more compassionate form of child-rearing for that time.

Looking ahead to recent legal advancements, the United States made a significant move in 1986 when Congress passed the Child Abuse Victims' Rights Act. The legislation granted child sexual abuse victims the right to pursue civil lawsuits against their perpetrators. During the 1980s and 1990s, various pieces of legislation were introduced that resulted in increased prosecutions and harsher punishments for child sexual offenders. Indeed, it was in the 1970s that governments everywhere started redirecting their legislative efforts more actively towards recognizing and responding to child sexual abuse.

Despite the many laws currently on the books in both India and Western countries to stop a wide variety of child exploitation—whether sexual, emotional, psychological, or physical—children everywhere still suffer abuse. Although many NGOs and child rights groups are on the job and working hard to protect and empower children, a great deal more needs to be done. To bring about an end to child sexual abuse will take not just effective laws but public awareness on an ongoing basis, effective enforcement, and community involvement.

FORMS OF CHILD ABUSE IN INDIA

- **Physical Abuse**

Physical abuse to some extent involves the intended causing of bodily harm by acts such as beating, slapping, caning, etc. Studies have pointed consistently to the enormity of this problem in India:

- (i) Schools: A survey by the National Commission for Protection of Child Rights (NCPCR) found that a staggering 99.86% of school children reported that they had been punished

in one way or another. More specifically, 75% reported being beaten with a cane, 69% said they had been slapped on the cheeks, and verbal abuse was applied, with 81.2% of children told they were "not capable of learning."

- (ii) Childcare Institutions: Analysis of 2016-17 data indicated nearly 50% of childcare institutions' children were being hit, spanked, having food withheld, or being intimidated into compliance; all these are legal offenses against the nature of corporal punishment.
- (iii) Homes: While, on the one hand, specific national data on physical abuse in homes may be limited, the cultural norm of physical discipline suggests its high prevalence. Yet, the NCPCR study found that many parents approved of corporal punishment and were also using corporal punishment on their children, thus indicating that in educational settings as well as from their homes, children often find themselves in an abusive environment.

Undoubtedly, physical abuse constitutes a worldwide issue, as is the case in India. UNICEF accounts for nearly 3 out of every 4 children between ages of 2 and 4 across the entire world to have been subjected, by parents and caretakers, to physical punishment and/or psychological violence. This means that violations with respect to physical abuse are almost universal across cultures or societies.

- SEXUAL ABUSE

Sexual abuse is one of the most underreported crimes due to stigma and fear. Shockingly, 53% of Indian children face sexual abuse, with 50% of perpetrators being known to the victim (Kumar et al., 2012). The POCSO Act, 2012, was enacted to address this, but low conviction rates and delayed trials hinder its effectiveness. Child sexual abuse (CSA) in India is a serious issue that impacts a substantial percentage of the child population across all socio-economic strata. It represents a spectrum of exploitative activities ranging from inappropriate touch, sexual material exposure, to rape. Despite the enactment of tough legislations such as the Protection of Children from Sexual Offences (POCSO) Act, 2012, the rate of CSA is shockingly high and the utility of these laws in question.

The Ministry of Women and Child Development (MWCD) 2007 study identified that about 53% of Indian children reported having undergone some kind of sexual abuse. Importantly, the study also showed that boys were equally susceptible to such abuse as girls. One of the concerns is that in most instances, the abusers are known persons to the victims, such as family members, neighbors, or acquaintances. This familiarity has resulted in underreporting owing to fear, stigma, and social pressure.

LEGAL FRAMEWORK AND CHALLENGES

- (i) The POCSO Act of 2012 aimed to create a strong legal framework for protecting children against sexual offenses. It compels child-friendly procedures at the time of investigation and trial so that trauma may be kept at a minimum and reporting encouraged. The enforcement of the Act has, however, been subject to several challenges
- (ii) **Low Rate of Convictions:** Conviction rates under the POCSO Act are significantly low. For example, a study by Vidhi Centre for Legal Policy, which reviewed data from 2012 to 2021, saw that convictions under the Act happened in a mere 14.03% of trials, while 43.44% saw acquittals. In certain states, the gap is even wider; Andhra Pradesh cited acquittals seven times greater than convictions.
- (iii) **Case Backlog and Delays:** As of January 2023, there were more than 243,000 pending POCSO cases in India's fast-track special courts. Based on the current disposal rate, it would take a minimum of nine years to dispose of this backlog, even without piling new cases on top. Such delays defeat the intent of the Act, which mandates that trials be concluded within one year.
- (iv) **Underreporting and Victim Intimidation:** Fears of social stigma and intimidation by perpetrators, particularly where the perpetrator is familiar to the victim, result in extensive underreporting. In Delhi, for instance, out of 170 POCSO cases adjudicated between 2014 and 2015, only 20 were convicted, with several victims becoming hostile during trial.

Child sexual abuse occurs on a world scale, where the prevalence and reporting differ according to countries. Based on one UNICEF report, more than 370 million girls and women globally, or one out of eight, were raped or sexually assaulted by age 18. The statistic jumps to 650 million, or one in five, if non-contact violence is included. Boys and men are not excluded, with a range of estimates between 240 and 310 million who face similar abuse during childhood.

The problems encountered in India, e.g., low rates of convictions and case piling up, are not an exception. In the Philippines, for example, even with legal reforms such as increasing the age of consent, systemic problems such as judicial inefficiency and cultural stigmas still impede effective child protection. Likewise, in the United Kingdom, online child sexual exploitation has been reported to have hit "pandemic levels" with more than 300 million children worldwide estimated to be victims every year

EMOTIONAL ABUSE AND NEGLECT

Emotional abuse includes verbal humiliation, isolation, and psychological trauma. Neglect, particularly of the girl child, is rampant, with disparities in nutrition, education, and healthcare access (Mishra, 2017). The National Policy for Children (1974) emphasizes protection, but implementation remains weak.

Emotional abuse and neglect are pervasive yet often overlooked forms of child maltreatment in India. Emotional abuse encompasses behaviors such as verbal humiliation, isolation, and psychological manipulation, while neglect refers to the failure to provide necessary care, affection, and support for a child's well-being.

A 2007 study by the Ministry of Women and Child Development (MWCD) revealed that nearly 49% of children reported experiencing emotional abuse, with parents being the most common perpetrators. Furthermore, the study highlighted that 71% of girls reported facing neglect within the family environment, indicating a significant gender disparity in caregiving practices.

The UNICEF report "Parenting Matters: Examining Parenting Approaches and Practices" identified 30 different forms of physical, verbal, and emotional violence used by Indian parents on children aged 0 to 6 years. These included physical violence (e.g., burning, pinching, slapping), verbal abuse (e.g., blaming, criticizing, shouting), and emotional abuse (e.g., restricting movement, denying food, discrimination). The study emphasized that punishment is a widely accepted method to discipline children across families, schools, and communities.

Comparatively, a global study published in *The Lancet Child & Adolescent Health* journal found that nearly one-third of disabled children and teenagers face emotional and physical abuse, with 20% experiencing neglect. The analysis, involving over 16 million young people across 25 countries from 1990 to 2020, indicated that disabled children are twice as likely to face various forms of abuse compared to their non-disabled counterparts. Factors contributing to this violence include stigma, discrimination, poverty, social isolation, and inadequate support for caregivers.

The consequences of emotional abuse and neglect are profound and long-lasting. Children subjected to such maltreatment are at increased risk of developing mental health issues, including anxiety, depression, and post-traumatic stress disorder. They may also experience difficulties in forming healthy relationships and exhibit behavioral problems. Moreover, the lack of emotional support and nurturing can hinder cognitive development and academic achievement.

CONSTITUTIONAL AND LEGAL SAFEGUARDS

a) CONSTITUTIONAL PROVISIONS

THE INDIAN CONSTITUTION GUARANTEES VARIOUS CHILDREN'S SAFEGUARDS:

Article 21A of the Indian Constitution, as brought into force through the 86th Constitutional Amendment Act, 2002, makes provision for the right to free and compulsory education for all children between 6 and 14 years. This provision is a significant milestone in child protection and promotion of child rights, recognizing that education is a fundamental right crucial for children's growth and empowerment. The Right of Children to Free and Compulsory Education Act, 2009 (more appropriately known as the RTE Act), brings into effect this directive of the constitution. It forces the government to ensure quality education to all children of the age group at no cost, in a local school in the vicinity. The Act also lays a great emphasis on child-friendly classrooms, teachers' responsibility, and prohibition of corporal punishment and mental harassment at school. Not only a device to learn and know things, but also to break the cycle of poverty and protect children from abuse, exploitation, and neglect. Regulation Article 24 is a legislation which particularly refers to child labor.

It strictly prohibits children who are under the age of 14 from being employed in a factory, mines, or hazardous labor. It is vital in the protection of children against working conditions that will lead to physical, emotional, and psychological damage. Child labor is still highly rampant throughout most of the country, particularly in unrecorded sectors of work such as agriculture, home service, and micro-enterprise, even decades after protection through the constitution was put in place. To make Article 24 more effective, Child Labour (Prohibition and Regulation) Amendment Act, 2016 was implemented, which prohibits all forms of work for children under the age of 14, except to help in family businesses or work as a child artist with some conditions. The act also imposes stringent fines on offenders of the act, to deter exploitation and encourage children to attend schools. Article 39(e) and (f) are placed under Directive Principles of State Policy, where the state is guided to form policies for assuring the well-being of children. Clause (e) requires the state to ensure that the children are not forced by reasons of economic

necessity to engage themselves in any activity or employment other than their present age and capacity.

This is to protect them from any sort of labor or responsibility which gets in the way of their normal development. Clause (f) stipulates that children should be offered facilities and opportunities to develop in a healthy manner and in a state of dignity and freedom. It also mandates that childhood and youth be protected from exploitation and moral and material abandonment. These provisions highlight the importance of an integrated vision for child welfare, calling upon the state to safeguard the rights of children and ensure they are raised in an environment conducive to their overall growth.

B) MAJOR LEGISLATIONS

THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES (POCSO) ACT

To deal with the grave issue of child sexual abuse and have stronger, clearer legal provisions, the Ministry of Women and Child Development introduced the Protection of Children from Sexual Offences (POCSO) Act in 2012. The Act was enacted in November of that year and was specifically intended to protect children from all forms of sexual abuse, including sexual assault, harassment, and exploitation. The legislation defines any individual under the age of 18 years as a child and criminalizes all sexual activities with a child regardless of consent. The Act categorizes six types of sexual offences: Penetrative Sexual Assault (Section 3), Aggravated Penetrative Sexual Assault (Section 5), Sexual Assault (Section 7), Aggravated Sexual Assault (Section 9), Sexual Harassment (Section 11), and Employing a Child for Pornographic Purposes (Section 13). All these offenses have severe punishments, emphasizing the gravity of the offense and the need for harsh deterrents. One of the most significant features of the POCSO Act is its mandatory reporting requirement. It makes it obligatory for any individual—particularly doctors and medical professionals—who comes to know or suspects a case of child sexual abuse to report the same to the authorities. Failure to report is an offence under Sections 19 and 21, which carries a maximum sentence of six months' imprisonment and/or a fine. Significantly, the Act does not require the reporter to inform the child or his/her

guardians of this duty, nor is the reporter required to investigate—the investigating bodies must review the case.

The POCSO Act is child-centric in the entire judicial process, right from the reporting and collection of evidence to the trial. Special courts have been established to ensure a quick and sensitive trial process with minimal trauma to child victims.

Though a strong and well-intentioned law, the effective implementation of POCSO requires coordination among stakeholders. They constitute Child Welfare Committees, Juvenile Police Units, District Child Protection Units, doctors, psychologists, psychiatrists, counselors, social workers, lawyers, and other legal specialists. These inter-disciplinary efforts are required to truly serve the best interests of the child. A forensic study by Kulkarni et al. (2015) emphasized the need for greater awareness among the parents and the public in general about their rights under the Act.

It emphasized that even laymen can and should report abuse without fear. The analysis also suggested training children and teachers and recommended displaying child helpline numbers prominently in schools, institutions, and hospitals to facilitate easy reporting of abuse.

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT

The Juvenile Justice (Care and Protection of Children) Act, 2015, that came into effect on 15 January 2016 was brought in to provide a complete legal framework for taking care of the needs of two groups of vulnerable children: children in conflict with law and children in need of care and protection. A "child in conflict with law" is any person below the age of 18 who is accused or found to have committed an offense. In contrast, a "child in need of care and protection" comprises children who are economically, socially, or culturally disadvantaged—e.g., those found without a home, guardian, or means of sustenance.

This act centers on the protection of the basic rights and interests of children, their proper care, protection, and rehabilitation. It ensures a child-friendly process in the judicial system and prioritizes the best interest of the child in every decision. The Act facilitates social reintegration both through institutional and non-institutional ways and enunciates several foundational

principles, including the principle of presumption of innocence, participation, dignity and worth, family responsibility, positive measures, non-discrimination, privacy, and natural justice. These principles guarantee that every child will be treated with respect and justice at all stages of the justice process. The Act substituted the word "juvenile" throughout its sections to lower the stigma of the term and added new definitions such as orphaned, abandoned, and surrendered children.

It categorized offences of children into petty, serious, and heinous and vested definite powers and responsibilities in the Juvenile Justice Board (JJB). One of the notable provisions permits the trial of children over the age of 16 as adults in cases of grave offenses subject to evaluation by the JJB. In addition, the Act added a special chapter on adoption and thus eased and streamlined the adoption process for parentless children. It also recognized new offences against children and made the registration of all Child Care Institutions mandatory, ensuring better oversight and protection for children residing in such facilities.

CHILDLINE

CHILDLINE is India's first nationwide, 24-hour, toll-free emergency helpline dedicated to children in distress. Reachable through 1098, the service is open to children and concerned adults who may report child abuse or seek help. In addition to the helpline, CHILDLINE also has an online portal through which missing children can be traced. The CHILDLINE India Foundation (CIF), founded in 1999, is the nodal organization tasked with running and upscaling this program, with the goal of protecting and caring for marginalized children in need (CIF, 2011). The helpline is availed by a large number of vulnerable groups such as abused children, street children, child laborers, children with disabilities, the mentally challenged, child refugees, trafficked children, children affected by HIV/AIDS, and children in institutional care or those emotionally disturbed. It is also available for children exposed to conflict or natural disasters, children addicted to substances, and children in conflict with the law.

To facilitate common access, the Government of India (GOI), and more specifically the Ministry of Women and Child Development (MWCD), are central to implementing and financing the CHILDLINE service under the umbrella of the Integrated Child Protection Scheme (ICPS). The ministry also uses CHILDLINE data to drive and develop child-related policies and legislation. According to the 11th Five-Year Plan, the GOI made it mandatory to have CHILDLINE services in all of India's 600+ districts, emphasizing the nation's focus on child protection at a grassroots level.

INTERNATIONAL COMMITMENTS

India has shown a strong and abiding commitment to the security, safety, and dignity of children by becoming a signatory to a number of international declarations and instruments dedicated to child rights. Its most significant step towards this was its accession to the United Nations Convention on the Rights of the Child (UN CRC) in 1992, thus reaffirming its earlier support for the 1959 UN Declaration on the Rights of the Child. The UN CRC is the most comprehensive international convention concerning children's rights and sets out a broad array of civil, political, economic, social, and cultural rights of children. To further emphasize its dedication to the cause, India ratified two Optional Protocols to the CRC in 2005—one regarding child involvement in armed conflict, and the other prohibiting the sale of children, child prostitution, and child pornography. These protocols concentrate on some of the worst child rights abuses and outline certain legal and policy mechanisms that should be employed by member states to respond to such abuses adequately. In addition, India is a signatory to other key international human rights instruments such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both of which include children and adults and ensure that the rights of children are safeguarded in all spheres of life.

Among the most significant global child protection agreements that India has ratified is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), even though designed to eliminate discrimination against women, also safeguards girls' rights below the age of 18 through provisions that exclude child marriage, female infanticide, and guarantee education and health care. The other important instrument is the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, with a focus on South Asia's collective regional obligation to prevent human trafficking. The convention positively asserts that trafficking of women and children for commercial sexual exploitation is a gross abuse of human dignity and fundamental rights. It calls on member states to join hands to eradicate this threat through legal, administrative, and social measures. Separately, these global commitments represent India's proactive stance in aligning its national policy with international ideals for ensuring the overall protection and development of children across the nation.

CASE LAWS RELATING TO CHILD RIGHTS AND CHILD ABUSE IN INDIA

From the Seventh Five-Year Plan onwards, the judiciary and the Supreme Court too have assumed an active function in upholding the rights of the child. Some of the most important examples of social action litigation for children are the accompanying cases, every one of which has been a milestone in the process of ensuring children's rights:

GHANASHYAM MISRA V. THE STATE

In the case, the Orissa High Court in 1956, perceiving that the offence was committed by offence is committed by a person in a position of trust or authority for the child, enhanced the sentence of Ghanashyam Misra, a schoolteacher who raped a 10-year-old girl in the school premises. The judgment reads – "The circumstances are the entirety of an aggravating nature. The victim is a young girl of ten years, and the culprit an adult of 39 years... He took advantage of his position by inducing her to come inside the school room and committed such an atrocious act, the consequence of which should be the complete ruin of the future life of the girl." Not just did the court improve the sentence to seven years but also ordered the accused to pay a compensation to the father and the child.

TUKA RAM AND ANR VS STATE OF MAHARASHTRA

The Mathura rape case was an incident of custodial rape in India on 26 March 1972, wherein Mathura, a tribal girl who was a minor at that point, was supposedly raped by two policemen on the compound of Desai Ganj Police Station in Chandrapur district of Maharashtra. After the Supreme Court acquitted the accused, there was public outcry and protests, which eventually prompted amendments in Indian rape law via The Criminal Law (Second Amendment) Act 1983 (No. 46).

SHEELA BARSE & OTHERS V. UNION OF INDIA & OTHERS

Social worker Ms. Sheela Barse took up the case of children underneath age of 16 illegally confined in jails. As part of the ruling, the Court declared the right to speedy trial is a fundamental right verifiable in Article 21 of the Constitution.

LAXMIKANT PANDEY V. UNION OF INDIA

In this case, the honorable Supreme Court of India help down scarcely any doctrine governing the rules for Inter-Country adoption. The case was instituted on the basis of a letter addressed to the court by a lawyer, Laxmikant Pandey asserting that social organizations and voluntary agencies participating in the work of offering Indian children to foreign parents are indulged in malpractices.

STATE OF PUNJAB V. GURMIT SINGH AND OTHERS

In this case, the Supreme Court was highly critical of the acquittal of persons accused of gang assaulting a 16-year-old girl. The trial court had alluded to the young village girl as a person of loose character who had invented the story of rape to justify spending a night out of home. It had refused to depend on her statement. The Supreme Court observed that the appreciation of evidence by the trial court was "unreasonable as well as perverse". It held that: "The testimony of the victim in such cases is vital and unless there are convincing reasons which necessitate searching for corroboration of her statement, the courts should discover no difficulty to act on the testimony of a victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. Seeking corroboration of her statement before depending upon the same, as a rule, in such cases amounts to making an already difficult situation even worse."

SAKSHI VS. UNION OF INDIA

The NGO Sakshi recorded a writ petition in Public Interest to broaden the meaning of rape in cases involving children where the child is abused by insertion of objects into the vagina or insertion of the male organ into body parts such as anus or mouth. The Supreme Court rejected the plea and dismissed the public interest litigation. But it issued valuable guidelines for trial of rape and sexual abuse which concern children. These are known as the Sakshi guidelines:

1. A screen or an arrangement where victim or witnesses don't see the body or face of the accused.
2. Questions put in cross examination on behalf of accused, on the off chance that they relate directly to the incident, must be given in writing to the Presiding Officer of the court who may put them to the victim/witnessed in a language that is clear and not embarrassing.
3. Victims of child abuse or rape should be permitted sufficient breaks as and when required during the testimony.

GAURAV JAIN VS. UNION OF INDIA

This writ petition has been recorded pleading for separate schools and hostels for the children of prostitutes. On behalf of respondents, it was fought that since they are in fact unwanted children of prostitutes it is in the interest of such children and the society everywhere that they are segregated from their mothers and be permitted to mix with others and become part of the society.

GITA HARIHARAN VS. RESERVE BANK OF INDIA

In Githa Hariharan vs Reserve Bank of India, which challenged the constitutional validity of Section 6, the Supreme Court deemed both mother and father as natural guardians of a child. The apex court also ruled that 'after' can't be given a literal interpretation, and the child's welfare has precedence in deciding the guardian of a child.

MOHD. AKHTAR VS THE STATE OF JAMMU AND KASHMIR

The 2018 Kathua abduction, gang rape and murder case refers to the abduction, gang rape, and murder of a 8-year-old girl, Asifa Bano, in Rasana village close to Kathua in Jammu and Kashmir, India. A special Pathankot Court found six people guilty and sentenced three people to life imprisonment and three others to prison terms of over five years.

CHALLENGES IN IMPLEMENTATION

Low Reporting and conviction rates despite having strong legal provisions such as the Protection of Children from Sexual Offences (POCSO) Act, reporting and conviction rates in cases of child abuse remain comparatively very low. Only 30% of such cases are reported, primarily due to fear of social ostracism, victim-blaming, and general lack of trust in law enforcement agencies and judicial processes. This underreporting severely impairs justice provision and sustains a cycle of abuse and silence. Moreover, even when the cases get filed, the path to justice is littered with hindrances, as one can see through the low rate of conviction by only 32% under POCSO Act, as indicated by National Crime Records Bureau (NCRB) figures for 2020. The dismal rate of conviction is indicative of procedural sluggishness, lack of effective investigation, hostile witness conditions, and not receiving adequate psychological and legal guidance to child victims, which make families shy away from seeking justice. Socio-Economic Barriers Socio-economic conditions like poverty, illiteracy, and mass migration further increase the vulnerabilities of children, especially those from marginalized groups.

The Ministry of Women and Child Development (MWCD) in its 2007 report emphasized that street children, child labourers, and slum dwellers are the most vulnerable to exploitation and abuse. These children also do not know their rights and do not have minimal or no access to mechanisms of legal redress or protection. Legal aid services, in which such vulnerable groups ought to access support, are unavailable or ineffective in most cases due to ineffective implementation and resource constraints. Such denial by the system makes children at risk of renewed exploitation and abuse without a space for redress or justice. While there has been a legislation of the Juvenile Justice (Care and Protection of Children) Act aimed at providing a legal framework towards reintegration and rehabilitation of the child in need of care and protection, this is yet to be adequately realized on the ground. Shelters and child welfare committees, being key institutions under the JJ Act, persistently suffer from understaffing, poor training, and underfunding, as pointed out by. Such shortages result in substandard care for children, rehabilitation delays, and even secondary victimization in institutional settings at times. In the absence of a well-funded and child-sensitive support system, the objective of holistic rehabilitation goes unrealized, thus undermining the child's recovery, well-being, and prospects of reintegration into society.

CONCLUSION AND SUGGESTIONS

Child sexual abuse is one of the most terrifying and abhorrent concerns that India today struggles with. Other forms of sexual violence concern blame misplaced upon the victim or blamed on foreign cultural influences, but child sexual abuse harshly reveals a dark underbelly of society which many do not wish to confront. It necessitates a forthright and genuine investigation of the issue, rather than one of concealment and denial. Unfortunately, young children are most often abused by the very people they know and trust—those who exert power or control in their lives. The criminal court cases provide an example of how children are usually victimized by adults beset by such issues as addiction to drugs, mental illness, or family violence. Too little has been done, however, to stress preventive measures, with the criminal justice system focusing most of its energies on punishment once the damage has already been wrought. Social stigma, peer pressure, emotional and economic dependence on the perpetrator, and the complexity of the justice system all discourage victims and witnesses from reporting. Even family members, even parents, sometimes decline to report such crimes, believing that doing so will cause more harm than good to the child, particularly in social terms. In cases where child abuse is involved, the best interest of the child always has to come first. Such cases have to be handled in a child-centered and confidential manner to prevent stigmatization of the child or family. Yet, when the perpetrator is

a family member, these perpetrators need to be brought to account and not let off. Additionally, proper protection needs to be afforded to reporters of such crimes, either to the police or to child welfare agencies such as the Juvenile Justice Board.

Since child sexual abuse is commonly hidden in secrecy, parents and guardians have to be informed and educated about the seriousness of the issue. They have to create a safe environment and educate their children on how to recognize and deal with inappropriate behavior. The sad truth is that child sexual abuse is an ugly truth for the weakest and most vulnerable elements of society and a sign of the declining moral fabric of the community. Even though legislation like the Protection of Children from Sexual Offences (POCSO) Act is a significant measure towards making the children safe, it cannot completely solve the issue by itself. Legal remedy offers means of redress but cannot in themselves alter societal values and attitudes. Success of any law also depends on how seriously it is enforced. In sexual abuse of children, the judiciary has a higher responsibility to ensure that justice is administered, and rights of children are safeguarded. Being vulnerable physically and emotionally, children are due to have robust legal protection. They are the future of the nation, and making sure they are protected from such brutality will have to become everyone's priority and the government.

REFERENCES

- Ministry of Women and Child Development. (2007). *Study on Child Abuse: India 2007*. Government of India.
- Kumar, A., et al. (2012). "The Problem of Child Sexual Abuse in India." *J Indian Acad Forensic Med*, 34(2).
- Mishra, M. (2017). "Child Abuse: Constitutional and Legal Protection in India." *Legal Research Development Journal*.
- Athreya, S. (2020). "Child Abuse and Its Manifestation in India: A Legal Perspective." *Christ University Law Review*.
- Marothiya, N., et al. (2021). "Child Protection in India: Issues and Policies." *Gorteria Journal*, 34(1).
- Kritanjali, S., 2017, May 24, Child Sexual Abuse Laws In India. The Law Bridge. <https://thelawbrigade.com/criminal-law/child-sexual-abuse-laws-in-india/>
- Anonymous (2025) The Juvenile Justice (Care and Protection of Children) Act, 2015. Pp. 1- 6. LexisNexis Publication, India.

- Bhakhry S (2006) “Children in India and their rights, National Human Rights Commission India Retrieved from: <https://nhrc.nic.in>on1 2025
- Children in India: a statistical appraisal. Ministry of Statistics and Programme Implementation,2018.Retrievedfrom:http://www.mospi.gov.in/sites/default/files/publication_reports/
- National Crime Records Bureau (2014) Crime from:<http://ncrb.nic.in/index.htm>
- UNICEF. (n.d.). Online Library-Addressing Child Trafficking.
- Gupreet Pannu, ‘Problem of Trafficking and Sexual exploitation of children: National and International Scenario’ Punjab University law Journal (2007)
- Leon, E., 2002, June 2, Cross-cultural and historical perspectives on child abuse and neglect. Science Direct.
- Ajithkumar U (2009) Awareness of child rights and their practices among secondary school teachers of Greater Mumbai.
- *Ghanashyam Misra v. The State*, AIR 1957 Ori 78, 1957 Cri LJ 469 (Orissa HC).
- *Tukaram & Anr v. State of Maharashtra*, (1979) 2 SCC 143.
- *Sheela Barse v. Union of India*, (1986) 3 SCC 596.
- *Laxmikant Pandey v. Union of India*, (1984) 2 SCC 244.
- *State of Punjab v. Gurmit Singh & Others*, (1996) 2 SCC 384.
- *Sakshi v. Union of India*, (2004) 5 SCC 518.
- *Gaurav Jain v. Union of India*, (1997) 8 SCC 114.
- *Githa Hariharan v. Reserve Bank of India*, (1999) 2 SCC 228.
- *Mohd. Akhtar v. State of Jammu and Kashmir*, (2018) 5 SCC 499.