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Special Issue on Child Protection



SARDAR VALLABHBHAI PATEL
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Dr. Mohua Nigudkar

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Special Issue on Child Protection

In the attempt to create a safer and compassionate world for our children, we present this special issue of the SVPNPA journal dedicated to Child Protection. This endeavour, through the Center for Children at SVPNPA, reflects our dedication to the vision of a society where every child can achieve their maximum potential.

Our contributors range from the head of UNICEF India to serving police officers, academics and social workers with a deep engagement in the field of child protection. The articles within this issue cover a wide spectrum, addressing critical facets of child protection, from examining innovative approaches to preventing child exploitation in various states to exploring the intersections of children and technology. The rich contributions reflect the complexities in keeping our youngest citizens safe.

As we go deeper into the contents, we find thought-provoking pieces that examine the legal frameworks shaping child protection policies, the offender profiles and prevention issues in Child Sexual Abuse cases, the mental health of children that are a leading cause of death by suicide, the differences between the meaning of justice for adults and children and the many initiatives of the Law Enforcement Agencies in the field. Each article contributes to the appreciation of the larger picture in the area of child protection.

The Center for Children at SVPNPA, since its inception has been working to bring together scholars, experts and practitioners to share their insights and experiences. Collaboratively we're trying to bring positive change, to allow the discourse on child protection to go beyond academic circles and permeate policy making and finally translate into actions by Law Enforcement agencies.



Significantly this special issue doesn't just identify challenges but looks towards solutions. From best practices in child-friendly policing to new insights in the way POCSO cases are investigated, the articles are meant as a repository of knowledge to guide and inspire everyone invested in the welfare of children.

Our readers are encouraged to engage with the ideas presented and use this knowledge for meaningful action. We hope this special issue serves as a spark for dialogue, innovative practices and a pursuit to usher a better future for the world's children.

Let us collectively dream of a tomorrow where every child can flourish - protected and empowered.

SVPNPA Journal Editorial Team

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Child Rights and Child Protection in India: A Commentary

Dr. Mohua Nigudkar*

Abstract

Children, the youngest members of society, are entitled to fulfillment of child rights and protection. This article highlights some critical areas of child vulnerability and marginalization in the Indian context and the progress made toward realizing child rights and protection. The article is primarily based on the author's academic experience of social work education, research, training, and field experience related to the juvenile justice system in India. The article, focussing on children from vulnerable and disadvantaged backgrounds, emphasizes that children and childhood merit attention and timely response at the familial, community, State, and societal levels. Working with children, an inherently interdisciplinary and multi-disciplinary approach requires the active involvement of all stakeholders in society. Issues concerning children require further mainstreaming to become an integral part of any public discourse on social change and development. While there have been several commendable State and non-State strides in addressing child rights and child protection, much more concerted work is needed to mitigate the vulnerabilities and marginalization of large numbers of children in India. The article concludes by briefly outlining some of the intervention

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strategies and measures for enhancing child rights, child protection, and the well-being of children.

Keywords:

child, childhood, child rights, child protection, vulnerability, marginalization

Introduction:

On June 05, 2023, the United Nations Secretary-General's Annual Report on *Children and Armed Conflict*, has significantly dropped India's name, after 12 years, from the list of countries with children in armed conflict. The Report mentions that "in view of the measures taken by the Government to better protect children, India has been removed from the report in 2023" (pp. 42). Such positive developments alert us to the multifarious vulnerabilities children are experiencing, not necessarily known to all. The constitutional provisions for children and India's ratification in 1992 of the United Nations Convention on the Rights of the Child (UNCRC, 1989) have been instrumental in integrating child rights into policies, schemes, and laws. The UNCRC's core child rights of survival, development, protection, and participation are being addressed. The National Family Health Survey-5, 2019-21 (NFHS-5) reveals improvements in different areas of child development. Although more progress is required, nonetheless, the sex ratio at birth for children born in the last five years has increased to 929 compared to 919 (NFHS-4, 2015-16). Birth registration of children under the age of 5 years has risen to 89.1%. As per the Sample Registration System (SRS) Statistical Report 2020, since 2014, there has been a "steady downward decline" in Infant Mortality Rate, Under 5 Mortality Rate, and Neonatal Mortality Rate, with the endeavour to achieve the Sustainable Development Goals (SDG) targets related to child mortality by 2030. The Ministry of Education reports (UDISE+ 2021-22) that at the levels of upper primary, secondary, and higher secondary, "school enrolment has increased, showing an improvement in the ability of the system to retain more and more children in the system of school education over time". There have also

been further improvements in the percentage of children exclusively breastfed, children under one year fully vaccinated, maternal care indicators, consumption of iron-folic acid, and receiving postnatal care from health professionals (UNICEF, 2021).

Other areas of a child's right to protection and development require continued attention. The *Crime in India, 2021*, by National Crime Records Bureau (NCRB) reports that 1,49,404 cases of crime against children were registered in 2021. Most crimes were related to kidnapping, abduction, and sexual abuse. Within human trafficking, there were 2,877 child victims. A total of 77,535 children (17,977 male, 59,544 female, and 14 transgender) were reported missing in 2021. The number of children missing increased by 30.8% in 2021 from 59,262 in 2020. The Census 2011 (as cited in Ministry of Statistics and Programme Implementation, Govt. of India, 2018) estimated 1.01 crore working children or child labour in the age group of 5-14 years as compared to the child population of 25.96 crores in the same age group. Twenty-three percent of the women aged 20-24 years were married before age 18 years, and around 6% of women aged 15-19 years were already mothers or pregnant at the time of the survey (NHFS-5 2019-21).

Children represent 39% of the country's population (Census, 2011). While child welfare and child development have consistently received attention in India, there remains a significant gap between the large numbers of vulnerable children needing care and protection vis-à-vis the available resources. Consequently, a substantial number of children continue to remain bereft of adequate State care and intervention from society. Disadvantaged communities continue to suffer from poverty and multi-dimensional deprivations, lack of access to quality services in health, poor school attendance, shortage of sanitation and safe water supply, housing conditions, and continued practice of child marriage and child labour (UNICEF, 2021).

Engaging with children is a collective societal responsibility and extends beyond State measures, professional interventions, rehabilitation, or fulfilling the roles of parents and teachers. Every child's life holds intrinsic value, irrespective of background, characteristics, or other

attributes. The outcomes of children, both in terms of their childhood happiness and future adult productivity, are significantly influenced by the extent of the State and society prioritizing their nurturing and care. Inadequate care, protection, and development facilities lead young people into adulthood, ill-prepared and insecure, without much hope for a better life (Menezes, 2019). Understanding children, sensitivity, and responsiveness fosters a well-informed and humane approach toward each child.

Timely attention during the formative years of an individual's life not only influences their future as adults but also has broader implications for holistic societal progress. Child development theorists have outlined critical aspects of child development through the different stages of child growth: conception, early, middle, and late childhood or adolescence. Early childhood nurturing care is vital for children to reach their full potential. Children who do not have the benefit of nurturing care in their earliest years are more likely to encounter learning difficulties in school, in turn reducing their future earnings and impacting the well-being and prosperity of their families and societies (World Health Organization et al., 2018). Retrospective studies on adults (e.g., Sharma, 2022; Raghavan, 2010) indicate that many children who have experienced difficulties, distress, or abuse during childhood have grown up as troubled adults. The *Ending Violence in Childhood- Global Report 2017* notes that the impacts of an early experience of violence can extend well into adulthood for both victim and perpetrator. Many social, health, and economic problems can be traced back to childhood experiences. (Know Violence in Childhood, 2017). Besides, during the growing-up years, the child gradually gets socialized into imbibing norms, traditions, cultures, practices, identity, values, ethics, and laws. To create a just and equitable society, learning begins during childhood.

Child and Childhood - A Contextualized Experience:

Being a 'child' is characterized by distinctive developmental milestones and the age factor, and not merely a transition phase into adulthood. The needs of children are both universal and context-driven. Unlike other

areas of work involving adults, engaging with children necessitates a diverse range of developmental, preventive, and therapeutic interventions relevant to every child's needs and unique requirements. The age for attaining 'majority' is globally recognized as eighteen years. Legally, 'age' becomes an essential differentiating factor between children and adults. The period of being a child, encompassing the first eighteen years and conception, bounded by an age limit, underscores the importance of a timely response to the age-appropriate needs of the child. Regardless of the child's progress, the child is an 'adult' at age eighteen. "Childhood" is a socially constructed concept based on the adult perception or understanding of child characteristics, capacities, and societal expectations. There is no singular definition of 'childhood' as children are not a homogenous category. They are defined by their age, ethnicity, religion, gender, (dis)ability, or geographical location, as are their needs. There is also a social and political, ecological, environmental, or cultural context. (Ganguly, 2019). In most of the child development indicators, the progress has been more in urban areas than in rural areas (NFHS-5 2019-21). Further, the family, region, physical location (rural, tribal, urban), cultural practices, language development, class, race, and caste can positively or negatively influence childhood experiences. Children often suffer violence because of discrimination based on disability, appearance, sexual orientation, ethnic or religious identity (Know Violence in Childhood, 2017). Structural factors aggravate vulnerability and marginalization, as evidenced in a stark report by the Dalit Human Rights Defenders Network (2022) on caste-based sexual violence against women, including girls and young children. Children and young people who fall outside the normative ideas of gender or sexuality often experience ridicule, humiliation, and even rejection from their family/community/society. Gender non-normative identities, too, need to be equally understood, respected, and accepted as part of a child's right to identity, including gender and sexual identity (Ranade, 2018).

Childhood is also shaped and impacted by adults' approach toward the child. Since children are primarily perceived to be dependent on adults due to their young age and evolving capacity, adults have an

inherent relationship of power and authority over children. This manifests across individual roles and institutional positions: parent, teacher, police, social worker, counselor, medical professional, judiciary, media, government functionaries, and policymakers. While adults do know more than children in many areas, exercising adult power or authority is beneficial if decisions are taken in the child's best interest or through participatory processes. Else, it is an arbitrary demonstration of an adult notion of superiority. Field experiences indicate that since childhood and adulthood are lived experiences for all, adults sometimes inadvertently refer to or extrapolate their childhood experiences or learnings as a yardstick while engaging with other children. Personal childhood experiences, although valuable as reference points and for identifying with a child's needs, may not always accurately enable adults to fully comprehend or assess the context of another child, sometimes, even their own children as parents.

Child Vulnerability and Marginalization - A Combination of Interlinked Factors:

Child protection is every measure undertaken to prevent or address violence, exploitation, abuse, and neglect of children. The home, school, peers, neighbourhood, and community, critical domains in a child's life, can be protective, supportive spaces for the child or places of imminent hazards and risks. Multiple layers and levels of vulnerability and marginalization must be confronted to ensure child protection. In June 2023, it was reported (The Indian Express, 2023) that four months after a 15-year-old girl child went missing from Jharkhand, was "found hanging" in her employer's house in Delhi. The police suspect "the teenager was trafficked and forced to work as a house help, after which she committed suicide". Poverty is among the most debilitating factors exacerbating child vulnerability and marginalization. Poverty, creating multiple deprivations, makes it difficult for a household to attain a minimum level of well-being (Saxena, 2021). Poverty is not only an insufficiency of income but is also linked to the unequal distribution of assets and power, increasing inequalities, social exclusion, voicelessness,

and powerlessness (Saxena, 2021). For children, the *fall out* of poverty is malnutrition, child labour and susceptibility to abuse and violence in hazardous occupations (Saxena, 2021), child marriage, lack of access to education, and social deprivation. Three children working in a factory were reportedly rescued in Govandi, Mumbai. (Hindustan Times, 2023). Parents were “aware that their children were working. One of the boys had run away from home and was working to send money back home”.

Lack of livelihood opportunities for the family creates perennial child vulnerability, as found by a study delving into the life situation of children of families in seasonal migration, Jalna, Maharashtra (e.g., International Institute for Population Sciences & UNICEF, 2022). A study on child marriage (Child Rights and You, 2021) conducted in 40 villages of eight blocks from four districts in the States of Andhra Pradesh, Uttar Pradesh, Maharashtra, and Odisha found, among its key findings, that lack of or limited educational opportunities, being out-of-school, particularly for girls, puts them at risk of child marriage. Further, it was found that child marriage is more prominent among lower socio-economic strata of society. Apart from being a tradition, poverty is one of the most pressing underlying causes of child marriage, associated with certain socially marginalized communities (Child Rights and You, 2021).

The findings from three District Needs Assessments by Leher, et al. (2018-19) in Mumbai, Jalna, and Yavatmal, Maharashtra, with children and families from lower socio-economic backgrounds indicate both universal child protection issues and region-specific priority areas. Through a participatory method with children, parents, and other key stakeholders, the studies examined around 22 child protection needs; bullying, corporal punishment, substance abuse, school dropout, domestic violence, child labour, child offenders, gambling, gender discrimination, the impact of the internet, sexual harassment, commercial sexual exploitation, disability, physical abuse, involvement of children in gangs, missing child, teenage pregnancy, discrimination, early marriage, neglect, malnutrition, and foeticide.

The family context in child vulnerability is significant. Children of mothers in commercial sex trade, imprisoned parent(s), family members

affected with HIV/AIDS, mental illness, or other severe ailments may experience additional societal neglect or stigma. Child-headed households experience myriad challenges due to the absence of an adult. Children without family or family support, orphaned and destitute children, missing children, children in street situations, victims of child trafficking, and children separated from their families and admitted to a childcare institution are susceptible to neglect, abuse, and exploitation. A mapping study by Save the Children (2019) to enumerate data on children in street situations in 10 cities (Delhi, Agra, Allahabad, Kanpur, Lucknow, Mughal Sarai, Mumbai, Nashik, Pune, and Kolkata) discuss the hazards for the children in street situations including lack of shelter, educational opportunities, and the nature of their occupation.

One of the earliest studies in India on "juvenile delinquency" was by Doraiswami (1940) on "100 cases of juvenile delinquency" in Madras (now Chennai). Fifty-seven of the 100 homes of the children were considered to be "broken homes" due to death, desertion, or a "stepparent". Most of the parents had not been educated beyond Class 3 or 4. Fifty-nine out of the 100 children had only some schooling. In 2021, among the 31,170 cases registered against children in conflict with the law, most children had not studied beyond Class X (NCRB, *The Crime in India*, 2021). Factors for vulnerability related to child offenders have remained mainly the same. Studies have found that poverty, the vulnerable family context, and other extraneous circumstances are among the determining factors for children engaging in the offence (HAQ: Centre for Child Rights, 2020).

While the family can be a great source of care and nurturance, the most likely source of harm from adults can also come from within the family (Jones & Welch, 2010). Harsh beatings by parents, domestic violence, abuse, and discord in familial relationships adversely impact the child. Patriarchy and a gendered understanding of roles and responsibilities create multiple layers of vulnerability, particularly for the girl child. Arora's study (2022) on intra-familial child sexual abuse in a district in Delhi analyses the multi-dimensional impact of the abuse on the girl children, especially since the abuse is within the 'family'.

Throughout childhood, social norms legitimize violent behaviour, including the belief that parents and teachers should use violence to control and discipline children. (Know Violence in Childhood, 2017). In a news item (The Indian Express, 2023), it was reported that a police complaint has been "registered against the teacher for beating Class 4 student 43 times" in Bengaluru for incomplete homework. In Chhattisgarh, in another news item, police arrested a functionary of an adoption Centre who was seen on video violently beating two young girl children at the Centre. (Hindustan Times, 2023). In Thiruvananthapuram, it was reported that a case had been registered against the father of two minor children for assault. (The Times of India, 2023). The Social Audit in Bihar on rampant abuse (Economic Times, 2018) in some childcare institutions under the juvenile justice system is a poignant example of a State protective measure becoming a place for crimes against children, and severe child rights violations. The *Juvenile Justice Law in India: A Critical Study*, a book edited by Verma & Eusebius (2020), highlights different fundamental aspects of the juvenile justice system, requiring attention and reform.

A Changing World- Implications on Child and Childhood:

The world is changing rapidly, with far-reaching changes or consequences for children, families, communities, and societies. War, conflict, and widespread violence have rendered large numbers of people, including children, fleeing persecution, stateless and homeless; a volatile situation fraught with dangers. UNICEF (2021) reports that nearly 90% of the burden of disease attributable to climate change is borne by children under the age of five years. The internet provides "risky opportunities" for young people alongside the development of a "social self" (Livingstone, 2008, as cited in Shute & Slee, 2015). With access to new internet-based technology, children are becoming exposed to different kinds of violence that families are ill-equipped to handle (Ganguly, 2019). A study by Child Rights and You (2023) on online safety found that children were at risk of online child sexual exploitation and abuse (OCSEA), especially during COVID-19, primarily through

electronic devices and social media/apps. The Report notes that the pervasiveness of the use of the electronic device in OSCEA reinforces the understanding that the use of electronic media needs close and consistent evaluation along with comprehensive evaluation of laws related to cyberspace, including OCSEA. Sudden environmental crises such as disasters or strife can impact children and families. Natural calamities, including cyclones in West Bengal, Gujarat, Odisha, and Tamil Nadu, and flooding in Assam, Bihar, Maharashtra, Kerala, and Telangana, causing devastation resulted in further compromising child rights, with the heaviest impact on the most vulnerable (UNICEF, 2021).

The COVID-19 Pandemic:

In the inaugural issue of *Children First: Journal on Children's Lives* (Delhi Commission for Protection of Child Rights, 2021), articles by researchers, social workers, academicians, and paintings by the children themselves highlight the impact of COVID-19 in several areas including the digital divide, school closure and its effects on children's education and nutrition, especially for children belonging to disadvantaged sections and marginalized groups, the plight of children orphaned due to COVID-19, social isolation, health and mental health challenges, and changing roles of parenting. The Journal also includes some innovative practices undertaken during the pandemic in under-resourced communities related to social-emotional learning, online health education campaign, and increasing girl child enrolment. A Global Study (Save the Children, 2020) within which 1,598 parents and 989 children were India participants found that COVID-19 had impacted education, livelihood, and sustenance options, no or low contact with friends, increase in negative feelings, violence at home, problems in accessing healthcare. The pandemic has deepened poverty and exacerbated children's inequalities, especially in nutrition, education, protection, and mental health. The WINGS 2022 (Save the Children) report highlights the impact of the pandemic on adolescent girls, including heightened risks to health and nutritional well-being, the surge in gender-based violence, the increased burden of domestic work, and reduced learning opportunities.

Several children have not returned to school after the pandemic. Gains made in the reduction of child marriages could get reversed (Save the Children, 2020). Within the context of the role of Artificial Intelligence (AI) in education, a UNESCO Report by Giannini (2023) on *Generative AI and the Future of Education* cautions that "technology is never ideologically neutral. It exhibits and privileges certain worldviews and reflects particular ways of thinking and knowing". The Report notes a need for strategies, plans, and regulations to ensure AI's safe and beneficial use in education and remain alert to the equity gaps. Giannini pertinently comments: "The Education is - and should remain - a deeply human act rooted in social interaction...our education systems can define a trajectory and establish norms for how we understand world-changing technology- and, by extension, how we allow it to influence us and our world (pp.8)."

'Leave No Child Behind'- Responding to Child Vulnerability and Marginalization:

Child Protection means creating a protective environment in the home, school, community, and society to protect children from all kinds of harm and harmful situations. It means providing a safety net for all those children who are more vulnerable than others and need special care and protection. A child's right to protection is part of every other right, and it is not possible to ensure other rights without ensuring protection (Ministry of Women and Child Development, 2006, as cited in Menezes, 2019). The Constitution, a key reference point when tracing the development pathways in the life world of children in India (Balakrishnan, 2011), accords children with a special status through different fundamental rights and directive principles of State policy. India, a signatory to UNCRC has integrated many child rights provisions in policies (e.g., National Education Policy, 2022, National Policy for Children, 2013), schemes (e.g., Mission Vatsalya, 2022), and through an array of important laws (related to education, child marriage, child labour, juvenile justice, protection from sexual offences, prohibition of sex selection tests). National and State programmes for early childhood

care and education, girl child, children with disability or special needs, and adolescents give priority attention to the specific needs of these groups. The Mission Vatsalya, aligned with the Sustainable Development Goals (SDGs) and with the motto to 'leave no child behind,' emphasizes child rights, advocacy, awareness, family-based non-institutional care of children and strengthening of the juvenile justice care and protection system. The Ministry of Labour & Employment, Govt. of India, in their Annual Report (2022), mentions that the government is following a “robust multi-pronged strategy to tackle the issue of child labour, comprising statutory and legislative measures, rescue and rehabilitation, universal elementary education along with social protection & poverty alleviation and employment generation schemes”.

The momentum in realizing child rights and child protection has positively increased. Some of the ongoing developments and debates require critical thought and reasoned action, such as the proposed raising the age of marriage of girls to 21 years, apprehension of young persons on serious sex offence charges for involvement in consensual relationships under The Protection of Children from Sexual Offences Act, 2012 (POCSO), the veracity of "preliminary assessment" within the Juvenile Justice Act, the Court reviewing whether the adjudicating body for the final adoption order should continue with the judiciary and not, the office of the District Magistrate, and merging of the child emergency helpline services with emergency response support systems (Childline). These debates and discussions seem to be juxtaposed between the protection needs of children and society, the child's right to exercise autonomy and self-determination, procedural efficiency, and the best interest of the child. Scientific evidence, learnings from field experience, and views of children, where appropriate, need to be incorporated for well-informed decisions concerning children. Moreover, increasing punitive measures and legalization, although well-intentioned, may not always have the desired results or even deterrence, unless, overall, the micro-macro structures enabling child rights and child protection (family strengthening measures, better livelihood opportunities, adult approach

towards children, budgetary allocation, better implementation of laws and schemes, State response, political commitment) are enhanced.

Strengthening Child Rights and Child Protection:

Notable Supreme Court and High Court Judgements on different aspects of child rights and child protection (missing children, abuse in child care institutions, child labour, juvenile justice, and children in street situations) highlight the imperative need to effectively focus on different aspects of child development and vulnerability. As Saxena (2021) comments: “unequal structures must be addressed, and access to productive assets, education, and health is imperative.” The Ministry of Women and Child Development, Government of India, in their Annual Report (2021-22) mentions the "pivotal role of investments in the survival, education, protection, and overall well-being of children in breaking the intergenerational cycle of poverty and fostering inclusive growth" (pp. 47).

Simultaneously, at the micro level, the changing world, persisting and newer forms of child vulnerability necessitate a change in the adult approach toward children. Regular age-appropriate communication with children is the key to optimally comprehending their thoughts/behaviour, building self-confidence, instilling an understanding of human rights and dignity, inculcating responsible behavior, recognizing respect for self and others, fostering critical thinking skills, and encouraging empowerment. Alongside the fulfillment of basic needs (food, clothing, shelter, education, health, nutrition, safe environment), children also require unconditional affection, consistent attention, stability, autonomy, the right to participation, self-determination, appropriate supervision, direction, support, and even correctional work, if required. Families and other caregivers, “being the foundation for early childhood development”, need support, requiring “sustained financial investment, as well as supportive laws and policies, services, and community resources” (World Health Organization, et al., 2018).

The structural, systemic, and situational contexts of child rights and child protection must be discussed across all educational disciplines

including journalism and media studies. Greater awareness will increase sensitivity and vigilance to issues concerning children and young people and increase the cadre of child protection professionals. There is a dearth of well-trained functionaries working in the field of children. A professional response necessitates adhering to the scope of work, boundaries, values, ethical standards, monitoring, accountability, and evaluation. The teaching curriculum/training syllabus must integrate knowledge, skills, perspective, and a rights-based approach to working with children. Particularly in training and capacity-building programmes with participants working with children, the training to include reflective sessions on child and childhood, child development, understanding of 'family' and its changing forms, attitude towards children, understanding the social construction of childhood, vulnerability, and marginalization. Skill-building with in-depth case illustrations, field examples, clarity on concepts such as rehabilitation and social reintegration within the juvenile justice system, and *hands-on* practice sessions will equip stakeholders to understand and respond effectively to child rights and child protection.

Conclusion:

Childhood is a lived experience and a unique period in every individual's life. Ganguly (2019) pertinently notes that children are impacted greatly by what ostensibly doesn't seem a 'child rights issue'. Child poverty, inequitable access to education and health, familial circumstances, neglect, abuse, violence, discrimination, or systemic apathy have proven to have an adverse impact on child survival, development, and overall happiness and well-being of children. Universal and context-specific priorities are already known and there have been impactful positive interventions. Working with children reflects society's approach to its youngest and most vulnerable members. The Constitution of India and UNCRC mandate that children require special safeguards and care before and after birth. Working in the field of children requires aptitude, specialized training, and skills combined with a multi-pronged approach of active State/Government intervention, family support, and

community-based services. The State, family, and community are the key stakeholders in the realization of child rights and child protection. It is time again to reassert that the State and society have an unwavering commitment to its children.

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Child Sexual Abuse: Offender Profile and Prevention issues

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Abstract

Children are the most vulnerable to sexual abuse and violence. In India, there is an increase in the incidences of sexual crimes against children. There is no risk assessment for the offenders who are lodged in the prisons. A research study on prison inmates, who were perpetrators of sexual abuse to analyse the typologies and profiles of child sexual abuse offenders and rapists was undertaken. This paper discusses some of the empirical findings related to developmental and risk factors leading to sexual offending, the profile of the perpetrators and their perceptions towards the offence and the victims was also analysed. The profile of offenders where a child is a victim differed from those wherein an adult was a victim of sexual assault. Differences were also observed when the victim was between 16-18 years and those where the child was below 12 years. The findings have implications for developing prevention programmes to reduce CSA offending.

Keywords

Child protection, Child sexual abuse, sex offenders, typologies, cognitive distortions, risk need assessment, offender treatment.

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Introduction:

The safety and protection of children cannot wait. An efficient protection system is essential for children's well-being because, as vulnerable people, they are more exposed to violence, abuse and problems of mistreatment and exploitation. Children constitute almost 40 percent of the Indian population, and remain the most vulnerable to abuse and exploitation. There has been an unfathomable increase in a sexual violence, particularly against children, which has a lifelong impact on them. As per WHO "Child sexual abuse is the involvement of a child in a sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violates the laws or social taboos of society." When it is by a person in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person, there are enhanced penalties. The pervasiveness of sexual violence, particularly targeted against children, is a blight on our society and is a serious public health concern that requires a holistic approach to solve.

The UN Convention on the Rights of the Child (1989) imposes an obligation on the state parties to protect children from all forms of sexual exploitation and sexual abuse (Article 34,35 and 36). India promulgated the Protection of Children from Sexual Offences Act (2012), for protection of children against sexual offences provides for harsher penalties for all types of sexual abuse against children. This critical legislation also provides for a child friendly judicial system. A decade after this enactment, questions about the efficacy of deterrence to reduce the victimisation of children are being asked. Since the last few years, a large percentage of prison population in the country now comprises of persons charged and convicted for rape or under the POCSO Act. A knowledge gap exists not only regarding the child victims, but also about the perpetrators.

Prior to the enactment of Protection of Children from Sexual Offences Act, 2012 incidences of sexual assault against children were registered under Section 376 of IPC. The POCSO Act is gender-neutral and unlike Section 375 of IPC, it provides protection to both boys and girls. The Table below shows that in the past decade, there has been a fourfold increase in

the incidences of sexual crime against children. In the year 2021, 38.1% of total crimes against children were under the POCSO Act. This is indeed a matter of grave concern, and further, the age of victims of rape is falling each year. In 2010, there were only 5,484 cases of child rape, while in 2021 it increased to 53,874 cases.

Table: 1 Data of Rape & POCSO Incidences (2010-2021)

Year	Rape Cases	Total Crime Against Children	Cases of Child Rape
2010	22,172 (10.4%)	26,694	5,484 (20.5%)
2011	24,206 (10.6%)	33,098	7,112 (21.5%)
2012	24,923 (10.2%)	38,172	8,541 (22.4%)
2013	33,707 (10.4%)	58,224	12,363 (21.3%)
2014	36,735 (10.8%)	89,423	8,904 (POCSO) (10.0%)
2015	34,651 (10.6%)	94,172	14,913 (15.%)
2016	38,947 (11.5%)	1,06,958	36,022 (34.4%)
2017	32,559 (9.0%)	1,29,032	32,608 (25.2%)
2018	33,356 (8.8%)	1,41,764	39,827 (28%)
2019	32,033 (7.9%)	1,48,185	47335 (35.3%)
2020	28,046 (7.5%)	1,28,531	47,221 (38.8%)
2021	31,677 (7.4%)	1,49,404	53,874 (38.1%)

Source: National Crime Records Bureau, Crime in India

In almost 1,400 prisons of the country, 13,464 convicts (9.3% of the total convict population) were lodged under rape offence and more than thirty thousand were undertrials in rape cases. There is no distinction made between those charged under rape and those under POCSO cases. Sexual offenders, particularly those involved in child sexual abuse, not only face social isolation from prison inmates but also from staff. Child sexual abusers constitute a heterogeneous population of individuals. Not every child offender is a paedophile.

In India, there are currently no correctional interventions for prisoners who have been convicted for sexual offences. There is also no risk assessment undertaken in the prisons. The only way to prevent sexual violence against children is to have a comprehensive strategy of primary, secondary and tertiary prevention measures.

Psychological factors and Typologies of Pathways to Child Sexual Abuse Offenders:

There are various approaches to understanding sexual violence against women and children. Gina Robertiello & Karan J. Terry, 2007, identified a set of characteristics common to subjects who sexually abuse children, namely poor social skills, low self-esteem, feelings of inadequacy, worthlessness, and vulnerability. They also suggested previous frustrating relationships with adults, along with self-image and performance problems.

Typologies of sexual abusers in general and child sexual abusers are reviewed to summarise the existing knowledge. Psychological traits, including personality traits, cognitive distortion, empathy, and impulsivity, are examined to provide a wider perspective of the psycho-criminogenic factors of child sexual abuse.

There has been a recent focus on the role of cognitive variables that are at play and that which lead to rape. Scholars have contended that sexually violent men are more likely to have an exaggerated sense of masculinity, anti-social tendencies and impulsivity within them. It has also been found that they have a considerable amount of cognitive distortion and engage in victim blaming. Consequently, they are unaware about the

impact that the rape has on the victims. One can conclude that these sexual offenders are inclined towards having impersonal sexual relationships as opposed to emotional bonding. (Crowell & Burgess, 1996; Drieschner & Lange, 1999).

Cognitive theory explains the relationship between ‘thoughts’ and ‘behaviour’. It affirms that sex offending is rooted in “cognitive distortions or thinking errors” in the mindset of the perpetrator, which triggers deviant sexual behaviour (Faupel & Przybylski, 2017). Further, perpetrators disguise wrongdoing through various excuses or reasons, perhaps to reduce the emotions of guilt and shame and to defend their act (Scott & Lyman, 1968; Scully, 1990).

Abel et al. (1984) present one of the first models of cognitive distortion. The distortions that focus on cognitive processes after engaging in sexually deviant behaviours (e.g., Abel et al., 1989); and then certain distortions built around the cognitive structures supposed to precede and maintain aggression (e.g., Ward, 2000). The process of sexual development without an adequate understanding of social norms and expectations regarding normative sex behaviours may promote deviant sexual responses.

Finklehor’s (1984) multi-factorial theory delineates the four preconditions leading to child sexual abuse. The first precondition is the motivation to abuse, which integrates attraction to a child, sexual desire and inability to satisfy sexual desire. The second is having no fear of being caught; third is finding a private place with the child or looking for the child alone; and the last is developing trust with the child. (Collins & Duff, 2016; Faupel & Przybylski, 2017).

Marshall and Barbaree’s (1990) Integrated theory outlines four causal factors for child sexual offending, which includes developmental experiences, biological processes, cultural norms and psychological vulnerability.

Ward and Siegert’s (2002) Pathways Model discusses four dysfunctional psychological mechanisms, comprising both vulnerability factors and distal and proximal factors, underlying child sexual offending. These mechanisms are firstly, the Intimacy and social skill deficit pathway, wherein the perpetrator does not hesitate to make sexual contact forcefully. Secondly,

within the Distorted sexual script pathway, the perpetrator is unable to distinguish between sex and intimacy or appropriate and desirable sexual contact. Thirdly, where abusers have problems in managing their emotional system, it is understood as Emotional dysregulation pathway. Lastly, the Cognitive distortion pathway is understood as when child abusers profess and propagate beliefs entrenched in their memory to neutralize their offensive behaviour.

Hall and Hirschman's Quadripartite Model (1992) traces four motivational factors underlying child sexual abusers, which includes psychological sexual arousal, inaccurate cognition, affective dyscontrol, and personality problems. Presence of one or another factor in dominance encourages sexual offending (Faupel & Przybylski, 2017; Ward & Beech, 2006).

Malamuth's Confluence Model discusses two motivational factors for sexual offenders as hostile or hyper masculinity and impersonal sexual orientation, both of which can either be provoked independently or enforce sexual offending synergistically (Malamuth, Linz, Heavey, & Barnes, 1995). Hostile masculinity refers to a perpetrator having a strong masculinity centric/ prejudiced belief system, which is also known as hyper-masculinity. Hyper-masculinity traits include domineering and controlling personality attributes, especially against women.

Each theory has its own connotation to understand the pathway of such crimes. Sexual offenders are not a homogeneous group. Each group has different risks and needs. Different types of offenders would have different risks, needs and treatments. There are various approaches to treat the offenders, which perhaps vary as per offender category wise. Treatment required for treating one group of offenders (e.g., a sadist rapist) may not be applicable for other groups of offenders (e.g., paedophiles).

In a review on child sexual abuse in India, only five research studies on intervention strategies for sexual offenders were found. (Choudhry, et al. 2018). One is '*Parivartan*' that is transformation and the other is '*Yuva Mitra*' which means friend of youth. The *Parivartan* program is of 12 months in which sexual offenders are given gender sensitization learnings. The outcome of the *Parivartan* program has been found successful in

inculcation of gender equal attitude but did not prove to be useful in reducing sexual abuse. The 'Yuva Mitr' intervention focuses on information dissemination among youth through various educational institutions about child sexual abuse. There is a need to conduct more quantitative and qualitative research in the Indian context to understand driving forces of sexual abuse against children. Moreover, research is also required to develop customized prevention and treatment programmes in the Indian context for the victims of child sexual abuse.

Objectives:

Some of the objectives of the research were to:

1. Study the demographic profile of the sex offenders who committed a sexual assault against minor and adult victim.
2. Explore the typologies of sexual abuse offenders and risk factors leading to sexual offending, particularly against children.
3. Understand the perception of respondents about rape myths and the cognitive distortions.
4. Examine perceptions of persons lodged under POCSO and rape offences towards the offence and the victim, having implications for the correctional interventions.

Area and Sample - The study covered eight prisons from the North Indian States of Haryana, Punjab, Himachal Pradesh and UT Chandigarh. A total of 297 male sex offenders lodged under rape and POCSO cases were interviewed. These respondents constituted from 10% to 80% of the total sex offenders' population of respective jails.

Methodology- Both qualitative and quantitative data was collected for which the primary data collection tool was interview-schedule. Additionally, observations, questionnaire method and focus-group discussions between police officers, judges, lawyers, etc. were also used to gain insights. Few case studies and narratives were also used for qualitative data. The National Crime Record Bureau's reports and data from the prisons provided a secondary source of information.

Demographic Profile - The mean age of respondents who were lodged under POCSO and rape cases was 31.65 years and standard deviation is

11.55. The youngest respondent surveyed for the present study was 18 years old and the oldest respondent was 82 years old at the time of data collection. Slightly more than half of the total respondents were 18 to 28 years old and 53.5% studied below class 10th and 17.2% were illiterate. Almost half of the subjects were married. Three-fifths of the respondents (220 out of 277) committed sexual crime against a minor victim and more than two third of the respondents committed crime alone/ lone perpetrator. Majority of the respondents committed crime against a girl child i.e., under the age of 18 years. Nearly 93% had no past crime record and amongst those who had, there was no sexual crime.

Victim's Age and Relationship with the Offender:

More than 75% of the victims in the study were 12 to 18 years old. Some 95% of them were girls. The age range of victims was 02 years as the minimum age of the victim and 40 years was the maximum age of the victim. (as reported by the offender inmates). One-third victims of sexual assault were between the age of 16 to 18 years. Majority, i.e., 85% of the respondents knew the victim. More than one fourth of the respondents informed that the victim was their friend with whom they had a romantic relationship. In more than one fourth (n=61/220) of POCSO cases, these were also kidnapping charges. The age of these respondents was between 18-22 years. This again raises a critical question of the consensual, romantic relationships between boys and girls that may be criminalised. As stated in a focus group discussion, "Justice and fairness are lost somewhere in the shadow of procedure and statute."

Further, a sizeable number (24%) of respondents informed that the victim was in their neighbourhood. But in cases of child victims, the figures rise to 44% wherein the child victims were 6 years old followed by 6-16 years. Some 13% were the incest cases, wherein it was a daughter or stepdaughter or niece of the offender. Nearly 20% of the victims, who were girlfriends, were above 16 years.

To test the independence of variables that is (a) age of the victim and (b) age of the respondent and (c) marital status of the respondent, chi-square was used. The p-value has been found less than 0.5 that is .0001.

Hence, age of the victim and age of the respondent variables are not independent of each other or are associated. The direction of the relationship between these two variables indicates -The older the age of offender, younger the age of victim. Married persons committed more sexual assault with victims under 16 years of age.

Cognitive Distortions:

Nearly half of the sample reported that girls should be married at an early age. Some 66% believe that the world is dangerous for girls to be going out at odd hours. Responses to certain statements regarding cognitive distortions revealed 79% of the respondents admitted that they get aggressive if someone tells them what they should do. Those who reported a consensual relationship with the victim had less aggressive traits than the respondents who revealed forceful sexual behaviour with the victim and who denied the crime. Similar findings have come for the other statements related to power orientation like 'feel need to exert power', 'get physically violent', 'revengeful behaviour' and 'always ready to fight'.

About 56% of the respondents denied the crime and termed themselves as innocents and 38% of the respondents reported sexual acts with the victim was consensual. Further, denial was more in convicts than undertrials. These distortions help individual relieve feelings of guilt or shame associated with their offences. The cognitive distortions of sexual offenders are distinct in terms of their nature, content, and the goals they serve to achieve. Denial, minimizing and rationalization of offending behaviour was common in child molesters. There was denial of injury and of responsibility.

Triggers:

In response to informing triggering or driving force to commit sexual offence, 60% of the respondents denied the crime and thus reported no trigger or driving force. However, multiple perpetrators informed peer pressure and substance use as the driving force behind committing the offence. Two in every five of the respondents admitted distinct triggers like alcohol, peer pressure, sexual desire, multiple substance consumption,

revenge, and pornography behind committing the sexual assault. The findings have implications for designing and developing of crime prevention programmes, as these are dynamic risk factors and can be modified.

Regret and Apology:

Convicted offenders regret more than undertrials. One of the respondents, who had a raped and murdered a minor child, did feel guilty, worthless, and even tried to commit suicide inside the prison. He mentioned the fact that he was drunk and had murdered unintentionally. He wanted to do social work after release from prison. Quite a few prisons had one or two such cases.

An apology heals the psychological needs of the victim and can be a powerful tool. Unarguably, victims want punishment for the offender; though they also need healing from the emotional and physical trauma (Counsel to Secure Justice, 2018). About 37% of the respondents revealed that they have intentions to apologise to the victim if given a chance. Where there is regret and the offender repair the harm, an opportunity must be provided to them. There is a need to initiate restorative justice in prisons, particularly in these cases.

Logistic Regression Analysis:

Stepwise logistical regression was used to develop a predictive model for triggers and regret for crime. If the age of the victim and the act between victim and offender where consent is reported, is kept fixed, then having a trigger reduces the odds of regret of committing the crime by 19%. This applies for the cases particularly the victim is 16-18 years old and the offender is also of the same age group. If triggers and act between victim and offender where consent is kept fixed then increase in age by one unit increases the odds of regretting for committing crime by 21%. If triggers and the age of the victim is kept fixed, then the act between victim and offender consent decreases the odds of regret of committing crime by 42%. Having a trigger reduces the odds of apology to the victim by 10%.

Lessons Learnt:

Surprisingly, less than one third of the respondents did not learn anything or it would be better to say no change has come in their mind-set even after being imprisoned. Merely locking up offenders does not bring change. These respondents primarily refer to those who denied the crime. However, imprisonment also provides a time for reflection and improvement and cognitive interventions are much needed.

To test the independence level of 'lesson learnt as dependent variable' and 'education, marital status, relationship with the victim, age of the victim and was the act consensual between victim and offender' as independent variables, chi-square was applied. The direction of the relationship has been analysed. It is inferred that there is a higher tendency of learning no lesson, when the victim is a minor (under sixteen years of age), when the victim is from immediate family, acquaintance, and when the offender denies the act, is married and illiterate. Intra familial offenders need separately designed programmes, and child survivors in these cases, will need better support systems.

Slightly more than one-fifth of respondents confirmed 'they will not indulge in such acts again'. More than one tenth of respondents stated 'they will not trust or help a girl'. The latter were mostly the younger age group of offenders.

Profiles of Offenders:

Based on the analysis, two different profiles of offenders that have emerged.

Profile A :

The youthful offenders between the age of 18-23 years and the victim are of similar age, there is no criminal intent; they are low on cognitive distortions; there is an absence of denial and high on projection. The meaning of consent is based on patriarchal norms and legal consequences of the act are not really understood.

Profile B :

Adult offenders above 33 years where the victim is below 15 years, there is criminal intent; high cognitive distortions; less empathy; presence of denial; high on projection. The victim's consent is inconsequential and there is psychological distancing.

The profile indicates *Factor A* for a high need of power and entitlement and *Factor B* is lack of empathy, high on rationalization, external attribution and absence of guilt feelings. Findings have implications for the correctional system and crime prevention for child sexual abuse.

Correctional Interventions for Child Sex Abusers:

Cognitive-behavioural therapy targets a range of criminogenic needs and imparts related skills in a manner suitable for the learning style and interest of the individual offender. Cognitive-behavioural treatment involves changing attitudes, challenging cognitive distortions, addressing general self-regulation skills such as problem-solving, improving sexual, intimate, and social relationships, managing affective states, developing adaptive cognitive processes, and addressing sexual self-regulation.

There are a number of programmes being run in prisons of various countries to prevent relapse amongst child molesters. The Kia Marama program in New Zealand was established in 1989 to prevent relapse among child molesters. It is cognitive behavioural theory and a group-based treatment program in prisons for sex offenders. (Hudson, Wales, & Ward, 1998), and has been found to be quite effective in reducing recidivism.

Victim awareness or empathy techniques attempt to increase sex offenders' understanding of the impact of their deviant sexual behaviors on their victims. This may involve offenders viewing videotapes of victims' descriptions of their own experiences, role playing, and receiving feedback from therapists, other offenders, or victims. Promoting victim empathy is particularly helpful for a sustained change.

Some recommendations for implementation in prisons include - scientific classification of sex offenders as all the persons lodged under POCSO and rape offences are not alike. Risk based assessment needs to be conducted at the time of entry into prison. Special treatment programs

for sex offenders who show cognitive distortions need to be urgently started in the Indian prison system. Offender management scheme should be worked out to prepare sentence plan and for the supervision of the offenders while being released on parole and furlough. Further, a Strength based approach to offenders rehabilitation within Good Lives Model (GLM) framework, having an explicit focus on assisting individuals to achieve significant life goals in pro-social, non-harmful ways can bring in a positive change. There is also a great need for gender sensitization training for all prison inmates. Merely locking up offenders does not help promote change. Restorative justice practices in cases of harmful abuse of children can also be initiated in the prisons to promote positive change and also bring healing to the survivors.

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A Case for Child Friendly Policing: Why it Matters and Good Practices in India

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Abstract

The paper is a discussion around the importance and need for child-friendly policing as a key element of protection of children's rights. It brings forth some evidence on the linkages globally, discusses some normative frameworks and finally does a scan of some existing initiatives in India that show potential for scale up and replication.

The Global Context of Child-Friendly Policing:

The concept of "child-friendly" policing denotes police practices that ensures that when children come into contact with law enforcement, they are treated in a manner which is fair, appropriate, and not harmful. Within Child Protection and Justice Systems, the Police have a critical role to play as oftentimes they are the first responders and first port of entry with both systems.

There is a human rights foundation in both international and national legal frameworks for which children are entitled to special protection, including by law enforcement agents. The UN Convention of the Rights of the Child 1989 (UNCRC) has been almost universally ratified, establishing 18 years as the accepted age of majority. These legal grounds are also supported by neurological, sociological and psychological sciences. Children are human beings whose brains are in

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the process of development, less emotionally and psychologically mature than adults, and thus less aware of consequences of their actions and more prone to risk taking. As a consequence, they hold none or limited responsibility for their actions. The stage of emotional and psychological maturity increases their vulnerability, heightening the risk of negative effects of the justice system on children.

The “Child-Friendly Policing’ concept emerged from this paradigm to create police systems which can have procedures that are rooted in practices that support children’s rights (Justice with Children, 2021)¹. This paper seeks to explore some of this rationale, normative framework and practices in India that are increasingly creating an institutional framework for such practices. Over the years, the experiences of children in dealing with police and justice system have been varied. Global evidence available point towards the negative impact of children’s contact with justice systems, if it is not done in an empathetic manner, keeping children’s interest at the centre. The stigma and stereotypes of children who offend are often too deep rooted and also impact the processes and behaviour of the police. Issues start at the time of investigations through to arrest, police interviews, questioning and police custody. This also implies that, along with processes and training, what is very critical is the attitudes and behaviours exhibited by the police.

Incidents of police violence and misconduct are not only harmful to individual children, can overall create an environment of mistrust and also impact communities. For example, a UNICEF report on the experiences of the criminal justice system by children in street situations found that harassment, threats, insults, exploitation and physical abuse may be carried out directly by the police in these interactions (UNICEF, 2004)². A UK inquiry into "Children and Police" launched in 2013 found

¹Justice with Children, 2021, ‘Children and young people- a case for child friendly police’ <https://defenceforchildren.org/policing-of-children-and-young-people-a-case-for-child-friendly-police/>

²UNICEF, 2004, *Street Children's Experiences in The Injustice System*: [https://sites.unicef.org/tdad/PART202\(2\).pdf](https://sites.unicef.org/tdad/PART202(2).pdf)

that there was a lack of trust in the police among many children (NACRO, 2012)³.

These challenges are a commonplace not only for children in conflict with the law, but those in need of State intervention. ‘Children in need of care and protection’, using the Juvenile Justice Act terminology, may demonstrate problematic behaviour, which the police may treat as "delinquent" behaviour, blurring the lines of criminalization and disciplining. Child victims of trafficking and sexual exploitation are in many cases treated as offenders rather than victims and are often detained together with those who have allegedly committed an offence.⁴ (King-Todres 2020)⁴. Insensitive police procedures may often overlook or exacerbate the additional vulnerabilities of children with special educational needs, language or communication difficulties, or mental health needs.⁵

Despite efforts to embrace principles of rehabilitation and restorative justice problematic experience of children in custody and detention is, with exceptions, problematic. For example, in South Asia, most children in detention – around 59% – have not been tried and sentenced (UNICEF 2020)⁶. Only a minority of these children eventually receive a custodial sentence, suggesting that pre-trial detention is used regularly as a sanction, against the right to be free from arbitrary deprivation of liberty, and the UNCRC principle of detention as measure of last resort and for the shortest appropriate period of time.

There is a lot of global research on the harm caused by children being in institutions and situations of detention for longer periods of time. Incarcerated or detained children do not often receive regular education, skill building, counselling and rehabilitation services and are at greater

³NACRO, 2012, *Reducing offending by looked after children*

⁴Jonathan Todres and Shani M. King, *The Oxford Handbook of Children's Rights Law* (2020) Oxford University Press

⁵ UK, 2013-14, *All Party Parliamentary Group for Children inquiry into 'Children and the Police'*:<http://www.crae.org.uk/media/69070/APPGC-Police-DataReport-July-2014.pdf>

⁶UNICEF, *Justice for Children*: <https://www.unicef.org/rosa/what-we-do/child-protection/justicechildren>

risk of abuse and maltreatment (Valentic, 2023)⁷, with long-lasting impact on their children's development, mental health and wellbeing. As a result, the child's rehabilitation and reintegration into society, which are the stipulated objectives of the Children Justice Systems, are severely compromised and require a reconsideration.

International and National Normative Framework on Justice for Children and Child-Friendly Policing:

The UNCRC is the international treaty that comprehensively covers children's rights. Four core principles underpin the UNCRC: nondiscrimination (Article 2); the best interests of the child (Article 3); the right to life, survival and development (Article 6); and respect for the views of the child (Article 12). It is through these general principles that an extensive catalogue of children's rights are recognised.

Over the last two decades, India has also seen a lot of development in the area of child-friendly policing. With the enactment of special child centric legislations like the Juvenile Justice (Care and Protection of Children) Act (JJA), 2015 and Protection of Children from Sexual Offences Act, 2012, Amended 2019 (POCSO), the normative framework is already in line with global commitments and standards like the UNCRC.

The UNCRC is supplemented by other international instruments that provide rules and guidance to states in order to establish a child justice system in compliance with the UNCRC^{8&9}. International standards demand that the deprivation of the liberty of a child, including police custody, should be a measure of last resort, for the minimum necessary period and should be limited to exceptional cases only. Of particular relevance is the General Comment 24 on Justice for Children, issued in 2019 (General Comment 2019). Similar and additional provisions can be found in the United Nations Standard Minimum Rules for the

⁷ Gianna Valentic, *Associate Member, Immigration and Human Rights Law Review*, 2023

^{8&9} General Comment 24, *UNCRC, 2019 Article 37 (b) Convention on the Rights of the Child*: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

Administration of Juvenile Justice (The Beijing Rules 1990)¹⁰ and the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines 1990).¹¹ India's Juvenile Justice Act, 2015 also stipulates similar principles and is aligned to these global norms and standards.

The General Comment 24 of the Committee, and the Beijing Rules also call for the specialised training of police officers who frequently or exclusively work with children, including through the development of special police units. Again, India has been a frontrunner in this with the provision of Special Juvenile Police Units (SJPU) at district and the creation of a cadre of Child Welfare Police Officers (CWPO) at all police stations.

The global normative frameworks also focus on preventing children from committing offences, including gatekeeping and diverting pathways away from the criminal justice system as a necessary approach that should go hand in hand with making the police system child friendly (The Riyadh Guidelines 1990).¹² The Riyadh Guidelines call for the use to the maximum extent possible, of programmes and referral possibilities for the diversion of young persons from the justice system (The Riyadh Guidelines 1990).¹³ The JJA in India also promotes the principles of prevention, diversion and alternative to detention sentencing. This is probably an area for India to create more opportunities and systematic models through innovative approaches that exist like community policing, outreach and strongly instituted diversion programmes.

¹⁰ *The Beijing Rules, 1990*, <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-standard-minimum-rules-administration-juvenile>

¹¹ *The Riyadh Guidelines, 1990*, <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-guidelines-prevention-juvenile-delinquency-riyadh>

¹² *United Nations Guidelines for the Prevention of Juvenile Delinquency; the "Riyadh Guidelines, 1990*

¹³ *United Nations Guidelines for the Prevention of Juvenile Delinquency ("the Riyadh Guidelines"). 1990*

Safety and protection measures for child witnesses are also in the gamit of these frameworks, where again the police have a key role to play. Here again the JJA and POCSO puts in place strong safeguards for children in India and provisions like police being in civil clothes, testimonies that can be taken at a safe place and presence of a female police officer are all groundbreaking in creating a safe environment for children.

Framework for Child-Friendly Justice:

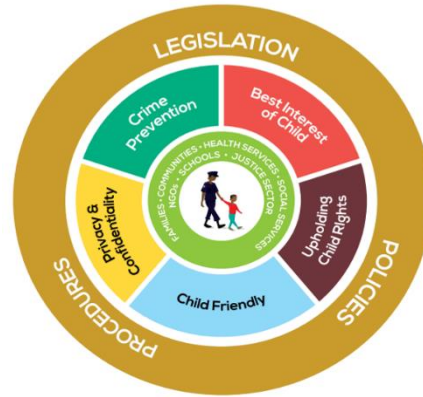
The Convention on the Rights of the Child (Article 3), calls for every child to have the right to have his or her best interest given primary consideration when making decisions that may affect the child. This also finds reflection in JJA, and therefore becomes the basis for any theoretical approach to understanding the components of a child-friendly justice system. Of course, this should apply not just to Police but to all other justice actors as well. For the purpose of this paper, the focus is on the role of police and it is helpful to keep the key considerations of the best interests of the child in focus.

Some of the key considerations of a framework like this are strongly based on a child rights lens (UNICEF 2016).¹⁴ Children in situations of contact with law have a right to:

- Safety at all times.
- Be treated with respect in all interactions.
- Be subject to procedures in a manner in accordance with the rule of law.
- Participate in the decisions about them, basis on their age and development.
- Protection of personal data and confidentiality.
- To not being separated from families except in cases where the child's safety and wellbeing is in question.

¹⁴ *Child Friendly Policing Ghana, UNICEF, 2016*
<https://www.unicef.org/ghana/media/1891/file/SOP%20-%20Child-Friendly%20Policing.pdf>

A framework for child-friendly policing as reflected in the diagram alongside (UNICEF 2016)¹⁵, is essentially a combination of legislation translated into policies which can guide Procedures that are in the best interest of the child. The benefits of taking a holistic approach are beyond just the response and also play a critical role in prevention, especially for those children in conflict with law. At the core of this is, of course, the attitudinal and behavioural aspects of Police, and this is where the role of capacity building and affirmations of positive role modelling of experiences become so critical.



Elements of Child Friendly Policing (UNICEF 2016)¹⁵

It is with this in mind that the next section seeks to give a glimpse of some of the initiatives across India which have potential for replication and scale up.

India’s Context of Child Friendly Policing:

It is opportune here to draw a distinction between gender and Child-Friendly policing. While both have many similar elements with gender being focussed on women and girls only, child-friendly policing expands the dimension to look at all children including boys and also in children from other gender identities. It also brings in the strong focus on children who offend and need specialised approaches. While the entry point in early years was usually through a gender lens, over the years with special legislations like JJA and POCSO, the distinction is also quite clear and child friendly policing has come into its own identity.

¹⁵Child Friendly Policing Ghana, UNICEF, 2016
<https://www.unicef.org/ghana/media/1891/file/SOP%20-%20Child-Friendly%20Policing.pdf>

Over the last decade, Child-Friendly Police initiatives have gained momentum with the leadership of Police and led to impactful changes for children. A few of these are captured below, while this is by no means exhaustive, this tries to capture various aspects and innovations in child-friendly policing across the country.

Karnataka Police - First evaluated intervention on Child Protection:

Police across several Indian States have made sterling efforts to bring in child-friendly procedures through child-friendly police stations, child helpdesks, community policing, special campaigns and the like. Perhaps one of the first such evaluated initiative was the “**Gender and People Friendly Police Initiative**” (GPSP) of Karnataka Police supported by UNICEF, which was evaluated independently by Deloitte in 2011¹⁶.

GPSP was initiated in 2006 with collaboration of the Karnataka Police, Department of Women and Child Development (DWCD) and UNICEF. While the operating model started by covering the entire state, the program focus since 2006 is on training new recruits at the police training schools and institutions as well as in-service personnel from two districts namely Koppal and Raichur (which were selected as focus districts). Based on the very positive finding of the evaluation, the program was institutionalised by Karnataka Police (Deloitte, 2011).¹⁷

The evaluation looked at four key aspects of the programme-appropriateness of the training programme, transfer of knowledge, institutionalisation and extent of programme ownership and assessing impacts/benefits. The key findings on these domains, which had critical lessons for scale up, were as follows:

- All respondents felt the training was very appropriate and should actually be administered to the entire force and not just select cadres. Some concerns were expressed on the amount of content and so

¹⁶ Deloitte, 2011. *Evaluation of Gender Sensitization and People Friendly Police Initiative, Karnataka- FINAL REPORT*

¹⁷ Deloitte, 2011. *Evaluation of Gender Sensitization and People Friendly Police Initiative, Karnataka- FINAL REPORT*

design adjustments were made to break into shorter modules along with on the job training capsules.

- Across the board, the evaluation found positive shifts in attitude and knowledge in the trained cadre. Very interestingly, it was also noted that the application of the training in improved procedures and better quality FIRs etc were also observed.
- Several ways in which the programme got institutionalised were through a specialised training cadre, designation of what was then called Child Welfare Officers in all police stations, and school outreach programmes.
- A key marker of the ownership was through the efforts to create a separate budget line for this with two trainings per month in every district earmarked from these funds by the Karnataka Police.
- Impact was also visible in many ways, especially in the pilot districts of Raichur and Koppal with changes in attitude of police as well as community members towards police having been noted. Also, a direct impact was to support the then very new child protection mechanisms in the districts through coordination and team efforts.

This successful initiative received a lot of accolades and cross learning between States that led to several States where UNICEF was working with Police to also initiate similar programmes.

Gujarat Police- towards building a child-friendly system:

Gujarat has also taken a decisive approach towards enhancing child-friendly procedures within the Police, with some significant measures that include:

- Establishment of child-friendly corners in almost all police stations across the state by the Police Department. These corners have colourful set-ups and are equipped with basic amenities and toys and games to provide a space for children where they feel comfortable to communicate their concerns without any fear.
- A joint initiative of the Department of Women and Child Development and the Home Department, Police Based Support Centres (PBSCs) have been implemented since 2014, with two

female counsellors placed in police station(s) at the district headquarter level to provide counselling support to complainants /survivors of violence including children.

- Friends of Women and Children is an initiative of the Criminal Investigation Department to create a pool of volunteers from the community to bridge the gap between the police and communities, strengthen child-friendly services, and create a safe environment for children and women. The volunteer cadre now has a strength of more than 600.
- The Home Department established the SHE team comprising a unit of 4-5 women police officers. SHE teams are engaged in round-the-clock surveillance to ensure safety of women in their respective districts through surveillance, visits and patrolling. SHE teams also conduct awareness programmes in schools and community on issues such as child rights, safe and unsafe touch, women's safety, and government schemes for children and women.
- To raise awareness against cybercrimes and online safety of girls, initiatives such as the Cyber Safe has been launched. An Anti-Bullying Unit to support victims of cyber bullying victims has also been established. The department has developed a cadre of about 7,000 young volunteers from the community to support in raising awareness among children and young people in schools and colleges across the State.

Assam Police- Sishu Mitra Programme:

Launched in August 2019, the Assam Police Sishu Mitra Programme is a comprehensive child-friendly policing programme coordinated by the Assam Police, in collaboration with UNICEF and UTSAH Child Rights Organization. It aims to address capacity gaps, providing technical



assistance, and strengthening monitoring structures of police dealing with cases of children.

Some key achievements of the programme have been:

- 1,000 police officials and 590 pre-service sub-inspectors have been trained in child rights, child protection, juvenile justice, and related laws.
- Investigation Officers across the state have been provided with technical handholding support in 352 cases of child sexual abuse.
- More than 10 meetings are held each year on various challenges relating to child-related policing across the State.
- In-depth review of pendency of cases of child sexual abuse, rape and domestic violence have been conducted in five high-intensity districts.
- The Assam Police Sishu Mitra Resource Centre has been sanctioned by the Home Department and is currently under construction.

The constant engagement with the Assam Police leadership, at the State and district levels, has been successful in bringing child protection to the forefront of policing affairs in Assam. The program has received several awards and recognitions as well.

Madhya Pradesh Police- flagship Child Protection Initiatives:

Madhya Pradesh Police is a critical stakeholder in child protection programmes by providing technical support and advocacy to strengthen policing systems for responding to child rights violations in a sensitive and effective manner, undertake preventive interventions including in communities, and promote adolescent participation in policing initiatives. UNICEF has been privileged to collaborate with them for many of these.

- Capacity building with a focus on child rights, child protection, gender, sensitive communication, and child-friendly policing, is a key priority with the Police Department organizing, resourcing, and managing skills and knowledge-building interventions across all Police Training Schools, Colleges, and Academies in the State.



- Acknowledging the fact that it is difficult for any Child Welfare Police Officer (CWPO) to be available round-the-clock for children at the *thana*, some districts like Bhopal and Dhar have appointed up to three CWPOs in each *thana*. The Police has developed a Terms of Reference for all CWPOs and Special Juvenile Police Units (SJPU) staff to help them understand their roles and responsibilities.

- To ensure all police personnel are well acquainted with the provisions and procedures of dealing with children, a mandatory online course on child rights and child protection laws (JJ Act and POCSO Act) has been developed on the initiative of the Bhopal Police Commissionerate.



- Bhopal is the first and model district in Madhya Pradesh where the SJPU and CHILDLINE service are run from one campus to support children with a range of services like counselling, rehabilitation support, and linking with social protection schemes. Several districts like Badwani, Vidisha, Khargone, and Dhar have taken the initiative to create child-friendly corners in police stations.

- The Child-friendly Police Groups Initiative, which was started as a part of the Safe City Initiative in select wards of Bhopal to bridge the gap between children and the police.
- Nearly 100,000 girl students from schools and colleges across the state have taken self-defense training under Operation Swyamsiddha – Srijan Programme launched by the Police. The training included basic martial arts skills, life skills/communication skills, the difference between safe and unsafe touch, etc.



Chhattisgarh Police- Innovations on Child Protection:

The Chhattisgarh Police has taken significant steps towards addressing the issue of violence against women in the State. One such initiative is the Abhivyakti campaign, which was launched in 2021, with the aim to encourage women to speak up and report incidents of violence or harassment against them. It emphasizes the need for women to be aware of their rights, build trust between the police and the community, and create a safe and supportive environment for victims. UNICEF continues to support the Chhattisgarh Police in rolling out this campaign in a phased manner.

The first phase of the Abhivyakti campaign aimed at setting up women help desks in all police stations across the State, generating awareness on laws related to women and children and referral mechanisms, engaging youth, building trust in the police, efficient investigation of cases of crimes against women and children, and deploying patrol teams in crime hotspots.

In the second phase, a special phone application was designed for safe and rapid redressal of grievances of crimes against women and girls. The app has two main features - SOS service, which is integrated with Dial-112 and a complaint registration system that is directly linked to the

concerned district nodal point who forwards it to the concerned police station within 24 hours. The status of every complaint is updated on the app within 7 days. Furthermore, the app contains information on various laws and provisions related to women and children, government schemes, and remedial measures on various health issues. Since its launch in January 2022, 16,982 SOS and 2,535 complaints have been received.

Bihar Police systems for child-friendly policing:

For nearly a decade, the Bihar police has been working with partners, including with UNICEF, to design initiatives on child-friendly policing for building a safe and protective environment for children in the State.

- Women Counsellors at Police stations - a trained woman counsellor has been placed at the identified 23 police stations of Patna District to provide quality psycho-social-legal services to women and children, who have experienced violence in any form.
- Piloting the first child-friendly Police stations in Purnea - innovative model of urban and rural police stations concept was implemented in several police stations and districts along with a full knowledge package consisting of IEC, Police pocket diaries, etc.
- Responding to increased violence against children and women by strengthening the Police cadre during the COVID-19 pandemic - to address the emerging challenges during the COVID-19 pandemic, CID & Bihar Police organized campaigns to generate awareness and build a cadre of Child Welfare Police Officers and senior officials.
- Orientation on child protection and gender for newly recruited Women Probationary Sub Inspectors - the Bihar Police Academy started an orientation of 150 probationary Sub-Inspectors (100%



women) in Bihar at the rank of Probationary Sub Inspectors who will be reaching out to about 30,000,000 population in the state, more than 30% of the entire population on gender, child rights and protection.

Programme implications and way forward:

Given the very rich experience emerging from India on various ways of child-friendly policing, there seems to be a great momentum across the country on this. Some key areas to continue to focus on even as such programmes scale up and get replicated across the states are as follows:

- Capacity Building of police is effective when it is across specialised cadres, considering the high rates of transfers. Hence, the recommendation is to integrate child-friendly policing modules in some depth across all induction and in-service training programmes both at national and State level. In the long run, however, the Police should have the aspiration to have dedicated cadres specialized in Child Protection issues
- Piloting and scale up for greater learning, effectiveness and adaptation of design elements also seems to have worked for States with successful at scale models.
- Budget allocations and commitment of the Police leadership are critical factors and hence their participation from planning stage is important, in order to build investment cases for child-friendly policing.
- Important to have inter-departmental linkages and work closely with child protection and social welfare mechanisms at district and State levels to make these initiatives more effective.
- While the Police are normally perceived to have a response role, it is also emerging that they can be effective prevention role to protect children from harm, through sustained campaigns and community , among others.
- An area that needs more attention across the board is on police handling of children in conflict with law, which has to also focus more on early detection, prevention and diversion from justice

systems and detention as much as possible. A few models are emerging on this across the country but they need to be studied and replicated for impact. This will also have positive benefits in the overburdened justice and law enforcement system in the country.

- Finally, a greater investment is needed in research and evidence, regarding data trends, drivers, vulnerability factors, system effectiveness and efficiency, among others, to assess adequately the implications of children's conflict with law and areas that require improvement.

Conclusion:

These inspiring experiences from across the country spanning years of work of the Police cadres in States and their commitment to child protection issues, was the inspiration for UNICEF and the National Police Academy partnership for setting up the first of its kind Centre for Child Protection in 2020. The management of key knowledge, sharing of best practices and ensuring quality capacity building are some of the objectives of this Centre.

Despite substantive efforts and progress in this field, supported by a strong legal framework, justice systems for children do not always fulfil its promise of keeping fairness, restoration and ultimately the principle of 'the best interest of the child' at their foundation.

There are, however, reasons to remain optimistic. Globally as well as in India, the changes we are witnessing in the justice system for children are greater than ever. COVID-19, with all its challenges, has also brought opportunities to reform of justice for children, which would have been more gradual, particularly on the promotion of alternatives to detention and diversion system. This builds on increasing global consensus that detention and institutionalization of children should be at all times avoided, considering that it will rarely pass the best interest of the child test.

These changes in India are benefiting greatly by the awareness, leadership, and commitment of the Police in India to show that other way is possible. The sensitivity, innovation, and leadership exerted by the

Police across the country have shown that by embracing principles of child-friendly policing, the Police can not only respect ‘do not harm’ principles, but play a transformational role towards creating a protective environment for every child everywhere.

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Realising Child Rights through the Assam Police Sishu Mitra Programme

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Abstract:

Child-friendly policing signifies a methodology of policing that upholds the rights of children, accommodates law-defined special provisions for children, adheres to the principles and procedures set forth in children-related laws and affirms to the definition of 'child-friendly' explained in the Juvenile Justice (Care and Protection of Children) Act, 2015 ('JJ Act'). This article attempts to present a detailed description, and the immediate impact of the Assam Police Sishu Mitra Programme - a comprehensive and aspirational child-friendly policing programme - through which the Assam Police seeks to address and is progressively addressing some of the deep-rooted challenges that confront child rights, affirmative policing. The programme is a professional collaborative partnership with UNICEF and UTSAH (an Assam-based Expert Child Rights Organisation).

Keywords:

Assam Police, Child Rights, Child Protection, Child-friendly Policing, Partnership

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Introduction:

In 1989, the United Nations adopted the United Nations Convention of the Rights of the Child ('CRC'), the international law that standardized the global rights of children. Among all other rights related to development, survival and participation; the CRC laid down the critical rights of children to protection from all forms of violence, exploitation and abuse.

In 1992, India ratified the CRC, and made an international commitment towards the realization of all the rights of children. Post-ratification, India developed a child protection policy regime congruent with the standards set forth in the CRC. Under this regime, redundant laws were scrapped, outdated provisions of older laws strengthened, and newer laws introduced, to address earlier unattended issues. For example, the older Child Marriage Restraint Act of 1929 was replaced with the Prohibition of Child Marriage Act in 2016 ('PCMA'); the Juvenile Justice Act of 1986 was amended and strengthened through the re-enactment of the JJ Act in 2015; and the Protection of Children from Sexual Offences Act of 2012 ('POCSO Act') was legislated to address the issue of child sexual abuse ('CSA') in India.

The core objective of child protection laws is to ensure that the protection-rights of children are upheld under all contexts, at every level of the justice delivery process, and the Sishu Mitra Programme is the vehicle the Assam Police is looking at for achieving this core objective.

Background of cases related to children in Assam:

From 2017 to 2021, a total of 27,834 child-related cases were handled by the Assam Police. (NCRB, 2017; NCRB, 2018; NCRB, 2019; NCRB, 2020; NCRB, 2021). This means an average of 5,567 cases related to children are dealt with by the Assam Police every year.

The Assam Police Sishu Mitra Resource Centre ('Resource Centre') conducted a survey of the major child-related cases for the years 2021 and 2022, in the 36 Police districts of the State. This study revealed that major cases that required Police intervention were related to child sexual

abuse (3,387 cases), missing children (4,809 cases), child suicides (484 children) and children who came in conflict with law (988 children).

The Role of the Police in child protection:

The process for delivering justice begins at the doorstep of the local Police Station. While the Police have a mandate of investigating cognizable offences [Cr.P.C., S. 156; Cr.P.C., S. 157; Assam Police Act, 2007, S. 47(g)]; it also has the responsibility of responding to non-cognizable offences (Cr.P.C., S. 155), to situations in which a person might be in danger of physical harm [Assam Police Act, 2007, S 47(j)], or who are found in a helpless condition on the streets or other public places or otherwise need help and protection [Model Police Act, 2006, S.58(b)]. The Police also have a role in prevention of crimes [Assam Police Act, 2007, S. 47(e); Cr.P.C., S. 149 – S. 151].

As a signatory to the CRC, the legal and policy framework in India has integrated special procedural and infrastructural provisions for dealing with children, who come into contact with the Police system. The JJ Act, the primary protective law that encompasses all categories of children (vulnerable children, victims of crime, child in conflict with law), has incorporated several optimizing provisions, which the Police have to adhere to while dealing with children, apart from or in supersession of the regular Cr.P.C. procedures. For instance, all child related cases must be specifically handled by a Child Welfare Police Officer ('CWPO'), designated as such under Section 107(1) of the JJ Act. Likewise, all cases of crimes against children can only be investigated by a CWPO [JJ Model Rules, 2016, R. 54(4)]. In matters concerning children in conflict with law, the Police have limitations in so far as place of apprehension, interrogation tactics, place of interview, verbal expressions etc. are concerned. [JJ Act, 2015, Proviso S. 10(1); JJ Model Rules, 2016, R. 8(3)(v); JJ Act, 2015, S. 3(viii)]

The POCSO Act, too, has an extensive arrangement of procedures, which the Police have to conform to while dealing with CSA victims. For example, 161 statement of a CSA victim cannot be taken inside the premises of a Police Station [POCSO Act, 2012, S. 24(1)], while the

investigation of such a case must be conducted by a woman Police Officer [POCSO Rules, 2020, Form A (5)]. Furthermore, in concurrence to provisions of the POCSO Act and the POCSO Model Guidelines¹, the Police have to comply with distinctive interview techniques, investigation timelines, facilitation of rehabilitative measures and privacy mandates while handling cases under the POCSO Act. Other laws like the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 and PCMA also entail provisions apropos to the role of Police during the investigation stage.

On the whole, letters of the law confer a grave responsibility on the Police system to ensure that the rights of children are upheld at all levels of the investigation process, with the ultimate aim of securing justice for each and every child. The Sishu Mitra Programme was envisaged to ensure and implement these very ideals and goals, as further detailed in this article.

The Assam Police Sishu Mitra Programme:

As evident from the narrative above, the policy canvas on child rights in India is complex, as it is extensive and something that every Police force must aspire to achieve. After a series of intense tripartite discussions between the Assam Police, UTSAH and UNICEF, on the challenges faced in relation to implementation of child rights laws, the Assam Police Sishu Mitra Programme was designed as a flagship programme with the mission of reducing the gap between policy and implementation, and the larger goal of ensuring justice for each and every child in Assam.

The common challenges, which provided the rationale for the programme-based interventions, ranged from capacity gaps in investigating officers to non-functionality of district-level governance structures. For instance, adapting to social sector policing - which is a new percept, for a Police force that was till now dealing primarily with militancy and insurgency for the past few decades - and finding its feet in handling the transformation of becoming a service delivery mechanism

¹ *POCSO Model Guidelines under Section 39 of the POCSO Act were framed by the Government of India in 2013*

along with conforming to newer substantive and procedural legal provisions. This is particularly true of child related policing, where the demands of procedural compliance become even more daunting when procedures of one law require convergence with procedures of a second law, which in turn needs dovetailing with procedures of a third law. A simple illustration of this complication would be the first stage of the investigation of a CSA related case, wherein a Police Officer who has to record the statement of the victim as per Section 161 of the Cr.P.C., has to record such a statement outside the premises of a Police Station [as per Section 24(1) of the POCSO Act], while the officer recording such a statement has to be a CWPO [as per Rule 54(4) of the JJ Model Rules].

The law also requires the Police system to effectuate governance and structural provisions at the district, level to ensure efficient oversight and child-friendly contexts respectively. For example, Section 107 (2) of the JJ Act provides for the formation of Special Juvenile Police Units ('SJPU') at the district level for the purpose of coordinating all child related matters. While SJPU's have been instituted through Government order, the law does not have a detailed Standard Operating Procedure ('SoP') on the functioning of SJPU's and on the roles and responsibilities of each of its members. This often creates a confusion with regards to operations, which ultimately results in redundancy of the governance structure.

To address the aforementioned, and several other gap areas, a set of interventions are designed and rolled out through a set of Annual Work Plans, co-designed by Assam Police, UNICEF and UTSAH.

The Assam Police Sishu Mitra Resource Centre (in short, 'Resource Centre'):

For purposes of affecting ownership, streamlining child-friendly policing activities and sustainability, a Resource Centre was set up opposite the Assam Police Headquarters in Guwahati to implement the concept of the Assam Police Sishu Mitra Programme. Jointly staffed by Police personnel and subject matter experts from UTSAH, this centre provides a range of services to Police Officers across the State.

Areas of intervention and outputs:

The first four years of programme planning encompassed eight specific areas of intervention, and a set of activities were rolled-out to address each problem area.

a. Enhancing knowledge capacity:

As mentioned earlier, provisions of child rights laws, along with recurrent legislative amendments and case laws, are complex and exhaustive. Therefore, the police system needed a comprehensive learning mechanism in place to address the challenges related to knowledge capacity. As per the law, Police officers dealing with children must be appropriately trained. [JJ Act, 2015, S. 107(1) & S. 108(b); JJ Model Rules, 2016, R. 86(3) & R. 89(3); POCSO Rules, 2020, R. 3(6); POCSO Act, 2012, S. 43(b)]

In contrast to the earlier models of intermittent training programmes, an annual in-service training of Investigating Officers ('IO'), on all child rights laws and investigative procedures, have now been made mandatory. Similarly, pre-service training has also been made compulsory for newly recruited Investigating Officers ('IO').

From 2019 to 2023 (barring the lockdown period), 1239 pre-service and in-service police officers were provided with in-depth training on international and national laws/policies, and on investigative methods with regards to crimes under the POCSO Act.

A field-level Police Officer, who has to navigate between several laws, apart from child rights, also finds it difficult to retain the academic content shared during training programmes, especially after the lapse of a certain period of time. Therefore, regular refresher short-notes on child rights laws and procedures are shared with all IOs every week. Since 2021, 850 Investigating Officers were sent weekly checklists on the POCSO Act, the JJ Act, CALPRA and the PCMA.

b. Technical-handholding support:

An IO encounters case situations that are often unique. There are instances where an IO, while working on a case, may fail to recall certain nuanced aspects of the law, owing to pressures of emergency response

work or multi-tasking. Furthermore, IOs also face challenges with regards to linkages with line departments, necessary for procedural compliances or for accessing services for a child.

To address this challenge, an on-call support mechanism has been established in 2021, at the Resource Centre, wherein IOs can reach out to three helpline numbers for consultation and feedback on case procedures, linkages with line departments and investigative strategies. Four subject matter specialists from UTSAH and three Inspector-level officers have been attached to the Resource Centre for providing round-the-clock services to IOs on matters related to children.

At the beginning of 2021, 600 pending cases were referred to the Resource Centre from 18 districts of Assam. Due to constant on-call reminder and support services provided by the Resource Centre, case pendency declined by 76 %, by December 31, 2022.

Other crucial services provided by the Resource Center during the aforementioned timeline included: Creating linkages with CWC for Information and Production of victims in POCSO cases [in accordance to S. 19(6), POCSO Act to R. 4(4), POCSO Rules respectively] (44 cases), and sharing of Proforma of Form 17 of the JJ Model Rules [for compliance to R. 18(2), JJ Model Rules] and Form B of the POCSO Act [for compliance to R. 4(14), POCSO Rules] (53 cases)

c. Pendency review:

The administration of a Police district is vested with the Superintendent of Police ('SP'), or a Commissioner of Police ('CP') in jurisdictions specified in Section 7 of the Assam Police Act [Assam Police Act, 2007, S. 9 & S. 42(1)]. Therefore, the SP or the Commissioner has the responsibility of ensuring implementation of child rights laws, including the timely completion of investigation. The Resource Centre team has a mandate for providing on-site support to SPs to overcome case pendency in child-related cases.

An expert team from the Resource Centre visited five districts in 2021 to provide on-field support to SPs to overcome case pendency in cases registered under the POCSO Act. A case-by-case consultation was conducted individually with 136 IOs, who were handling a total of 296

cases. Case consultations generally include feedback on substantive and procedural law, investigative feedback, etc. Post consultation, the case pendency percentage declined by 38 % within a period of one month. This is an ongoing feature of the programme that has begun for this year.

d. Public Outreach:

Outreach to communities is integral to policing. The Police have a role in terms of prevention of crime [Assam Police Act, 2007, S. 47(e); Model Police Act, 2006, S. 65(a)], informing and connecting children to legal aid [Assam Police Act, 2007, S. 48(g)], creating public awareness on policing issues [Model Police Act, 2006, S. 102(3)], collecting public information regarding crimes [Assam Police Act, 2006, S. 47(l)] et al. Assam has a historically distinctive and possibly the largest community policing body - the Village Defence Organisation ('VDO'), regulated by the Assam Village Defence Organisation Act, 1966. Under this Act, the Village Defence Parties ('VDP'), constituted of community members, have a responsibility of furthering the functions of the VDO. The VDO is guided by Police Officers – at all levels from the Headquarters to the Police Stations. In Assam, there are 22,881 registered and 3,106 unregistered VDPs, with a total membership of 6,49,679 people. Therefore, VDPs have a huge network spread across all villages of Assam and constitute an effective agency for mass communication.

To spread massive awareness on child protection issues, the Resource Centre provides technical support to the VDO to organise community-based awareness across Assam. In 2022, twelve child-protection focused VDP-supported, community-based awareness initiatives were organised in Bongaigaon, Goalpara and Sivasagar districts, covering 15,000 participants. The intervention is continuing in 2023 to cover other districts.

The other and very effective medium for generating awareness on child protection issues is the Assam Police Smart Social Media Centre – Nagrik Mitra. The Assam Police' Social Media platforms, ideated and curated by the lead author, had a reach of 55 million in 2022, making them a huge vehicle for awareness generation. The Resource Centre regularly provides content to the Social Media Centre on various child

protection issues, ranging from child sexual abuse to child trafficking, which are then converted into creatives or videos and published on the various Assam Police social media handles. Since 2019, around 250+ child-protection themed content has been published on Assam Police' Social media platforms, which have registered a massive viewership of 2-3 million social media users.

A special edition series on “Sharenting”, designed by the lead author, to sensitize parents about the risks associated with oversharing videos, photos and sensitive information about their children on social media, which makes them vulnerable in the real world, is now an ongoing feature.

The Assam Police Social media presence is majorly interactive, thus giving children and parents the opportunity to reach out and seek assistance, both legal and societal.

e. Activated District-level Governance structure:

The JJ Act introduces the concept of SJPU. Sec 107 (2) of the JJ Act, and read in conjunction with Rule 86(1) the JJ Model Rules, directs the State Government to constitute SJPU in every district. It states that the function of an SJPU is to *co-ordinate all functions of the police related to children*. As provided in the Act, this unit is to be headed by an officer not below the rank of a DSP and must have all CWPOs of the district as members. The SJPU must also have two social workers with experience in the field of child welfare, one of whom must be a woman. The meaning of ‘co-ordination’ or the ‘functions’ have, however, not been clearly articulated in the JJ Act nor the corresponding JJ Model Rules.

The Resource Centre has developed a District Level Plan of Action (‘DLPoA’) for the activation of SJPU across Assam. As a pilot initiative, four districts were identified through an Order, in July 2022. SPs were thenceforth provided step-by-step technical assistance to implement the DLPoA for activation of SJPU. Assistance to SPs included technical feedback on drafting of legally appropriate SJPU Notifications, appointment of Nodal Officers, designation of CWPOs as per Section 107(1) of the JJ Act; formulation of agenda for meetings, scheduling of regular meetings, techniques for collection and

documentation of data related to cases and process of discussion and documentation of outcomes of meetings.

By September 2022, the SJPU of Bongaigaon, Goalpara, Sivasagar and Guwahati were activated. Regular SJPU meetings have been able to create a platform for regular reviewing of information about the status of implementation of child rights laws, identification and examination of gaps in implementation, and taking effective decisions for better execution and promotion of child rights laws and procedures within the district.

A long-standing constraint over the unavailability of Overnight Protective Stay facilities for victim children was addressed as an outcome of a dialogue held with stakeholders at an SJPU meeting, organised by the Bongaigaon Police. This engagement finally led to the establishment of a Child Care Institution ('CCI') by a local NGO, which now caters to immediate shelter needs for children who are handled by the Police at odd hours. Likewise, it was a conversation around challenges with regards to integration of child-friendly spaces in Police Stations, that led to the establishment of child-friendly corners in all the Police Stations of Goalpara District.

The SJPU strengthening initiative has finally led to activation of SJPU in 25 out of the 36 Police Districts/Guwahati Police Commissionerate across Assam, as of March 2023.

f. Infrastructure related compliances:

The POCSO Model Guidelines provide for the interview of children to be conducted in a safe and child-friendly environment, which incorporates elements such as toys, art material or props [POCSO Model Guidelines, 2013, Chapter 3, p 13]. The National Commission for the Protection of Child Rights ('NCPCR'), in 2017, also notified a set of guidelines for establishment of child-friendly Police Stations, which included the provision for a separate child-friendly corner/room for interactions with children, with space and furniture for children to sit comfortably.

Victims of CSA have the legal *right to privacy* [as per FORM A (14), POCSO Rules] and to be *kept away from the accused at all times* [as per

FORM A (8), POCSO Rules]. As per Rule 54 (8) of the JJ Model Rules, a child should never be placed in Police lock-up. Therefore, all Police Stations are mandated to have a separate space for reception of, interviews and interactions with children.

The Resource Centre provides technical assistance to SPs to understand child-friendly infrastructure design concepts for the establishment of functional child-friendly rooms and corners in all Police Stations. In 2022, 37 districts were provided with technical feedback by the Resource Centre for the establishment of child-friendly rooms. Out of the 326 Police Stations in Assam, 113 Police Stations now have child-friendly corners across Assam. Goalpara is the first district in the entire north-east of India to establish child-friendly police corners in all its 12 Police Stations. Under the MOITRI project, all Police Stations are currently being upgraded into state-of-the-art infrastructure and all will include child-friendly police corners.

The other aspect related to infrastructure is the display of contact information of SJPU Members, Child Welfare Committee, Juvenile Justice Board, Childline Services, District Legal Service Authority and other critical stakeholders, in a conspicuous place within the Police Station [as per R. 8(6) & R. 86(11), JJ Model Rules]. In 2022, of the 326 Officers-In-Charge who were provided technical information with regard to signages, 230 have successfully managed to install informative signages. The rest would be up by August 15, 2023.

g. Recognizing champions:

The Assam Police, which has a strength of over 70,000 officials, work in multilayered capacities across the 36 districts of the State, in various geographies ranging from vales, hills and riverine areas. Through crime and conflict, through calamity and calm, the officials of the Assam Police have undertaken every task possible in their capacity to ensure peace and justice to one and all.

A Police Officer, as the enforcer of the law, is often perceived as a concrete object bereft of human emotions or feelings. Officers who navigate between hundreds of laws, extended working schedules, and engage with violence, too, have narratives that need to be heard and

recognized. A closer look into the lives and stories of Police Officers would reveal that they too are human beings, just like everyone else, who experience the entire gamut of emotions – *joy, sorrow, love and heartbreak*.

Every human being cherishes appreciation, which should not be thought of as a gift. A Police Officer, who does extraordinary work for child rights, deserves visibility, appreciation and recognition. This helps showcase good practices that can progressively be replicated across the State and the country. This also induces positive feelings of acceptance and love, which are essential ingredients for enhancing performance levels. Recognition of field level Police Officers creates the right context necessary for making child rights central to policing affairs in the State. Therefore, the Assam Police introduced the annual Assam Police Sishu Mitra Champion Awards to recognize the extraordinary efforts undertaken by the police officers in the area of child rights and child protection. Last year, 33 Officers, ranging from SP to the SI-level, were identified by a reputed jury comprising of a retired High Court Judge, a Member of the Assam Public Service Commission and an award-winning Assamese actress. They were conferred the Awards at a glittering ceremony in Bongaingaon.

h. Care for Care Givers:

Mental Health concerns are brushed under the carpet in the Indian context, more so within the Police which is often showcased as an organization representing bravado and masculinity, with scant room for display of any form of weakness or emotions. This notion of bravery obfuscates the mental health needs of many officers who are affected by exposure to violence and crime, or to work-related stressors. The outcomes of continued mental health stress leads to low productivity, procrastination, temperament issues – finally affecting the quality of response in cases related to children.

Overall well-being is crucial and critical for Police functionaries. Therefore, the Resource Centre has introduced mental health well-being sessions for IOs, to help them with issues related to time management, work-family conflict; and management of stress, anxiety, and depression.

Physical exercises, mind relaxation techniques and group psychotherapy are applied during mental health well-being sessions. In all, 364 IOs have been provided with mental health well-being sessions in 2022.

Conclusion:

In consonance with the Assam Chief Minister’s vision for “protection of every child”, the Assam Police Sishu Mitra Programme, annually upgrades its areas of intervention as per emerging needs. In the second half of 2023, several new components have been added to the Programme framework. This includes development of a comprehensive pre and in-service training module and its integration into the curriculum of the Police Academy [in coherence with Section 89(7) of the JJ Model Rules]; implementation of the 15-day training module as mandated in Rule 89(1) of the JJ Model Rules; introduction of on-call mental health counselling support for Police Officers; partnership with NIMHANS-SAMVAD for training of pre-service Police Officers, among other relevant activities that would enrich the programme and enhance positive outcomes.

The Assam Police Sishu Mitra Programme is a distinctive programme, which is possibly one of the largest comprehensive ones in the country that has been designed, anchored, resourced and executed by the Assam Police Headquarter, with partnership support from a UN Organisation (UNICEF) and a local Civil Society Organisation (UTSAH), with a targeted focus on Child Rights-affirmative policing. Recently NIMHANS, Bengaluru, has also come onboard as a collaborator in the effort to provide justice for every child.

The Assam Police strongly believes that social sector policing can be enriched through partnerships with expert development organizations. Through a collaborative approach, the Assam Police constantly seeks to make the Police interface reassuring for each and every child. SDG No. 16 aims to create strong institutions for justice, and, therefore, the Assam Police Sishu Mitra Programme is a requisite step towards the direction of making the Assam Police a strong institution in terms of governance and its services towards children.

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Harmeet Singh is an officer of the 1992 Batch of the Indian Police Service, borne on the Assam-Meghalaya Cadre. He is currently Special Director General of Police in Assam. He also heads 'Nagarik Mitra', the Assam Police Smart Social Media Centre and is the Convener of Sishu Mitra, a Child Friendly Policing Initiative along with UNICEF and UTSAH, while steering the ongoing out of the box transformation and technology initiatives being spearheaded in the Assam Police.

Shri Singh has received the Police Medal for Gallantry, the President's Police Medal for Distinguished Service, the Indian Police Medal for Meritorious Service, the Ati Utkrisht Seva Padak, the Antrik Seva Suraksha Padak, the Kathin Seva (Special Duty) Medal, Police

Antrik Suraksha Seva Padak for North East (NE) Region, among several other medals, ribbons and commendations. He is also the recipient of the FICCI Smart Policing Award for creating the Smart Protection Unit, the Digital Empowerment Foundation – Social Media for Empowerment Award for Community Mobilisation, the SKOCH Award for the Assam Police Sishu Mitra programme, the Governance Now Award also for the Assam Police Sishu Mitra programme, APAC Digital Governance Leadership and IE Technology Sabaha Awards for Digital Empowerment and Leadership; among many others.

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Miguel Das Queah, a leading Child Rights Practitioner, is the founder of UTSAH, a Child Rights Organisation based in Guwahati, Assam. He was the first, in the Northeast of India, to start Support Person Services work under the POCSO Act, through which he has, till now, provided psychosocial-legal support to over 400 victims of child sexual abuse in Assam. Through outreach initiatives, Shri Queah has educated over 3,00,000 children in child protection related issues across Assam. He has also trained over 2,000 Police personnel from Assam Police, BSF and SSB in child rights laws.

In 2012, he was recognised as rising youth leader of Asia and Pacific region, through selection in the East West Centre, New Generation Seminar, 2012, Hawaii, USA. In 2019, he was awarded by International Human Rights Defence Committee, for commendable work in Human Rights and Child Rights. In 2020, he was awarded with the Northeast Young Heroes Award and the Biju Phukan Recognition Award, for outstanding work in Child Rights. In 2021, he was Awarded with the DY365 Award for Child Rights Work in 2021, and Brahma Kumari's Award for outstanding contribution to social services in Assam.

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Child Protection through Bharosa Centres

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Abstract

Bharosa, an Integrated Support Centre for Women and Children, came into being to holistically assist victims of sexual violence. Reaching out to the affected (victims of Rape, Child Sexual Abuse) under one roof, Bharosa, an initiative by Telangana State Police, has been lending a helping hand to aid aggrieved women and children in numerous ways. By facilitating 24x7 emergency and non-emergency access to a host of its services, intimidating visits from pillar to post is now a thing of the past!

Well-trained staff to confide in, and state-of-the-art technology to conform with its futuristic goals, Bharosa has crafted its own niche in empowering women and children, thereby constantly garnering a lot of appreciation ever since its inception. Supported by the Department of Women Development and Child Welfare, Govt. of Telangana, NGO, Corporates etc., Bharosa is open 24x7 to provide Police, Medical, Legal, Psychological, Rehabilitation and Outreach services to those victims of sexual violence under one roof. Well-maintained premises in the heart of the city for easy access, along with a team of highly qualified counsellors, is a welcome change to those who seek help. Alongside a specially designed child-friendly room, Bharosa has also been instrumental in facilitating confidential statement recording through Video Conferencing, thereby safeguarding Rape and POCSO victims from being re-victimised. Not only is Bharosa playing a pivotal role in providing the much-needed

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support to reduce revictimization but also handholds the victim till the logical conclusion of the case.

Anyone knocking on the doors of BHAROSA will have immediate access to specialized services. Assistance is provided in an integrated manner through a slew of police, medical, legal, and prosecution services, apart from psychotherapeutic counselling. This multi-pronged assistance culminates in relief and rehabilitation as per the requirements. That is, BHAROSA support center works on a holistic convergence approach where a victim in distress will get all the help and support at one place away from police stations and hospitals. The objective of the organization is to reduce revictimization of women and children affected by violence and sexual abuse.

Introduction:

India is the home for children. More than 430 million children live here. Any country considers children as the national asset, as the future of the nation depends on how these children are brought up and cared for. The Indian Constitution and Justice system have given utmost importance to the rights of the children. India is the signatory of the United Nations Child Rights Convention (UNCRC) and most comprehensive laws are being enforced for the protection of child rights.

Children are vulnerable and gullible and are easily exploited mostly by known people. It has become a herculean task for the Police system to protect these innocent children. Most of the systems which are in place for the protection of children are dependent on the police, who is one of the most important stakeholder.

Child Sexual Exploitation:

Sexual offences have been on the rise in the country for the past few years. While the Government recognized the necessity for an exclusive law to deal with crimes against children and enacted the Protection of Children from Sexual Offences Act, 2012 (POCSO), its poor implementation on the ground is not yielding the desired results.

As per the current practice, a victim of sexual violence (accompanied or unaccompanied) must go to a police station to lodge a complaint regarding the incident which may take between 6-10 hours. Sometimes, the victim may directly go to the hospital in the first instance and then to the police station to lodge a complaint, go back to the hospital for detailed medical examination and treatment if necessary. There is no provision for immediate psychological or legal counselling for such victims.

One Stop Rape Crisis Centre, which is a combination of organised intervention operating in a woman & child - friendly environment and which has worked well in many countries, is one of the key solutions to address this critical problem. For example, in Malaysia, one stop centres are based in public hospitals, and are jointly staffed by NGO and hospital representatives, providing a range of services including psychological, medical, legal, and social care. The same is also true for countries like Bangladesh, South Africa, England and Wales, Rwanda, Zambia and Australia, etc.

Measures suggested by Justice Usha Mehra Commission & Justice Verma Commission to improve the safety and security of women include the setting up of One Stop Rape Crisis Centres across India to provide support to the aggrieved woman and children in their struggle for justice.

Drawing from experiences of different countries of the world and the one stop centres already functioning in India, the Telangana Police have come up with the idea of Bharosa Centre to provide integrated support to the victims in a comprehensive manner.

Unlike the existing one stop centres in the country, the Bharosa Centre works from the heart of the City/ town away from hospital or police station and is under the supervision of police officers, with the coordinated efforts of government departments, private organisations and NGOs.

Bharosa - a Solace for children of exploitation:

BHAROSA was established in May 2016, at Hyderabad as a Society for Protection of Women and Children with logistic help, funding and support from the Department of Women and Child Development, Telangana. Anyone knocking on the doors of BHAROSA will have immediate access

to specialised services. Assistance is provided in an integrated manner through a slew of police, medical, legal, and prosecution services, apart from psychotherapeutic counselling. This multi-pronged assistance culminates in relief and rehabilitation as per the requirements. That is, BHAROSA support centre works on a holistic convergence approach where a victim in distress will get all the help and support at one place away from police stations and hospitals. The objective of the organization is to reduce re-victimization of women and children affected by violence and sexual abuse. After the overwhelming success of Bharosa Centre at Hyderabad city, it is now being replicated in all the districts of Telangana.

Objectives:

- ✓ To provide integrated support and assistance to children and women affected by sexual violence, both in private and public spaces, under one roof.
- ✓ To facilitate immediate, emergency, and non-emergency access to arrange for services including medical, legal, psychological and counselling support under one roof to fight against sexual violence against women and children.
- ✓ To work towards a balanced society where equality between men and women exists by resolving conflict within the families and society at large, which helps create a safe space for women and children.

Highlights:

- All cases of rape and child abuse under the POCSO Act are sent to Bharosa Centre for carrying out the mandatory provisions of Medical examination, recording of 161 Cr.P.C statement and 164 Cr.P.C statement.
- 164 Cr.P.C statements are also recorded via video conferencing by the Judicial Magistrate.
- Permissions to set up a medical facility were obtained from the

Health Department. Medical Officers from Government Hospitals are deputed to conduct and collect medical evidence in the Medical facility in Bharosa.

- Clinical psychologists provide therapeutic counselling for victims of violence and Child victims of sexual violence in a child friendly environment and provide the much needed support while the statement of the child is recorded.

Child friendly court:

- A child friendly court has been set up next to the Bharosa Centre as per the guidelines of the POCSO Act and the Supreme Court with the following provisions:
 - i. Separate entrances for the victim and the accused to ensure that the victim does not see the accused face to face anytime during the trial.
 - ii. A waiting hall with a play area for victims and their families.
 - iii. A room with video linkage facility in case the child does not feel comfortable in the Courtroom.
 - iv. A witness room for the accused with a one-way visible screen from which the accused can see the Courtroom and the proceedings and with a speaker/audio system for the accused to speak and hear the proceedings in the courtroom.
 - v. A video screen in the Courtroom on which the child can see the accused during the identification process.
 - vi. One of its kind child friendly court which is established away from the regular court premises.

How Bharosa works:

- Bharosa's main mandate is to support victims of rape and those cases registered under the POCSO Act and Rape Laws support in redressal and rehabilitation at one place.
- **Registration of Cases:** Once an FIR is registered under the POCSO Act and Rape Cases in the police station, the victim is referred to Bharosa Centre. Receptionists will register each case by giving a

unique ID to protect the confidentiality of the victim and a comprehensive case profile will be prepared by using the Bharosa software. The cases will be categorized depending on the requirements of the victim and they will be directed accordingly to different wings of the Centre.

- **Police Facilitation Officer:** The Bharosa Centre will facilitate the lodging of FIR in the direct walk-in cases. Otherwise, police officials of the concerned area Police Stations will register the cases and send the victims to Bharosa Centre for further support. They will see that safety & security is provided to the victim and victim's family and do follow up of the case until the case reaches the concerned court by building the evidences required for the case.
- In every Bharosa Centre, a woman police facilitation officer of the rank of Inspector or Sub-Inspector will be placed to manage the centre and also to record the Cr.P.C161 statements in each and every case.
- **Medical help:** Complete medical help to the victim (both emergency & long-term, including follow up) will be provided by the medical wing of Bharosa. Medical examination room is available in the centre. A Government lady Medical Officer will be placed at the Centre on deputation by the Health Department. An Auxiliary Nurse Midwife (ANM) will assist the Medical Officer in the conduct of medical examination for the victims and also in collection of forensic evidences. She will also assist the victim in any further medical needs like MTP (Abortion) etc.,
- **Counselling & Therapy:** A trained counsellor will provide psycho-social counselling to the victim. This counselling process will make the victim come out of trauma and increases the confidence in the victim to fight for her justice. The counsellor also notes down the requirements of the victim for leading a normal and respectful life in the future. Expert psychological counselling, therapy and treatment will be provided by empanelled trained Psychologists and Psychiatrists.

- **Bharosa Psychologist** also works as the Centre Coordinator and helps in running, managing the centre and submits the daily, monthly and yearly reports through the in-charge Police Officer (Bharosa) and unit officer of the District to the State Nodal Agency of the Women Safety Wing, Telangana Police.
- **Support Person** assists the victims in getting shelter, admission in schools / college etc., applies for their compensation, processes their files, makes regular home visits, and assists the victim in the court procedures.
- **Legal Wing:** Bharosa will provide legal-aid, guidance, counselling, witness & victim support until the case is closed and victim gets justice. Legal Counsellor will inform and orient the victim about her legal rights and help/ guide the woman to initiate legal proceedings against the abuse/violence suffered. She sees that all the statements under 161 or 164 Cr.P.C, charge sheets and recording of evidence in the court are in alignment. Analysis of cases will be taken up by the Legal Support Officer. Empanelled Advocates will help the cases which need expert advice along with the State/District Legal Services Authority.
- **Victim Rehabilitation:** Victim Support is the key for Bharosa Centre and it is the duty of the Support Person to take care of Victim Rehabilitation. Rehabilitation of the victims includes providing shelter (short / long term). livelihood support for the family, supporting the financial needs of the victim through Victim Assistance Fund, ensuring that victim receives the entitled compensation from the Government and sees that the victim has a comfortable and respectful life.
- The environment will be made conducive for the victim and her family members at Bharosa Support Centre by providing proper seating arrangements, child play area and refreshments.
- A Web page for "Bharosa " is there in the Women Safety Wing, Telangana Police website.
(<https://womensafetywing.telangana.gov.in>)

Bharosa is Unique & most needed initiative:

Bharosa is a unique initiative as there is no such initiative anywhere in India started by Police. Child Sexual Abuse and Rape are the most heinous crimes in the world. Police can play a major role in implementing the laws and also in prevention of crime. In view of this, Bharosa initiative becomes all the more important.

Successful Convergence between different stakeholders:

Although Sakhi centres (Initiative of the Ministry of Women and Child Welfare under Nirbhaya Fund) were started in almost every district in India in 2017, the needed convergence between police and the Department of Women and Child Welfare could not be achieved. The success of Bharosa lies in the excellent convergence it could achieve with all the line departments and other stakeholders. The Department of Women and Child Welfare in Telangana is funding the recurring costs of Bharosa centres. Health department provides doctors for medical examination and NGOs provide shelter and technical support. Corporates give funds under CSR for the construction of buildings and infrastructure.

After the success of Bharosa Center in Hyderabad and few other districts in Telangana, the Govt. of Telangana through Dept. of Women and Child Welfare have agreed to fund the recurring cost of all Bharosa Centres in all districts of Telangana.

Bharosa – a Registered Society:

Bharosa is registered as a Society under Telangana Police. It is also exempted under Sec 80-G and 12-A of the Income Tax Act, 1961. This is to ensure transparency, continuity of the project and to get other funding sources when funding from the Government stops. As a Society, Bharosa Society for Protection of Women and Children, has an Executive Committee headed by Director General of Police and a General Body headed by Telangana Home Minister as Ex-officio Chairperson. Members in the General Body include all the Principal Secretaries from Home, Health, Women & Child Welfare along with Secretary of State Legal Services Authority. The Executive Committee meets every quarter and the

General Body meets once a year, solving all the challenges arising in the functioning of Bharosa. Accordingly, a Government Order has been issued by the Telangana Government in the form of G.O. Ms No. 23, dated:27.02.2016.

Bharosa Project Management Unit:

Bharosa is closely monitored by Women Safety Wing, Telangana Police. A Bharosa Project Management Unit was started in 2022 to monitor the cases of rape and POCSO Act cases under the Sexual Offences Module, which also selects, guides, trains and monitors the staff of Bharosa Centres. The Project Management Unit is managed by the Superintendent of Police, Additional Superintendent Police and two Inspectors along with the Technical Director. Legal and Forensic experts support the investigation officers in important cases. This kind of close monitoring has helped in improving the quality of investigation and timely completion of legal processes like filing the charge sheets within the stipulated time. The filing of charge sheet percentage within the stipulated time improved from 14% to 85% due to this. The conviction rates are also slowly improving because of this kind of close monitoring. A Non-Governmental Organization Tharuni acts as the Technical Partner to Bharosa and is also a member of its Executive Committee. Tharuni assists in recruitment, deployment and training of Bharosa staff, apart from the development of SOPs to streamline implementation and regular monitoring through field visits.

Prevention of the Crime:

One of the objectives of Bharosa is preventing sexual offences against women and children and create a balanced society. For this, Bharosa staff organise awareness programs for the community along with cultural teams, educative programs for students and parents and training for different stakeholders.

Keeping in view of the Telangana Police's philosophy of people friendly policing, Bharosa centre has been conceptualised with a 100% victim centric approach.

Main objective of Bharosa is to avoid re-victimisation of the survivors and ensure speedy delivery of justice to them. Providing all services to a rape and child abuse victims under one roof is a revolutionary concept introduced for the first time in the country.

Minute details like ensuring that the child victim does not come face to face with the accused by providing one-way glass in the Child Friendly Court, providing play area, handholding the victim for effective rehabilitation, etc have enriched the Bharosa model and taken it into the next level of citizen centric policing.

To enable the Bharosa initiative to operate smoothly, for the first time, the concept of registering it as a Society was introduced. The Corpus Fund was mobilised under CSR, starting with a substantial contribution from NMDC. The interest from the corpus fund is utilised for the rehabilitation of the victims. In addition, capital expenditure requirements were met by motivating several corporates to construct permanent buildings for Bharosa centres in various districts.

The recruitment and selection process is made in a transparent and efficient manner, involving the technical partner and an outsourcing agency.

The Coverage:

The targeted population for Bharosa is the women and children who are victims of sexual violence. Any victim of sexual violence whose case is registered in the police station will be brought to Bharosa Centres where they will get all the support till the logical conclusion of the case.

Since its inception in 2016 till today, in 12 Bharosa centres in Telangana, a total of POCSO cases 3,735, Rape cases 944, other cases 1,355 and DV cases 10,057 (DV cases not being handled now) were handled apart from recording 161 police statements 4,801, 164 judicial statements – 2530, conducting 1,054 awareness programs covering thousands of people and helping in MTP cases -104 apart from 44 supported deliveries.

Benefits of Bharosa:

Integration is the biggest strength of Bharosa. Bharosa helps the victim throughout the process - guides, supports and rehabilitates them. Bharosa conducts workshops for the victims by organizing them into groups as per their age for support and confidence. The provisions for Cr.P.C 161 and 164 statement recordings are also available at the same centre. Bharosa Centres also have one ANM staff member to guide them in the hospital and stand by their side as a helping hand. Moreover, they can avail legal and rehabilitation services also from Bharosa to have a firm hand in the case and socio-economic milieu.

One of the key strengths of Bharosa is its counselling services and the follow up counselling, which has a cascading effect as the case gets stronger. It gives the survivor an opportunity to be confident and confide in the right people. Research shows that most of the POCSO cases ended in acquittal due to lack of evidence and inconsistent statement recordings and timeline for the incident. There is always a scope, thus, for the benefit of doubt going in favour of the accused. Bharosa removes all these lacunae by having a one stop centre wherein the statement recording is more robust and dilemmas are reduced. Thus, consistency and robustness is a direct product of Bharosa. The feedback from the victims also revealed that the counselling services have helped them considerably to overcome the social stigma and re-socialize. Bharosa has established itself as a successful support centre where all the services are integrated under one roof. It has truly established itself as a centre that supports and understands the survivors.

The rehabilitation and compensation process at Bharosa gives a new angle to these cases. Handling and disposing of cases is one thing and holding their hands and helping them stand on their own feet is the true nature of help. Bharosa has helped POCSO survivor's parents to get vocational training, skills, and employment opportunities with respectable pay.

Setting up a Child Friendly Fast Track Court within Bharosa premises itself helped to facilitate the needs of POCSO victims to adjust to new environments and ensure proper execution of the POCSO Act.

Before Establishment of Bharosa:

A victim of sexual violence has to go to the police station to lodge a complaint and has to answer the questions asked by the police. The victim will have to give a statement, which will be recorded by the police in the station which may be intimidating for him/her. The victim is then taken to the Government Hospital for medical examination and collection of forensic evidence. Even here, she will be asked about the incident and may be dealt in an insensitive manner by the hospital. Again, she has to be taken to court for recording the judicial statement under 164 Cr.P.C. Again, the same traumatic narration will happen and the victim has to relive the experience. The victims have to run around the offices to get their entitled compensation.

Thus, a victim of sexual violence will be revictimised at every step of the legal process and have to run from pillar to post. If the services are available under one roof and trained sensitive officers are available to deal with them, then there will be no chance of revictimisation of the victims. With this concept in mind, Police in Telangana state have started Bharosa.

After Establishment of Bharosa:

Bharosa Centre was first established in May 2016 and the main purpose of Bharosa is to provide integrated support to women and children who have been subjected to sexual violence and to reduce the re-victimization of the victim at every step in legal and judicial processes. All the services like, recording of statements under Cr.P.C 161 & 164, medical examination and forensic evidence collection, trauma counselling, rehabilitation of the victim support during trial, and applying for compensation for the victims are made available under one roof in Bharosa Centres. Bharosa also works on the prevention of crimes against women and children by creating awareness and sensitization to all stakeholders. A special Fast-track court is attached to the Bharosa Centre, Hyderabad, which helps in creating a child-friendly environment in conducting speedy trial procedure to ensure conviction in POCSO cases.

A lady police officer of the rank of SI / CI manages the centre and also

records the statements of the victims. The concerned police unit officer – SP / CP will monitor the functioning of Bharosa Centres closely. Women Safety Wing, Telangana Police, will be the Nodal Agency which will monitor all Bharosa Centres through the ‘Bharosa Project Management Unit’ and will have all the powers in selection, recruitment and training of the staff, closely monitoring the cases being dealt with in Bharosa and giving guidance and training to all the police unit officers and other police staff working for Bharosa. For all the above, Bharosa works in close coordination with line departments.

Hence, now the victims of violence need not run from pillar to post or face the re-victimisation in the legal and police processes.

Replicability of this Intervention:

After the successful establishment and functioning of Bharosa Centre at Hyderabad, the operations of Bharosa Centres have been extended to 11 more districts by establishing Bharosa Centres in each district/Commissionates. It is further decided to extend the Bharosa Centres in all the 33 districts of Telangana State with funding from the Govt. of Telangana.

Bharosa initiative was appreciated by Hon'ble Supreme Court of India and appreciated in one of the judgement. The details are as follows:

Recognition of BHAROSA by the Supreme Court of India: In the Writ Petition (Civil) No.565 of 2012, W.P.(CrI.) Nos 1,22 148 of 2013,SLP (CrI.) CrI.M.P.No.16041/2014 and W.P(C) No.568 of 2012 decided on 11.12.2018 in the case of Nipun Saxena and Ors. Vs. Union of India (UoI) and Others consisting of Madan B.Lokur and Deepak Gupta as the quorum under Point No. 42 of the judgment mentioned that:

“In fact, it would be in the interest of children and women, and in the interest of justice, if One Stop Centres are also set up in all the districts of the country as early as possible. One such centre which has already been set up is “BHAROSA” in Hyderabad. This can be used as a model for other One Stop Centres in the country.”

After this, the Supreme Court has decided to record Bharosa as a model. Other state government departments have approached Bharosa and

were eager to start similar centres. Other States like Jammu and Kashmir, Kerala, Tamil Nadu and some other State officials have visited Bharosa to study the process for replicating it.

In order to address the problem of child sexual abuse, it is of utmost importance that law enforcement authorities and the caregivers work together to be able to provide services to the victims of child sexual abuse. Bharosa is one such initiative where we have tried to make it happen.¹

Author's Profile:

Swati Lakra, IPS

Swati Lakra, is an IPS officer of 1995 batch. She is holding the post of Addl. DGP, Telangana State Special Police Battalions, since January 2023.

After the formation of Telangana State in 2014, she was posted as Addl. Commissioner of Police, Crimes and SIT, Hyderabad, and started the flagship programme of the Government, the 'SHE' Teams, to curb sexual harassment of women in public places and in the cyberspace. This initiative brought tremendous confidence among the women and deterrence among the wrongdoers. With the success of 'SHE' Teams in Telangana, several states have also replicated this initiative.

She was also instrumental in setting up the Bharosa Centres in 2016, which are integrated victim support centres for women and children who have been victims of serious sexual offences.

As Addl. DGP of Women Safety Wing in Telangana Police, she was instrumental in starting several initiatives like NRI Cell for domestic violence cases, Cyber Ambassadors for school children to create awareness regarding cybercrimes, Girl safety clubs in colleges to name a few.

She now heads the 13 TSSP Battalions present across Telangana. She is a recipient of several awards, including the Indian Police Medal; Distinguished Humphrey Leadership Award for the 21st Century by The Government of the United States of America; State Excellence Award by Government of Telangana; President Police Medal.

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¹ <https://womensafetywing.telangana.gov.in/support-bharosa/>



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Domestic Child Sexual Abuse: Confronting the Unspeakable

Dr. Pranav Kumar, IPS*

Abstract:

Domestic child sexual abuse is a hidden but serious problem which entails profoundly adverse consequences for the child's development. The complexities associated with this crime affect reporting, investigation and prosecution despite the enactment of the POCSO Act, 2012. The article briefly reviews the nature, extent and various criminological aspects of the problem as a proper understanding of the problem is essential for devising appropriate intervention strategies. Critical challenges in dealing with the crime have been identified and suggestions for effectively implementing laws related to child protection have been discussed. The demands for a tenacious balance between legal requirements and the child's needs make the issue highly sensitive. The child's best interest should be the foremost guiding principle in all steps taken by different stakeholders while enforcing legal provisions. It is argued that a multi-disciplinary approach is needed to combat the menace of domestic child sexual abuse while synergising the provisions of the POCSO Act and other relevant laws. Information, communication and education activities are much needed to generate awareness among the public regarding the adverse consequence of the abuse and remedial measures available under law. Role of different stakeholders in tackling

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the problem and specific concerns in the investigation have been highlighted in the article.

Keywords:

Domestic, child sexual abuse, POCSO Act

People expect all stories of abuse
to be loud and angry
but they're not.
Sometimes they're quiet and cruel
and swept under the rug.

— *Trista Mateer, Aphrodite Made Me Do It*

1. Introduction:

Domestic sexual abuse of children is a grave concern that inflicts unimaginable harm upon the victims. Actress Khushbu Sundar's disclosure has recently highlighted the problem of child sexual abuse (CSA) in domestic settings in India (Janardhan, 2023). CSA occurring within the confines of homes continues to be highly underreported. The abused victim is either not aware of the wrongs committed or is rendered helpless in the face of the position of power and trust exercised by the offenders. Considering the distinct nature, complexities and dynamics of domestic CSA, it must be differentiated from the general category of CSA for devising appropriate policy and intervention strategies. Domestic CSA is considered an aggravated form of CSA in most national jurisdictions. After the implementation of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), the problem of CSA has been mainstreamed in the criminal justice discourse, yet a lot remains to be done to address CSA comprehensively. This article discusses various contours of domestic CSA, its impact on the victims, contributing factors and measures to tackle the problem through a combination of social awareness and legal strategies.

2. Extent of the problem:

India is a country of young, with 36.7% of the population below 18 years as per the 2011 census (NIPCCD, 2018). Domestic CSA, also known as intrafamilial sexual abuse, is pervasive. As there is a dearth of empirical studies looking into domestic CSA, an inference about the prevalence can be drawn from studies examining the prevalence of CSA in general. A meta-analysis of 217 studies published between 1980-2008 has estimated the global prevalence of child sexual abuse at 11.8% (Stoltenborgh et al., 2011). Prevalence of all forms of sexual abuse was around 53% in a survey conducted by the Ministry of Women & Child Development, Govt. of India in 2007 (Dabir & Nigudkar, 2007). The study sample consisted of 12,447 children, young adults, and other stakeholders across India. The study also indicated that over 20% of abusers were persons in a position of trust and responsibility, such as family members or teachers. Comparatively, in the United States, 8.8% of children were found to have suffered from CSA as per the National Child Abuse and Neglect Data of 2006 (Miller et al. 2007). Crime Survey in England and Wales in 2016 reported that two-thirds of perpetrators of penetrative sexual assault on children were friends or acquaintances (30%) or other family members (26%) (Flatley, 2016). A 12 year-long UNICEF survey (UNICEF, 2013) indicated that about 42% of girls In India had experienced sexual violence before their teens. According to UNICEF, 90% of offenders in cases of sexual assault against girls were known to the victims. In a research study based on content analysis of judgments of POCSO cases, the homes of the victims were found to be places of occurrence in 20% of analysed cases (Goswamy, 2020). Incest, which refers to the forbidden sexual relationship between blood relations, is also part of the spectrum of domestic CSA. Incest and sibling violence in India is primarily hidden (Sharangpani, 2018). RAHI reported as many as 70% of upper and middle-class women facing sexual violence at the hand of family members (RAHI Foundation, 1998), which indicates that the problem affects all strata of society. Research has also shown that the problem of CSA was accentuated during the COVID-19 pandemic (Poddar & Mukherjee, 2020).

3. Criminological aspects:

The abhorrent crime of domestic CSA occurs within the confines of a home where children are supposed to feel safe and protected. It can be simply defined as any form of sexual exploitation or assault perpetrated against a child in domestic settings by someone known to them, including family members, relatives, caregivers or family friends. In most studies to assess the prevalence of CSA, girls outnumber boys as victims (FitzSimons et al., 2018). The abusers exploit the child's vulnerabilities and trust to fulfil their depraved wants and the crime is committed in an environment of secrecy, manipulation and coercion. A brief discussion on various criminological facets of domestic CSA is presented below:

3.1 Nature & typology of offences:

In academic literature, the definition of child sexual abuse is contested. The World Health Organisation (WHO) defines CSA as:

"... the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared, or else that violates the laws or social taboos of society. Children can be sexually abused by both adults and other children who are – by virtue of their age or stage of development – in a position of responsibility, trust or power over the victim." (WHO 2006).

While the legal definition of CSA varies across national jurisdictions, WHO definition is sufficient for broad conceptual purposes (Smallbone et al., 2008). WHO further classifies child sexual abuse into three categories – i) Non-contact sexual abuse (sexual harassment, exposure to pornography, threat of sexual violence, cyber-exploitation etc.), ii) Contact sexual abuse involving sexual intercourse, and iii) Contact sexual abuse excluding sexual intercourse (touching, fondling, kissing etc.). In a study commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs (FitzSimons et al., 2018), domestic sexual abuse of girls was defined as:

"Domestic sexual abuse of girls: 1. is perpetrated on a child under the age of majority who identifies as a girl, or whose birth sex is female and

who does not identify as something other than a girl; 2. is perpetrated by the child's family member(s), current or former intimate (including 'perceived') partner(s), or other member(s) of a shared household; 3. involves seeking or gaining sexual gratification, for any party, which may be immediate or deferred, and physical or mental; 4. and is perpetrated without true consent, in the context of an unequal power relationship in which the child's disadvantage is exploited."

The POCSO Act classifies sexual offences into various categories and provides enhanced punishment for aggravated offences. The POCSO Act provides stringent penalties for CSA as penetrative sexual assault is punishable with imprisonment upto life while aggravated form can now be punished with death. Legally, any of the following offences under POCSO can constitute domestic CSA:

- Penetrative sexual assault using any body part or any other object (Sections 3-6)
- Sexual assault (Section 7-10)
- Sexual harassment (Section 11-12)
- Use of child for pornographic purposes (Section 13)
- Abetment is punishable under Section 17 and attempt under Section 18

POCSO Act directly deals with domestic CSA in Section 5 (n), Section 9 (n) and (p). Under Section 5 (n) of the POCSO Act "*whoever being a relative of the child through blood or adoption or marriage or guardianship or in foster care or having a domestic relationship with a parent of the child or who is living in the same or shared household with the child, commits penetrative sexual assault on such child*" is said to commit aggravated penetrative sexual assault. Similarly, under Section 9 (n) "*whoever, being a relative of the child through blood or adoption or marriage or guardianship or in foster care, or having domestic relationship with a parent of the child, or who is living in the same or shared household with the child, commits sexual assault on such child*" and under subsection (p) "*whoever, being in a position of trust or authority of a child, commits sexual assault on the child in an institution or home of the child or anywhere else*" is said to commit aggravated

sexual assault. Thus, from a bare reading of Sections, it is apparent that domestic CSA has been treated as an aggravated form of an offence under the POCSO Act which is one of the progressive features of the Act. Under Section 2(k), “*Shared household means a household where the person charged with the offence lives or has lived at any time in a domestic relationship with the child.*” Various offences of the Indian Penal Code, 1860 may also be applicable, including specific provisions regarding offences against women (e.g. Section 376 (2) (f), Section 354) and accompanying offences (assault, criminal intimidation etc.). As per Section 42 of the POCSO Act “*where an act or omission constitutes an offence punishable under this Act and also under Sections 166A, 354A, 354B, 354C, 354D, 370, 370A, 375, 376, [376A, 376AB, 376B, 376C, 376D, 376DA, 376DB], 376E, Section 509 of the Indian Penal Code or Section 67B of the Information Technology Act, 2000, then, “notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment only under this Act or under the Indian Penal Code as provides for punishment which is greater in degree.*” Section 42A further gives an overriding effect to the provisions of the POCSO Act over other laws in case of any inconsistency.

In its annual report, Crime in India, NCRB does not identify domestic CSA as a separate category. However, it publishes statistics (based on the data received from States) regarding the relationship of offenders to the victims of crimes under Sections 4&6 (penetrative assault and aggravated penetrative assault) of the POCSO Act. Data for the last few years in the following table gives a glimpse of the nature of the offender-victim relationship:

Year	Total Number of Cases	Offender family member	Offender known to victims other than family members	Percentage of known offenders cases to total cases
2017	17557	1752	16427	93.6%
2018	21605	1700	20499	94.9%

Year	Total Number of Cases	Offender family member	Offender known to victims other than family members	Percentage of known offenders cases to total cases
2019	26192	2153	24672	94.2%
2020	28065	2556	26934	96%
2021	33348	2885	32365	97.1/%

Table 1: Offender-victim relationship in cases under Section 4&6 of POCSO Act

(Source: Crime in India Report by National Crime Records Bureau, Ministry of Home Affairs, Government of India)

4. Contributing factors:

Domestic CSA's true extent and impact remains hidden in all societies due to a culture of denial, poor awareness and the child's inability to understand the crime and its consequences. Some of the well-known contributing factors which exacerbate the risk of sexual abuse of children within the confines of home are following:

- Alcohol addiction and other forms of substance abuse,
- Exposure to pornography like child sexual abuse material (CSAM). The growth of the internet and the proliferation of technology has opened avenues for online grooming of children, easy availability and circulation of CSAM.
- Dysfunctional families and the intergeneration cycle of violence also promote domestic CSA.
- Fear of social stigma and the notion that discussing such matters is taboo can deter victims and families from reporting abuse.
- Children may not be aware of the wrong committed with them or comprehend the inappropriateness/illegality of the behaviour by the accused (Mudaly & Goddard, 2006).

User Handbook on implementation of the POCSO Act published by NCPCR mentions that the “cases involving sexual offences against children by close family members are difficult and tricky to handle (NCPCR 2017). The user handbook further suggests considering the following factors while dealing with incest cases:

- The accused may be the sole breadwinner of the household and families are reluctant to report to avoid financial problems
- Other family members tend to disbelieve the child and refuse to cooperate with the case. The child may be pressurised not to complain or retract from the complaint, leading to the victim turning hostile at a later stage.
- At an emotional level, the child has highly conflicting feelings about the abuser, which results in delayed reporting of cases.

Media reports occasionally the complexity of the crime. The Print (Mandhani, 2023) reported an incident where Victim Z was raped by her maternal grandfather (*nana*) and was threatened with bodily harm in the aftermath of offences. Eventually, FIR was filed, and the case was registered under Section 4 of the POCSO Act and Sections 376 and 506 of IPC. However, this entailed grave consequences for the victim as she and her mother were thrown out of their home by the victim’s stepfather. Later, when her mother died, the Victim was forced to retract her allegations due to compelling circumstances. Subsequent intervention by authorities enabled the victim to revert to the original statement.

4.1 Routine Activity Theory and domestic CSA:

Routine activity theory is one of the most influential theories of victimology, which attempts to explain the occurrence of a crime based on – a) a vulnerable victim/suitable target, b) the presence of a motivated offender, and c) lack of capable guardian (Cohen & Felson, 1979; Miró, 2014). Routine activity theory has been examined to predict the risk of sexual re-victimisation among adolescents (Caluatta et al., 2020) and it was shown that previous victimisation and depressive symptoms enhance the risk of re-victimisation. Offender profiling by maintaining a sex offenders’ registry can be employed to identify sexual predators in the

family. However, it may be of little use in case the offender was never brought to justice. Abuse of younger children by adolescents has been researched in Canada, revealing that such offending often occurs at home even in the presence of others and sexual exploitation of children by adolescents can be a part of routine everyday activities. (Leclerc & Felson, 2016). Ultimately, the lack of capable guardians is critical in domestic CSA. Children are always vulnerable targets within the confines of the home in the absence, complicity, or ineffectiveness of a guardian. Sri Lankan study empirically demonstrated that the vulnerability of girl children increased when female caregivers were away from family for jobs or other purposes (Squire & Wijeratne, 2008).

4.2 Integrated theory:

Smallbone et al. (2008), in their integrated theory to explain child sexual abuse, have proposed distal and proximal interactions between biological foundations, developmental influences, ecosystemic factors and situational factors as the cause of CSA. They have further proposed that understanding the complex causality is required to design appropriate preventive interventions directed against 1) offenders (or potential offenders) 2) victims (or potential victims) 3) situations (the specific places and circumstances in which CSA occurs); and 4) communities (the social ecosystems in which CSA occurs).

5. Consequences of domestic CSA:

Childhood is the foundational age of human development and the trauma of sexual abuse adversely affects a child's biological and psychological development, creating a profoundly negative impact in both short- and long-term (Smallbone et al., 2008). Health consequences of CSA can be physical (e.g. bodily injuries, poisoning, deformations), sexual (e.g. unwanted pregnancy, sexually transmitted diseases, poor reproductive health), emotional/behavioural (e.g. poor self-esteem, somatic disorders, depression, substance abuse), long term (e.g. developmental defect, substance abuse, delinquency, intergenerational abuse) and may even be fatal (WHO,1999). Hence, addressing both physical and psychological

trauma is crucial for the healing and recovery of survivors. Common psychiatric consequences of CSA include but are not limited to post-traumatic stress disorder, depression, conduct disorder, attention deficit hyperactivity disorder and obsessive-compulsive disorder (Tyagi & Karande, 2021). Psychologically, children may also suffer from a range of emotional disturbances like feeling of hopelessness, self-destructive thinking and low self-esteem. The violation of trust by a family member or a near-and-dear one profoundly distorts the child's sense of safety in relationships, having long-term negative future consequences.

Links between domestic sexual abuse and commercial sexual exploitation have also been reported in a Sri Lankan study which also found a high rate of sexual abuse of children within the family and in the community. In the same study for girl children, the most frequently identified sexual abusers were male relatives like father, step-father, grandfather, or uncle (Squire & Wijeratne, 2008). Apart from adverse consequences for the victim, domestic CSA also negatively impacts other family members and the community (WHO, 1999).

6. International instruments:

United Nations adopted a Convention on the Rights of Child in 1989 (UNCRC, 1989). Article 19 (1) of the Convention enjoins States Parties to make appropriate laws and take suitable administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent (s), legal guardian (s) or any other person who has the care of the child. Article 19(2) prescribes appropriate measures to investigation, treatment and necessary social support to victims of such maltreatment. Further, Article 34 prohibits all forms of sexual abuse of children. An Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was adopted in year 2000. Several regional treaty agreements are also in place like Directive 2011/93/EU dated 13 December 2011 of the European Parliament and of the Council, which aims to combat the sexual abuse

and sexual exploitation of children and child pornography. South Asian Association for Regional Cooperation (SAARC) Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia also enjoins State Parties to take legal and administrative steps, *inter-alia*, to prevent child abuse in all forms (SAARC, 2002).

7. Operationalising POCSO Act for domestic CSA:

The POCSO Act is a landmark legislation enacted in 2012 and is the key legal instrument to combat CSA with proven effectiveness (Maity & Chakraborty, 2023). However, despite stringent provisions, applying POCSO for domestic CSA is challenging (Mandhani, 2023). A recent study sponsored by Vidhi Centre for Legal Policy found increasing pendency of cases under POCSO and a high rate of acquittals.

Provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act), Juvenile Justice (Care and Protection of Children) Rules framed by different states, POCSO Act and POCSO Rules need to read together to best protect the interests of the victims of domestic CSA. Victims of domestic CSA are Children in need of Care of Protection under the JJ Act. The following provisions are relevant in this regard:

- Under Section 2, subsection 14 (iii) “child in need of care and protection” includes a child “*who resides with a person (whether a guardian of the child or not) and such person— (a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or (b) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or (c) has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person*”.
- Principle of safety under JJ Act enjoins Central and State Governments that “*all measures shall be taken to ensure that the child is safe and is not subjected to any harm, abuse or*

maltreatment while in contact with the care and protection system, and thereafter”.

- Under Section 30 (xiii) of JJ Act, 2015 functions and responsibilities of Child Welfare Committees (CWCs) include taking action for rehabilitation of sexually abused children who are reported as children in need of care and protection to the Committee by Special Juvenile Police Unit or local police, as the case may be, under the Protection of Children from Sexual Offences Act, 2012.
- Under Section 19 (6) of POCSO Act, the local police or the SJPU should report the commission of a sexual offence against a child to the CWC within 24 hours of receiving information and should also indicate if the child is in need of care and protection; and steps taken by them in this regard.
- Rule 4 (4) of the POCSO Rules, 2020 in cases “*where the SJPU or the local police receives information under sub-section (1) of Section 19 of the Act, and has a reasonable apprehension that the offence has been committed or attempted or is likely to be committed by a person living in the same or shared household with the child, or the child is living in a child care institution and is without parental support, or the child is found to be without any home and parental support, the concerned SJPU, or the local police shall produce the child before the concerned Child Welfare Committee (hereafter referred to as “CWC”) within 24 hours of receipt of such report, together with reasons in writing as to whether the child is in need of care and protection under sub-section (5) of Section 19 of the Act, and with a request for a detailed assessment by the CWC*”.
- Rule 4 (6), POCSO Rules specifies 7 factors that should be considered by the CWC along with preferences and the best interests of the child while deciding whether or not the child should be removed from the custody of the family or shared household.

7.1 Ministry of Women & Child Development has published Model Guidelines under Section 39 of the POCSO Act for the use of professionals and experts (MWCD, 2013). POCSO Rules, 2020 and the user handbook of NCPCR (NCPCR, 2013) provide a detailed framework for the implementation of the POSCO Act. Obligatory reporting under Section 19 POCSO Act is another problematic aspect. Evidence from abroad also shows that such provisions have only a slight effectiveness (Belur & Singh, 2015). Non-reporting is punishable upto six months of imprisonment under Section 21 of the POCSO Act. The problem is starkly highlighted in cases of an adolescent girl approaching healthcare for abortion since the POCSO Act as well as IPC treats all pregnancies below 18 years as arising out of rape while newly added Section 5A of the Medical Termination of Pregnancy (MTP) Act makes it mandatory to protect the privacy of a woman seeking termination of pregnancy and penalises for violation (Tyagi & Karande, 2021). There is no data available in India regarding the number of cases reported from healthcare facilities of prosecution for non-compliance. A re-look on this provision may be required keeping in mind the best interests of victims.

8. Investigation of domestic CSA:

Domestic CSA is a highly sensitive crime. POCSO Rules, 2020 and the user handbook of NCPCR (NCPCR, 2013) provide detailed guidelines regarding the approach to investigation under the POCSO Act. In the case of domestic CSA, the following points are to be specifically considered by a police officer (CCPOST, 1998; McCarty, 1981):

- Investigating officer (I.O.) should meticulously look for age-specific behavioural characteristics of the child and alleged/suspected offender in the case of domestic CSA.
- Close coordination with medical professionals treating/examining the victim and working upon clues obtained through medico-legal examination.

- While the objective of the investigation is collecting quality evidence, the best interests of child shall be prioritised at all times; the safety of child must be ensured.
- Confidentiality requirements regarding the identity of the victim shall be strictly followed
- Need for emotional support must be recognised and provisioned throughout the investigation.
- I.O. should remain open to the idea that there might be other victims of domestic CSA in the household.
- Evidence for other accompanying offences like child battery to be looked for.
- Establishing rapport with the victim before the interview/examination to record the statement is essential.
- Thorough search of personal belongings and articles of accused may yield evidence of CSA.
- Need for protective custody should be assessed and conveyed to CWC/support person.
- Children may lack the vocabulary to describe the details of the sexual abuse, hence I.O. must allow the victim to use their own words.
- Repeat examination and confrontation should be avoided.

8.1 Use of forensics:

Effective use of forensics can be a game changer in prosecuting domestic CSA cases. The use of forensic techniques reduces reliance on volatile oral evidence and enhances the chances of success during trial. Cold case forensics (Chapman et al., 2020) may have particular utility since many cases are reported after much delay. In the case of pregnancy arising out of rape or where vulval/vaginal/anal swabs etc., yield offender DNA, DNA matching can provide the critical evidence. However, the chain of custody must be strictly maintained to avoid any contamination of samples.

9. Concern by the Higher Judiciary:

Supreme Court of India has raised concern from time to time regarding child rights in several judgments and has issued directions to Government agencies and statutory bodies (e.g. *Sakshi vs Union of India*, (2004) 5 SCC 518; *Sampurna Behara vs Union of India*, (2018) 4 SCC 433; *Nipun Saxena vs Union of India* (2019)13 SCC 715; *Manoharan vs State* (2019) 7 SCC 716). In the National Stakeholders' Consultation on POCSO Act held in year 2022 to mark ten years of implementation of the Act, the Chief Justice of India observed that child rights should get precedence over family honour and exhorted that "*the State must encourage families to report cases of abuse even where the perpetrator is a family member*" (Bagchi, 2022). Similarly, Justice Hima Kohli of the Supreme Court recently remarked that victims of intrafamilial child sexual abuse deserve support and that understanding and coordinated and comprehensive response to the problem was required (Thapaliyal, 2023).

10. Dealing with domestic CSA – An agenda for action:

It is apparent that dealing with domestic CSA is a complex challenge requiring an effective combination of preventive measures, early intervention, support, and rehabilitation for survivors. Evidence-based prevention strategies are required to address the issue. There is a need to create a safer environment for children and bring sexual predators - including those within the family- to justice. Successful prosecution helps to create both deterrence for other potential offenders and incapacitates the present offender. However, the socio-economic and psychological consequences of pursuing prosecution against one's family members can be enormous and traumatising for the victims. Some scholars have also argued favouring a restorative justice framework for addressing the problem of CSA rather than penal proceedings (McGlynn et al., 2012) while others have advised to exercise caution in adopting such an approach (Cossins, 2008). However, considering the present legal framework, it is a tricky area in which academic engagement is required. A collective effort from society as a whole is required to protect the most

vulnerable members of our communities. Certain specific dimensions of tackling this serious problem are mentioned below:

10.1 ICE activities:

Information, communication and education (ICE) activities can play a major preventative role in tackling the menace of domestic CSA. It is crucial to raise awareness regarding CSA as well as associated problems like child neglect to address the problem. We must enhance focus on preventive strategies rather than a prosecution focussed approach through enhancement of legal penalties, which creates only a limited impact on the scale of the problem of domestic CSA. Concerted efforts should be made to raise awareness of the symptoms of abuse, its effects, and the value of reporting among the general public, teachers, and children. Children should be encouraged to come forward if they suffer sexual abuse or see it occurring to others. Guided campaigns and programmes need to be designed and conducted involving all stakeholders. Barriers to the disclosure of information regarding domestic CSA need to be addressed. Focussed preventive strategies for at-risk children are also required. Overall, there is also a need to promote a sense of community responsibility in preventing CSA. Local leaders, religious institutions, and community organizations also have an important role in awareness campaigns and protective efforts. Those discovering domestic child sexual abuse must shun the culture of silence and report the crime to authorities for remedial action. Rule 3 of POCSO Rules 2020 provides for awareness generation and capacity building related to provisions of POCSO Act. National Commission for Protection of Child Rights and State Commissions for Protection of Child Rights constituted under the Commissions for Protection of Child Rights Act, 2005, which have been mandated under Section 44 of the POCSO Act to monitor the implementation of the Act may take the lead to organise specific ICE campaigns targeting domestic CSA.

11. Role of healthcare professionals:

Doctors and nurses have an essential role to play in combating the problem, as they are often the first contact point for victims of CSA. Medical-legal examination of child victims of domestic CSA can be challenging and Model Guidelines (WMCD, 2013) offer detailed advice in this regard. According to the model guidelines, doctors' role includes a meticulous examination of the victim of CSA, taking detailed medical history, collection of forensic evidence, proper documentation of diagnostic procedures and asking pertinent questions in suspected abuse cases where visit is for other purposes. In this regard, WHO Clinical Guidelines for responding to children and adolescents who have been sexually abused prescribe four principles – (a) The principle of best interests of the child or adolescent, (b) The principle of evolving capacities of the child or adolescent, (c) The principle of non-discrimination, (d) The principle of participation. Doctors and nurses are expected to handle such cases with due sincerity and alert law enforcement authorities and the child welfare committee to take appropriate remedial steps. While making decisions, the interest of the child should be kept in mind. Comprehensive training for healthcare workers to recognise signs of sexual abuse, sensitive handling of disclosures, and appropriate follow-up action is required. Proper psychological/psychiatric management of offenders can help reduce recidivism. Hence, thorough psychological examination of offenders should be conducted whenever feasible after apprehension to devise appropriate intervention.

11.1 School Education and role of teachers:

Schools can be a good place to spread awareness regarding the problem. Age-appropriate sex education in schools is needed to educate children about their bodies, boundaries, consent, and healthy relationships. Young children (nursery/pre-school) can be told about good touch and bad touch while pre-adolescent children need to be informed about body parts, differences in boys and girls and the biological role of sexual organs. Such education can empower children to recognise and report abusive

behaviour. The curriculum of school children should also include lessons on online safety.

11.2 Helplines:

In view of the nature of the problem, helplines with facility of anonymous reporting mechanisms for CSA need to be set up where children, parents, and the public can report suspected cases without fear of retaliation. A mechanism needs to be worked out for further follow-up action. In order to avoid misuse, it is also vital to introduce necessary safeguards regarding the authenticity of the information before passing on to the authorities for legal and remedial action.

11.3 Role of Non-Governmental Organisations (NGOs): Apart from role as support persons as envisaged under the POCSO Act and Rules 2012, NGOs can also play a vital role in preventive activities. According to model guidelines (MWCD, 2013), “*NGOs are the primary channel for awareness-generation and proactive monitoring of government policies and action*”. NGOs can also provide training to other stakeholders for the enforcement of child rights. RAHI (Recovering and Healing From Incest) is a pioneering NGO which works for women survivors of incest and CSA since 1996. Another NGO Childline India runs a helpline (1098) for children in need of help and assistance, including those who are survivors of CSA (Childline, n.d.). Sakshi, a Delhi based NGO, is another organisation which runs a digital campaign with hashtag #MakeHomeASafeSpace to educate and equip people to combat CSA as part of *The Rakshin Project* (Sakshi, n.d.). The Rati Foundation, HEAL (Help Eradicate Abuse through Learning) and Aarambh India are a few other significant NGOs working to prevent and respond to CSA.

11.4 Support Services for Victims: Support services for child survivors regarding medical treatment, psychological counselling /therapy, financial compensation, provisioning of safe housing and long-term rehabilitation including education for child survivors of abuse need

to be augmented. The Ministry of Women & Child Development, Govt. of India, has sponsored the establishment of One Stop Centres, preferably within a hospital or medical facility for providing requisite help and assistance to victims of gender-based violence. Recovery and reintegration need to be prioritised through support services. Compensation to victims of domestic CSA can be awarded under sub-section (8) of Section 33 (8) of the POCSO Act read with sub-sections (2) and (3) of Section 357A of the Code of Criminal Procedure, 1973 (2 of 1974) and Rule 9 of POCSO Rules, 2020 for any mental or bodily trauma inflicted upon them as well as for immediate rehabilitation.

12. Concluding remarks:

Domestic CSA is an appalling reality which demands urgent and effective response from society and the State. Modern society can no longer afford to normalise this heinous crime in the name of family prestige. A multidisciplinary approach is needed to prevent, detect and prosecute the cases of domestic CSA. Government, NGOs and civil society need to work together to combat this problem and protect the well-being of the country's children. While applying POCSO provisions, the child's best interests should be of paramount consideration. Children traumatised by CSA carry long-term adverse consequences and cannot realise their full potential. Prevention and prosecution need to be given equal attention to tackle this menace. Spreading awareness, educating, and strengthening protective measures is an essential component of the strategy to address the problem. Long-term rehabilitation and reintegration also need to be given due consideration. Institutional accountability by way of holding the institutions accountable for their response to domestic CSA needs to be clearly prescribed in the laws and policies.

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Mental Health & Suicide Prevention of Young Minds

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Abstract

Mental health is a critical aspect of the overall well-being of an individual. It includes a range of conditions that affect an individual's mood, behaviour, and thinking. Mental health continues to be stigmatised and people often hesitate to seek help, which can lead to negative consequences. The stigma leads to discrimination, prejudice and social exclusion. The consequences of untreated mental health among children can be severe. It can negatively impact a child's relationships and overall development. In extreme cases, it can lead to suicide, which is a significant public health concern. It is important to create an environment where people can talk about their mental health and seek help without fear of judgment or discrimination.

Introduction:

"Kota Factory" on OTT reminds us of Kota, a city situated on the banks of river Chambal in the southern part of Rajasthan, a popular destination for all those who want to get into premier educational institutes in the country, especially IITs. Sadly, a few days ago, there was disturbing news of the suicide of a young girl studying at a coaching institute in Kota. Is it because of our education system or parental pressure to excel is yet to be ascertained.

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As per NCRB's report on 'Accidental Deaths & Suicides in India 2021', 8.0% of the total suicides were committed by students. The report also highlighted that mental disorders emerging from family problems, love affairs and illness were the main reasons for suicides among children below 18 years of age.

Mental health in childhood is critical for the development and well-being of children as it lays the foundation for their future emotional and psychological health, social relationships, and academic success. Parents, caregivers, and educators play a crucial role in promoting mental health in children. They can create a supportive and nurturing environment that fosters emotional well-being, and provide opportunities to teach the children healthy coping skills to manage stress and emotional distress.

All children by virtue of their age are vulnerable, but there is a more vulnerable group among the child population which needs specialized care and protection for their well-being. Such children can be put under the umbrella of 'children in adverse situations', with 'adversity' being defined as situations or events in one's life that may pose a threat to the mental development of an individual. These children are at risk of adverse mental health issues owing to the difficult contexts and trauma.

Mental Health- Historical Background:

The physician, William Sweester, has been credited to conceive the concept of "mental hygiene" in 1843. Before, the inception of the World Health Organization (WHO), the British colonial Government in India established a "Health Survey and Development Committee" under the Chairmanship of Sir Joseph William Bhore in 1943. The Committee rolled out its report in 1946 with recommendations for short and long measures to improve health conditions across the country. In London, the First International Congress on Mental Health was organized in 1948.

The World Health Organization has acknowledged mental health as a Human Right and defined it as "a state of mental well-being that enables people to cope with the stresses of life, realize their abilities, learn well and work well, and contribute to their community".

Mental illness may be divided into three types based on its nature:

- 1) Illness emerging due to thoughts, for example, schizophrenia.
- 2) Illness emerging due to emotions, for example, depression.
- 3) Illness emerging due to behaviour, for example, the use of substances like drugs.

Mental Health – Indian Scenario:

Among the developing countries, India stood as a pioneer to formulate and launch a “National Mental Health Programme” in 1982 for addressing the issue of mental illness and to create an environment for developing mental health care infrastructure in the country. The programme incorporated the “District Mental Health Program” in 1996. With the introduction of the National Mental Health Policy of 2002, the onus was put on health professionals to extend good healthcare. The National Health Policy of 2002 was revised in 2017 with the identification of seven main areas for developing a holistic environment for health. It emphasized coordinated efforts by spreading awareness regarding balanced & healthy diets, regular exercise, reduction in stress levels & improved safety in the workplace.

The Mental Health Act, 1983 replaced the Indian Lunacy Act, 1912. The Mental Health Act, 1983 was further replaced by the Mental Healthcare Act, 2017 which defined Mental illness as a “disorder of thinking, orientation, perception that impairs behaviour, judgment, capacity to recognize reality, mental conditions associated with the abuse of alcohol and drugs”. This definition of mental illness excluded mental retardation as it was recognised as a condition arising out of incomplete development of mind.

Year	Male	Female	Transgender
2019	4405	5208	0
2020	5392	6004	0
2021	5075	5655	2

Source- Accidental Deaths & Suicides in India 2019, 2020, 2021 (NCRB, GOI)

Figure 1: Data on suicide deaths below 18 years.

Empirical Studies on Causes:

The researchers have been studying the pattern of social, clinical, biological, and psychological factors that contribute to suicidal ideation. As we know, family is the first social group of a child. It's a space where a child learns to interact, socialise, and stabilise his/her emotions. If the family itself is not stable and lacks supporting emotional requirements, then the child's mental health has a high probability of getting impacted.

The stress that builds up in school due to academic pressure adds up to suicidal ideation. The constant pressure of performance and comparison with peers can heavily impact the child's emotional well-being. The child equates his academic performance with acceptance within the family. And to escape the growing academic stress and performance pressure, children in a few instances resort to substance abuse.

The incidence of suicidal behaviour among youth varies across sociodemographic populations and countries. The research carried out by the Department of Counselling and Clinical Psychology, Columbia University found that suicidal ideation generally begins in tweenagers, that is, after the age of 10 years and the incidence increases between the age of 12 years to 17 years. Researchers have also explored psychological risk factors. The evidence shows a correlation between the affective process of low esteem or self-referential thinking, the cognitive process of impulsivity, and the social process of loneliness with suicidal ideations.

Adolescent girls are more prone to suicidal ideation and attempts than boys. Childhood mistreatment, like sexual or physical abuse, may convert into suicidal ideation. Peer victimization, that is, bullying, has strong evidence of pushing a child to loneliness. Sexual orientation also plays a distinct role as Lesbian, Gay, Bisexual, and Transgender (LGBT) youth have an increased level of suicidal ideation than heterosexual youth.

A romantic relationship also plays a crucial role. An emotional connection may give an adolescent a sense of identity, self-worth, and stability, especially if the adolescent happens to be a girl. As a result, the abrupt end of a relationship can be stressful and overwhelming, resulting in a wide range of unfavourable emotions that may influence their mental health. Adolescents may treat heartbreak as a sign of rejection or

abandonment. They might feel a variety of difficult-to-manage emotions, such as grief, rage, and hopelessness.

Additionally, peer or social media influence is also one of the contributors. For instance, addictive virtual games like “Blue Whale” targeted players who were vulnerable, especially children with stress or depression, and invited them to take the challenge of 50 tasks. The last task of the game was to commit suicide. The players were blackmailed or cyberbullied if they did not complete the challenge. An advisory by the Ministry of Electronics & Information Technology (MeitY), the Government of India was issued to remain vigilant and ensure that parents monitor the engagement of children with social media.

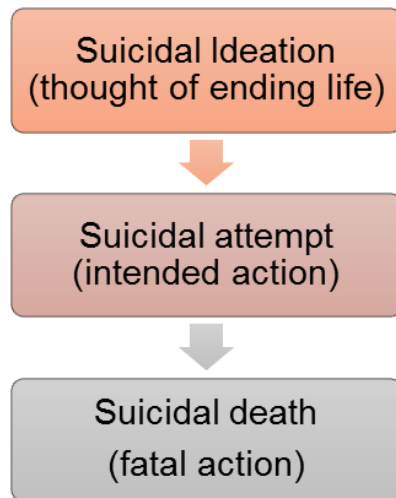


Figure 2: Stages of Suicide

The research studies have emphasized that one of the most difficult issues in suicide prevention is the detection of the probable victim, as the people who denied suicidal ideation during the collection of data were the ones who attempted suicide the next year. To validate findings, researchers may focus on longitudinal studies. In addition to this, there is limited evidence/data for understanding suicidal behaviour, suicidal deaths occurring in rural areas are generally not reported. Another shortcoming of the research studies being carried out in various parts of the world is that there is inconsistency involved in adopting the research methodologies and

limited data available on trial information (suicidal behaviour excluded from clinical trials) which assists in drawing comparisons.

Legal Provisions:

The act of attempting suicide itself has been treated as a crime under Section 309 of the Indian Penal Code (IPC). It prescribes for a punishment of imprisonment for up to one year, or a fine, or both.

The Hon'ble Supreme Court of India observed in *Aruna Ramchandra Shanbaug vs Union of India* (2011) that "Section 309 of has become anachronistic and should be deleted by Parliament. When a person attempts suicide, he may be in a depressed state of mind, therefore, rather than punishing him under Indian Penal Code, he deserves to be put under protective care."

In 2017, a Public Interest Litigation (PIL) was filed in the Hon'ble Supreme Court of India to frame guidelines to reduce the rate of suicide, especially among children. With the enactment of Mental Healthcare Act 2017, it was emphasised that individuals with mental illness or disorder require protection and care. Section 115 of the Act states that "any person who attempts to commit suicide shall be presumed, unless proved otherwise, to have severe stress and shall not be tried and punished under Section 309 of IPC. The appropriate Government shall have a duty to provide care, treatment and rehabilitation to a person, under severe stress and who attempted to commit suicide and to reduce the risk of recurrence of attempt to commit suicide".

Initiatives to address Mental Health and Psychosocial Support:

National Mental Health Program (NMHP) was launched by the Government of India to ensure the availability and accessibility of minimum mental healthcare for all primary healthcare centres, district hospitals, and medical colleges. The team of workers at the district under the program consists of a Psychiatrist, a Clinical Psychologist, a Psychiatric Social worker and other support staff.

As recently as November 2022, the Ministry of Health & Family Welfare, Government of India, rolled out the "National Suicide Prevention

Strategy (NSPS)” to reduce suicide mortality to 10 % by the year 2030. It seeks to establish psychiatric OPDs that will provide suicide prevention services through the DMHP in all districts within the next five years. It also aims to integrate a mental well-being curriculum in all educational institutions within the next eight years. It envisages the “REDS” path for preventing individuals from committing suicide:

- Reinforce institutional capacity, leadership.
- Enhance the capacity of health services.
- Develop societal support and community resilience to prevent suicidal behaviours and also reduce the stigma attached to it.
- Strengthen evidence generation and surveillance.

The repercussions of sexual abuse on a child's mental health and well-being can be severe and long-lasting. They might also feel a great deal of betrayal, and uncertainty, which drive them to take their own lives. SAMPARK in Odisha has intervened in more than 2,000 such cases and is a crucial step forward in addressing issues of gender-based violence. The help desk developed under the Crime Against Women and

Children Wing (under CID-CB) in Odisha provides tele-mentoring: the first level response for their mental health and psychosocial well-being,

CASE STUDY

A 17 year old girl was kidnapped and sexually abused by a group of men who took her pictures and videos and then left her unconscious in the middle of the road while she was on her way back home from school. Even as rape case was under investigation, one of the abusers sent pictures of her assault to her relatives. Due to this, the child went into extreme trauma and could not sleep for days together. She lost her appetite and went into isolation. Parents too felt humiliated and distressed.

SAMPARK made a series of intervention in the case. As an emergency, updates of the case (videos of the victim being viralled) were communicated to higher authorities for further action. While the girl was given psychosocial support and counselling by SAMPARK, the mother was also provided with first level response. The family was informed about victim compensation and rendered assistance for filling claim for it. With a series of follow ups, the girl is now reported to be getting better.

and depending on the need, the child is connected with different stakeholders like the police, District Child Protection Units, Child Welfare Committees, CHILDLINE, One Stop Centre, District Mental Health Program, District Legal Services Authority and others. Further, follow-up is done on their concerns, risks, protective factors and overall well-being.

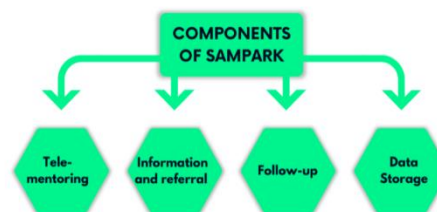


Figure 3- Components of SAMPARK

All the calls made are stored through a cloud-based telephony service (My Operator agency).

All information, including the counselling services, referrals, follow-up, status of victim compensation, etc. is updated on the sheet. Eventually, it was realised that SAMPARK needed to follow up with many children and needed a mechanism to track their calls and records of data that they are collecting. Hence, a dashboard was developed for easy monitoring and tracking of cases for the same.

Suicide prevention in India is a critical issue that has garnered attention from the government, NGOs, and various organizations who have all taken various initiatives to support to individuals at risk. Some key initiatives under suicide prevention in India are as under:

❖ **24/7 Helpline Services:** Ministry of Social Justice & Empowerment launched KIRAN started a toll-free 24/7 mental health helpline in September 2020 to help individuals in need of mental health support in various vernacular languages. The helpline provides services such as screening, mental health first aid, crisis management and referrals with the help of clinical psychologists and psychiatrists. Besides, Helpline services such as the iCall initiative of TISS Mumbai, Vandrevalla Foundation Helpline and Snehi in Mumbai, Roshni in Andhra Pradesh, and COOJ based in Goa, to only quote a few, offer round-the-clock support to individuals in distress, including those at risk of suicide.

❖ **Online Platforms:** Online platforms like Your DOST, iCall, and Vandrevalla Foundation provide accessible mental health support,

including suicide prevention services, through online chat, phone calls, and video consultations. These platforms offer anonymity and convenience for individuals seeking help.

❖ **Gatekeeper Training Programs:** WHO recommended Gatekeeper training programs aim to equip frontline professionals, such as teachers, healthcare workers, and community leaders, with the skills to identify and respond to individuals at risk of suicide. These programs increase awareness and improve the overall support network for those in need.

❖ **Awareness Campaigns:** Various campaigns and initiatives are conducted to raise awareness about mental health and suicide prevention in India. Examples include World Suicide Prevention Day, Mental Health Awareness Month, and campaigns by NGOs.

Myths about suicide among children

- ❖ It is not necessary the suicidal thoughts will always remain with the child. While they can come back, permanency is not necessary in these thoughts.
- ❖ Contrary to the culture of silence, it is important to talk about what the child is feeling, including emotions of taking their lives. With the stigma and discrimination, children find it difficult to have an honest conversation without judgements. These conversations help the children talk openly about their issues and give time to think about the situation.
- ❖ There are signs and symptoms that may help to identify in the child's feelings of self-harm or taking their lives.
- ❖ Children who self-harm do not always want to die. It might be their way of dealing with emotions and a quiet cry for help. It is therefore important for us to not presume that all children who self-harm want to die.

Roadmap for Prevention of Suicide:

The State as well as the civil organizations are required to continuously address the issue. Generation Z uses social media to communicate or gain information or build social relations. This generation has the highest number of reported cases of depression and anxiety.

A comprehensive, evidence-based and sustainable roadmap would help in understanding and addressing the issues involved with the mental health of our children.

❖ **Enhanced Access to Clinical Services:** The clinical services related to mental health should be made more affordable, convenient and culturally appropriate for children in need. The resources need to be increased for these services in schools and community centres. Also, the focus should be provided on the capacity building of professionals or health practitioners who work with children.

❖ **Early Detection is the key:** It is important to identify the children who are at risk at an early stage so that appropriate support and resources can be provided to them and protect them from taking a drastic step of committing suicide. The parents, teachers and community need to be educated as a whole.

❖ **Monitor Social Media Engagement of Children:** With the access to internet at homes and schools, parents and teachers need to monitor and interact with children regularly to identify if they are the victim of cyberbullying. On the other hand, Law Enforcement Agencies (LEAs) need to run a social media cell to monitor cyberbullying or harmful virtual games.

❖ **Addressing the Social Determinants:** Social factors like poverty, caste, and social status also impact the mental health of an individual. For addressing these issues, we may opt for a multi-sectoral approach which will take into account education, peer group, employment, etc.

❖ **Introduction of Community:** Based Programs: It is essential to foster a sense of togetherness. Social norms help to bind an individual with the community when he/she believes that there are people who will protect him, which eventually helps in developing coping skills and building resilience.

❖ **Public Awareness:** The objective of public awareness programs is to make people aware of the fact that it is the time to accept children with mental illness and not to attach a stigma to such help seekers. This can be done through public education campaigns, media coverage, and community events.

❖ **Gatekeeper Training:** A pool of volunteers may be trained at the school or community level who would act as watchdogs and help in identifying adolescents who may be probable victims of suicidal ideation.

❖ **Use of Technology:** Technology-based interventions will assist in identifying short-term behavioural patterns of probable victims, for instance, digital phenotyping, where smart device data are used to design a digital picture of one's behaviour.

❖ **Increase in Collaborative Research:** Collaborative Studies may be taken up by institutes/universities to focus on follow-up and postvention, biological factors and also the effect of various community-based interventions.

Conclusion:

The feeling of inadequacy, loneliness, and anxiety created by a complex web of intense academic competition, romantic engagement, peer pressures during adolescence and the influence of social media can significantly impact a child's mental well-being. Parents, educators, and policymakers must acknowledge these stressors and create a supportive environment where children can thrive without compromising their mental health. Creating open lines of communication, fostering emotional intelligence, and being vigilant for signs of distress are crucial in supporting children's mental well-being. Encouraging children to express their emotions, soliciting professional help when needed, and providing a nurturing and understanding environment is crucial.

The initiatives around suicide prevention and psychosocial support are evolving and, while the systems developed are promising, there is a need to delve deeper into what children and adolescents require in the context of their surroundings and developmental domain. It is imperative for governments and healthcare systems to prioritize mental health services for children, ensuring that they are readily available, affordable, and destigmatized. Additionally, integrating mental health education into school curricula can equip children with essential coping mechanisms and help reduce the stigma associated with seeking help.

Schools, community centres, and youth organizations can play a pivotal role in raising awareness, providing support networks, and organizing mental health initiatives. Collaboration between different stakeholders, including educators, healthcare professionals, and policymakers, is essential for implementing effective strategies because every child deserves the chance to grow up in a society that values their mental health and provides them with the necessary tools to thrive.

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Child Protection-Fundamental Analysis of Provisions of POCSO Act, 2012 (Amended in 2019)

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Abstract

The Protection of Children from Sexual Offences Act, 2012 commonly known as POCSO Act is a comprehensive law to provide for the protection of children from the offences of sexual assault, sexual harassment and pornography, 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.

The inadequacy of Indian Penal Code and absence of any stringent legislation for addressing and tackling heinous crimes such as sexual exploitation and sexual abuse of children along with due compliance of Article 15 of Constitution of India which mandates the States to protect the children of India and the United Nations Conventions on the Rights of the Child which prescribes the set of standards to be followed by State parties in securing the best interest of the child, the POCSO Act commenced in 2012.

The article enumerates both the substantive part of the Act, where it talks about the various sexual offences that is committed against the child victim, along with their punishments and also the procedural part of the Act, which contains the procedure required to be followed to report the

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case with special mention of the process of medical examination of the victim. The article also enumerates the amendment of the Protection of Children from Sexual Offences (Amendment) Act in 2019, where the enhanced punishment for various offences along with the introduction of death penalty due to the steep rise in the cases registered under the Act.

Keywords

POCSO Act, child, sexual offence, protection, constitutional rights, reporting, recording of evidence, investigation, investigating agency, trial, prosecuting agency, judiciary, victim compensation, compromise in child sexual cases.

Introduction:

The child protection legislation for children is enshrined in four important laws

The Juvenile Justice [care and Protection] Act 2000 Amended in 2015

The Prohibition of Child Marriage Act, 2006

The Protection of Child from Sexual Offences Act, 2012, amended in 2019

The Child Labour [Prohibition and Regulation] Act 1986.

The Protection of Children from Sexual Offences Act, 2012, amended in 2019.



The Protection of Children from Sexual Offences Act (POCSO) is a legislative framework for the protection of children from all types of abuse. It recognizes that all forms of sexual abuse are against the basic rights of a child, and it sets out rules to ensure that adults working with children, whether as parents or in other roles, are trained to recognize and respond appropriately to their behaviour. It also provides an opportunity to educate society on what constitutes child abuse so that everyone can participate in the protection of children from harm.

The Protection of children from Sexual Offences Act, 2012, amended in 2019 is one of the main law for the protection of children from sexual offences.

Position prior to the Act:

India has ratified the UN Convention on the Rights of Child (CRC) on 11th December, 1992. The State parties to the Convention are required to undertake all appropriate national, bilateral and multilateral measures to prevent the inducement or coercion of a child to engage in any unlawful sexual activity, the exploitative use of children in prostitution or other unlawful sexual practices and the exploitative use of children in pornographic performances and materials.

The meaning of child under the POCSO Act:

“Child” means any person below the age of eighteen years. Hence, the age is only criteria. In **Lekh Ram @Suneel Kumar Vs. State of Himachal Pradesh [Cr.MP(M)No.743/2021]** by Hon’ble Justice Vivek Singh Thakur held that the consent would be immaterial when the complainant is a minor. In the POCSO Act, the consent of minor is immaterial and cannot be taken into consideration.

The Protection of Children from Sexual Offences Act, 2012:

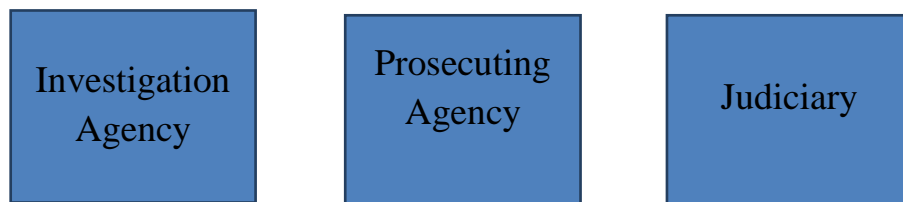
The Act came into force with effect from 14-11-2012 i.e., on the Children’s Day.

Article 15(3) of the Indian Constitution provides the Parliament to make special provisions for children.

POCSO Act is enacted with the following purposes:

- Providing adequate development of the child.
- The Act is gender neutral, i.e., it recognises that the victims and the perpetrators of the offence can be male, female or third gender.
- Protecting the right of privacy and confidentiality of the child by every person and through all stages of a judicial process involving the child.
- Safeguarding the best interest and well-being of the child and to ensure healthy physical, emotional, intellectual and social development of the child.

The Following are the three main Components of Criminal Justice



Procedure for Reporting of Cases

Section 19 of the POCSO Act provides complaint

- a) To the Special Juvenile Police Unit or
- b) The Local Police. The child against whom an offence has been committed is in need of care and protection.
- c) The Special Juvenile Police Unit or the Local Police, shall make immediate arrangement to give him such care and protection including admitting the child to the Shelter Home or Hospital within 24 hours of the report.

Special Juvenile Police Unit or local police within 24 hours of the receipt of the complaint report the matter to the Child Welfare Committee and the Special Court or where no Special Court has been designated, to the Court of Session, including need of the child for care and protection and steps taken in this regard.

Role of the Child Welfare Committee:

If the child lives in an institution and doesn't have any other access to care and protection then the child should be produced before the childcare and welfare committee [every district has one] and they will ensure the child has a shelter.

Section 20 of POCSO Act provides:

- The specific obligation is on the media personnel, the staff of hotels, clubs. There have been incidents where a person with the child has walked into the hotel and checkout within a few hours. In such cases where suspicion arises, the staff has to report to the police.
- Hospitals: If any doctor has come across marks of sexual abuse on children, they should report it after alerting the parents and if the parents refuse, then it is the duty of the doctor to report it.
- Studios or photographic facilities: If the negative of an abusive image has been submitted to develop, then any person at the studios or photographic facilities must report it.
- The person in charge of any institution or company.

Section 21 of the POCSO Act provides:

Any person failing to report the commission of an offence under Section 19 (1) or Section 20 or to record such offence under Section 19 (2) shall be punished with an imprisonment of either description which may extend to six months or with fine or both.

Section 23 - Confidentiality of the victim's identity:

The POCSO Act provides for the procedure of media and imposes the duty on the media to maintain the child victim's identity unless the Special

Court has allowed the disclosure. Section 23 (2) states, “No reports in any media shall disclose, the identity of a child, including his/her name, address, photography, family details, school, neighbourhood and any other particulars which may lead to the disclosure of the identity of the child”. In the landmark case of **Bijoy@ Guddu Das V. The State of West Bengal** (2017), the Calcutta High Court reiterated the law made under Section 23 and declared that any person including a police officer shall be prosecuted if he/she commits such a breach.

Procedure for Recording Statement of the Child:

Section 24: Recording of the statement of a child:

It shall be –

- Recorded at the residence of the child, or
- At a place where the child usually resides or at the place of its choice.
- As far as practicable by a woman police officer not below the rank of sub-inspector of police.
- The police officer shall not be in uniform.
- The child should not come in contact with the accused when the police officer is examining the child.
- No child shall be detained in the police station in the night without any reason.

Section 25: Recording of statement of a child by Magistrate under Section 164 of Cr.P.C:

- JMFC shall record the statement as spoken by the child.
- 164 (1) of Cr.P.C. permits the presence of the advocate of the accused shall not apply in this case in case of recording of the statement of the child by the Magistrate.

Section 26: Additional provisions regarding statement to be recorded:

- The Magistrate or the police officer shall record the statement as spoken by the child in the presence of the parents of the child or any other person in whom the child has trust or confidence.
- The Magistrate or the police officer may take the assistance of a translator or an interpreter, in recording the statement of the child. If the child is mentally or physically disable, the Magistrate or the police officer can take the assistance of a special educator or any person familiar with the manner of communication of the child or an expert in that field to record the statement of the child.
- Wherever possible, the Magistrate or the police officer shall ensure that the statement of the child is also recorded by audio-video electronic means.

Section 27: Medical examination of a child:

- Even though FIR is not registered, medical examination of a child in respect of whom any offence has been committed shall be conducted.
- In case the victim is a girl child, examination shall be conducted by a woman doctor before the parents of the child or any other person in whom the child has trust.
- In case the parent or the person in whom the child reposes trust are not available, the examination of the child shall be conducted in the presence of a woman nominated by the Head of the Medical Institution.

Section 42: Alternate punishment:

If offence was committed under the POCSO Act and the same offence is punishable under the provisions related to sexual offences in the Indian Penal Code, the offender shall be given punishment under this Act or the Indian Penal Code, which provides graver punishment for such an offence.

Types of offences under POCSO Act

PROVISION	SECTION	PUNISHMENT
[A] Penetrative Sexual Assault and Punishment thereof	Section 3: by any member of public in general	Section 4: Punishment- not less than 7 years and upto life and fine
[B] Penetrative Sexual Assault and punishment thereof	Section 5: Various officers of the Department of Police, Army/Security force, public servant, office in-charge of Management of child, Remand Home, Protection home, Observation home, etc., management of hospital, educational institution or religious institution.	Section 6: punishment not less than 10 years and fine.
[C] Sexual Assault and Punishment thereof	Section 7: Sexual Assault	Section 8: punishment not less than 3 years and upto 5 years and fine
[D] Aggravated sexual assault and punishment thereof	Section 9: By officers of Police Department, Army etc.,	Section 10: Not less than 5 years and upto 7 years and fine
[E] Sexual harassment and punishment thereof	Section 11: Sexual Harassment	Section 12: punishment upto 3 years and fine
Using child for pornographic purposes and punishment thereof	Section 13: Prohibits use of the child for pornographic purposes	Section 14: punishment upto 5 years and fine for the first offence Upto 7 years and fine for second or subsequent conviction.
Storage of pornographic material involving the child		Section 15: punishment upto three years or with fine or both.

Section 32: Special Public Prosecutor:

- The State Government shall, by notification, in the Official Gazette appoint a Special Public Prosecutor for every Special Court Under the Act.

The following contentions are usually urged by the defence in the courts during trial of the POCSO cases:

- a) Delay in filing the complaint by the victim.
- b) Delay on the part of the investigating officer in sending the FIR with complaint to the Special Judge/ Child Welfare Committee.
- c) Absence of proper medical evidence to connect the allegations of the offence, casual examination of the victim by the Medical Officer.
- d) Admissibility or otherwise of the evidence of the victim who is a child as a witness in the case by the Court.

In **Ganesan Vs State represented by its Inspector of Police** in Criminal Appeal No. 680 of 2020 from S.L.P (Criminal) No.4976/2020) a three-judge bench of the Supreme Court comprising/Justices Ashok Bhushan, MR Shah and R.Subhash Reddy has held that in POCSO cases, conviction can be based on sole testimony of victim, if reliable and trustworthy

Trial of the Case:

The Magistrate shall provide to the child and his parents or representative a copy of the document specified under Section 207 of Cr.P.C. upon the final report being filed by the police under Section 173 of Cr.P.C [copy of the charge sheet along with documents]

Section 35: Provides that the evidence of the child shall be recorded by 30 days from the date of taking cognizance of the offence.

One year for completing the trial from the date of taking cognizance of the offence.

- Recording of evidence of witnesses for the prosecution, accused, if any, witnesses for the accused, if any, witness for the court, if any occupy a major of valuable time of the court.

- The court should ensure that question put to the witness by the defence are properly understood by the witness before the witness is able to answer the same.
- The court has the power to put court questions to the witness in the interest of justice.
- The court may prohibit the counsel for the accused to put complex questions to the witness for prosecution.

Day to day trial: Section 309 of Cr.P.C.

- Recording of evidence of witness for the prosecution should be completed as far as possible within a period of two months from the date of filing of charge sheet. In **Akil@Javed Vs. State of NCT, Delhi** [Cr.L.A 1735] 2009 dated 0-12-2012 it was held that trial of criminal case should be held on a day-to-day basis. In-camera trials in cases of sexual offences committed against children are mandatory under Section 37 of POCSO Act.
- Use of screens, single visibility mirrors or curtains, video conferencing and such other devices is essential to ensure that the child is not exposed in any way to the accused at the time of recording of the evidence.
- There can be no direct questioning of the victim by the defence counsel. Under the POCSO Act, the defence counsel should communicate the questions to the Special Court, who in turn will put the question to the child.

Statement under Section 313 of Cr.P.C:

- The court may take help of the prosecutor/advocate for the accused in framing proper questions to be put to the accused under Section 313 of Cr.P.C. by the Court.

Punishment to be Awarded to the Accused:

- The Public Prosecutor must analyse the evidence of the witness for prosecution and submit proper arguments in the matter of award of just and proper sentence.

- The court must keep in mind the interest of the victim in particular and impact on the society in general as held in *State of Madhya Pradesh Vs Babulal* (AIR 2008 SC 982).
- Social impact of the crime should not be lost sight of by the court. The court should not have a particular approach in awarding of sentence as held in **B.G. Goswami Vs. Delhi Administration** – [1974]3 SCC.
- Compensation to the victim child may be awarded at any stage of FIR, irrespective of whether the accused is convicted, or not. [Rule 7(2) of POCSO Rules].

Compromise in POCSO Cases:

In **Anil S/o Venkappa Kushalkar Vs. State of Karnataka**, High Court in Criminal Petition No.201199/2021 on October 28, 2021 has minced just no words to hold that in a case of a heinous offence of rape, even if the parties have settled the dispute, the same cannot be accepted and the proceedings cannot be quashed since it will have a serious impact on the society.

Single Judge Bench of Justice H P Sandesh while rejecting the petition filed by a couple said that considering the object and scope of special enactment of the POCSO Act, exercising power under Section 482 of Cr.P.C does not arise.

NCRB report said a total of 1,49,404 cases of crime against children were registered in 2021, of which 53,874 cases or 36.05%, were under the POCSO Act.

Suggestions:

- Special Court must be in a separate building, as provided to Juvenile in JJ Act 2015, as the victim will be free to give evidence as provided to the juvenile in JJ Board.
- It is better if the charge sheet is filed under the provisions of the above Act is scrutinized by the Superintendent of Police or Senior Police Officer in the district so that he would know the manner of investigation of the crime by his subordinates.

- It is better if a Special wing in District Crime Branch is set-up for the purpose of investigation of the offences under the provisions of above Act.
- Fast track courts must be established to see the cases are disposed as early as possible, since it gives justice to the victim.
- Awareness programme about sexual abuse shall be made compulsory at school and colleges. Legal Aid Committee shall arrange awareness at district level to the public.

Conclusion:

Swami Vivekananda stated that “the best thermometer of the progress of a nation is its treatment of its women”. The country that provides protection to women from such heinous crimes and creates a congenial environment for women to realise their dreams and aspirations would be considered the most progressive one.

Marriage between people below the age of 18 years which is considered illegal under the POCSO Act, 2012, is legal according to various personal laws. Hence, the sexual intercourse between such married individuals is a crime as per the POCSO Act, but valid according to the personal laws. This conflict must be resolved to establish a uniform law across religious lines.

Prohibition of Child Marriage Act, 2006 Act makes a male (>21 years) and female (>18 years) for the validation of their marriage. Though Section 3 of the 2006 Act makes such marriage as ‘voidable’ at the instance of the parties, it has given the ambit of misuse at the hands of either of the parties who when bored in the matrimonial relations can just walk out of it and claim that they were sexually assaulted as per the provisions of POCSO.

Lapses in Investigation:

Though there is a provision to record statements using audio-video means, there are still reports of lapses in the investigation and preservation of crime scenes in some cases. In **Shafhi Mohammad Vs The State of Himachal Pradesh** (2018) the Supreme Court held in cases of heinous crimes, it is the duty of the investigating officer to photograph and video-

graph the scene of crime and to preserve the same evidence. In the absence of proper infrastructure to ensure the integrity of electronic evidence, the admissibility of evidence recorded using any audio-video means will always remain a challenge.

The POCSO Act, is a good legislation. It protects the child from being exploited sexually. It covers major sexual offences related to the child. The punishments are stringent, and the law is more severe than any other legislation. In the POCSO (Amendment) Act 2019, punishments for the offences have been made more stringent.

Social awareness will play a major role which will encourage the child and family to report the cases of sexual abuse. It is the duty of every citizen that child sexual abuse should be combated as early as possible. This will be helpful in the progress of India and developing a crime free nation, as children are the leaders of tomorrow.

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She was appointed as Assistant Public Prosecutor in the year 1998 and after promotion as Public Prosecutor in the year 2015, She was posted to the Academy on deputation. She is working here as Deputy Director of Prosecution since then. She teaches Indian Penal Code 1860 for police officers of the rank of PSI to DySP, IMV Inspectors, SOCO officers and also laws related to women, like POCSO Act 2012, Investigation of Dowry Death, Domestic Violence Act, 2005, Prevention of Sexual Harassment at Workplace Act 2013. Academy has given opportunity to conduct courses for Police Officers at Karnataka Police Academy. She has conducted courses on 'Human Rights for Police Officers' on 'Gender Sensitization and Transgender Act' She also one of the editors for the 'Newsletter' published by Karnataka Police Academy.

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Child Trafficking in India Perspective, Prevention & Mitigation

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Abstract

International Labour Organisation released its publication Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, in September 2022. As per the publication, out of about 50 million people living in modern slavery in 2021, 28 million were in forced labour and 22 million in forced marriage. The number of women and girls in forced commercial sexual exploitation and forced labour is about 5 million and 6 million, respectively. Children constitute about 12% of those in forced labour.

The seriousness of the current scenario of child trafficking cannot be stressed upon more. The article deals with the issue with contextual reference to Rajasthan and India. Data of trafficking published by National Crime Records Bureau has been used as a representative sample of our country. Laws against child trafficking and government initiatives find detailed mention in the article. It was observed that inter-state and inter agency co-ordination and co-operation are an absolute necessity in tackling trafficking. A study based on data of victims and accused carried out in Rajasthan, impressing upon the need of inter-state co-ordination in tackling trafficking, has been included in the article. Other than investigation and prosecution of trafficking cases, suggestions for prevention strategies have been deliberated upon. Suggestions have been made for a holistic approach in handling the issue.

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Trafficking defined:

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, was adopted by UN in 2000. It is also known as Palermo Protocol on Trafficking. It supplements the United Nations Convention against Transnational Organized Crime (UNTOC). India became part of the UNTOC in 2003.

The Indian Penal Code 1860 defines trafficking in Section 370 as:

Whoever for the purpose of exploitation, (a) recruits, (b) transports, (c) harbors,

(d) transfers, or (e) receives, a person or persons, by –

- using threats, or
- using force, or any other form of coercion, or
- by abduction, or
- by practicing fraud, or deception, or
- by abuse of power, or
- by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking.

Examples of trafficking are Bonded Labor, Forced Labor, Child Labor, Sexual Exploitation in massage parlors or for pornography, Prostitution, Trafficking for child marriage, Organ Trafficking.

Characteristics of trafficking in India:

Trafficking is characterized by continuity of offence, from source or origin of the victim to mode of transport till destination. Interestingly, in a number of cases since the destination keeps changing continuity of offence does not wind-up with one endpoint and carries on with every change.

Trafficking usually has inter district and interstate ramifications which make investigations protracted, necessitating inter-agency and inter-state co-ordination which in turn is inversely proportional to the time taken to complete it and put up a final report in the courts. Crime in India 2021, NCRB has recorded an impressive 84.7% of charge sheeting rate in 2,189 cases registered by AHTUs. **(Annexure-A)**

Child Trafficking in India is characterized by social approval, a particularly relatable example is CHOTU of our hotels and dhabas and GUDIA as domestic help. In an extended form, social acceptability of child labor is prevalent on the pretense of abject poverty of parents and paucity of funds for modernization of labor intensive industry and informal economies to replace manual labor.

Other major reasons for child trafficking are illiteracy and unemployment, which reduce opportunities for young boys and girls and drive them into the trap of traffickers who lure them into prostitution, labor, etc. with false promises and deceit.

Current Indian scenario:

As per Census 2011, the population of children in India in the age group 5-14 years was about 260 million. According to a press release in June 2021, UNICEF revealed that over 10 million of them are working as main or marginal workers.

NCRB has been collecting data on trafficking since 2016 from the AHTUs. Though the data collected only reflects the cases registered by AHTUs, yet it is sufficient to point out the proportion of minors in trafficking, male and female ratio, main purposes of trafficking and charge sheet & conviction rates of such cases.

As per the Crime in India 2021, NCRB, in the case of minor children, males were trafficked more than females, 1570 (54.57%) and 1307 (45.43%) respectively. Victims of Child Trafficking constitute about 40% of total victims trafficked, 2877 out of 6533, respectively. The above figures do not represent the actual situation on the ground due to under representation yet they depict the seriousness of the scenario of child trafficking. **(Annexure-B)**

The NCRB statistics of rescued traffic victims have revealed that trafficking in India takes place for forced labour (43.5%), sexual exploitation (33%), domestic servitude (0.08%), other reasons (12.11%). **(Annexure-C)**

Child pornography, forced marriage, begging, removal of organs, petty offenses are other crimes for which trafficking in India takes place though in less numbers, yet are worrisome because of their horrific nature. It may be noted here again that the data is not all-inclusive nevertheless illustrates existence of such untraced crimes in greater numbers.

There is an unambiguous flow of trafficking between source regions with poverty, illiteracy and unemployment to the economically advanced and developed States within India.

A noteworthy incident recently came to light in Rajasthan and is worth mentioning to demonstrate the veracity of the causative factors and characteristics of trafficking cited earlier.

On 29th January 2023, Udaipur police got a tip off about a child-selling racket. Accused were caught in the act and a series of eye-opening events unfolded. In the last 4-5 years, the racket had sold about 13 new-borns of poor locals of Udaipur district of Rajasthan, India for adoption by childless couples in different parts of the country like Delhi, Hyderabad, Ahmadabad etc. through mediators. The children were sold by parents for sums of 1-2 lakh rupees. Eleven accused have been arrested in the case, of whom 6 are women. Four follow-up cases were registered in various police stations of Udaipur.

This single case illustrates trafficking and all its characteristics-organised in nature, division of work, local and inter-state dimensions with respect to stakeholders, geography, jurisdiction of crime, chain of abettors/conspirators, inducement, consent of guardian, selling and buying of a human being and profit motive. It also sheds light onto the major causative factors like abject poverty and lack of employment. The case is a perfect study for the need of inter-agency and inter-state co-ordination and co-operation for not only investigation purposes but also for prevention and rehabilitation.

A Study of Inter-state Ramifications of Trafficking in Rajasthan: Pressing Need for Inter-state Co-Ordination for Prevention:

The above mentioned subject was taken up for study by the undersignee while holding the charge of DIGP (Civil Rights & AHT), Rajasthan, in the year 2022- 23.

Data pertaining to the number of victims rescued from Child Labour was collected and analysed for the years 2019 to 2022. **(Annexure-D)**

The following revelations were made -

- Of the total children rescued (4270), 96.25% were males and the rest were females. The ratio of male and female rescued children remains the same for victims of Rajasthan and other States.
- Of the total children rescued, 40% (1690) were residents of other states like Bihar, Jharkhand, Uttar Pradesh, Madhya Pradesh etc. while the rest 60% (2580) belonged to Rajasthan.
- A natural corollary to the above finding was finding an answer to the question of facilitation of trafficking of children in such large numbers and proportions of other States to Rajasthan. Therefore, random sample data of 815 accused charge sheeted for Human Trafficking from the year 2019 to 2022 was sought from all over Rajasthan along with permanent residence information and location of trafficking destination in each case.
- As anticipated, it turned out that of the sample data 54% accused were from 8 other States, Bihar, Madhya Pradesh, Uttar Pradesh, West Bengal, Jharkhand, Punjab, Haryana and Gujarat.

(Annexure-E)

It shows poor inter-state co-ordination among the law enforcement agencies denying exchange of information. Consequently, criminal in one State carries out trafficking from his own state unfettered.

Action Initiated:

- To overcome the hurdle of absence of information exchange, data of accused collected was shared with the Police Headquarters of respective States for monitoring and surveillance of suspects and taking preventive and legal action at their end.

- Some States have in turn shared the data of residents of Rajasthan who are involved in trafficking in their region.
- The question of whether the accused were habitual or one-time offenders needed to be answered. Criminal record of all 376 accused of Rajasthan out of 815 was sought. Out of the 376 accused, 29 were found to have two or more than two cases registered against them in the past. Some of the accused had as many as 10 to 20 cases against them for previous acts and are now being brought under surveillance and monitoring of police through established rules.
- The study has brought to light the fact that not only children are trafficked from less developed States in India but also that the criminals charge sheeted for the crime also belong to same States. Therefore, the above data reiterates the fact that trafficking is a continuous offence and merely taking action at the point of destination will not resolve the problem without joint efforts of the law enforcement agencies of the source and destination States for both prevention and rehabilitation.

Legal provisions in India:

India has the following legal provisions for application according to the ingredient of offence committed:

- Indian Penal Code, 1860
- Child Labour (Prohibition and Regulation) Act, 2016
- The Juvenile Justice (Care and Protection of Children) Act, 2015
- The Prohibition of Child Marriage Act, 2006
- The Protection of Children from Sexual Offences Act, 2012
- The Information Technology Act, 2000 (IT Act 2000)
- Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989
- Prevention of Money Laundering Act, 2002
- Bonded Labour System (Abolition) Act, 1976
- The Immoral Traffic (Prevention) Act, 1956
- The Transplantation of Human Organs Act, 1994

The laws and legal provisions in India cover almost all the acts related to trafficking if applied appropriately. It is the ignorance on the part of investigation officers that precludes their appropriate application.

MC Mehta v State of Tamil Nadu and others-1996 (AIR 1997 SC 699) is a landmark case which acted as guiding light in dealing with Child Labour in the country. Major recommendations were:

- To pay compensation of ₹20,000/- to every child employed in violation of law. The amount was deposited in Child Labour Rehabilitation-cum-Welfare Fund.
- To ensure that, either an adult member of the family of child labour victim is given a job or ₹ 25,000/- to be deposited every month in the welfare fund, both of which would be stopped if the child is not sent for education.
- Working hours to remain limited to 4-6 hours in non-hazardous jobs.

Investigation of trafficking cases:

NHRC published Standard Operating Procedure (SOP) for combating trafficking of persons in India in 2017 which illustrates the concept of trafficking, related legal provisions in India, guideline for handling investigation of trafficking- breaking it into pre-rescue, rescue, post-rescue processes. The document expresses an explicit need of inter-agency coordination to handle the issue of trafficking, the stakeholders being Police esp. CWPO (Child Welfare Police Officer) and SJPU (Special Juvenile Police Unit), Administration, Labour Department, NCPCR (National Commission for Protection of Child Rights), SCPCR (State Commission for Protection of Child Rights), NHRC (National Human Rights Commission), SHRC (State Human Rights Commission), DCPU (District Child Protection Unit), CWC (Child Welfare Committee), Medical Authorities, Social Welfare Department, CCIs (Child Care Institutes), NGOs (Non- Governmental Organisations), Members of DTF (District Task Force), NALSA (National Legal Services Authority), SLASA (State Legal Services Authority) and DLSA (District Legal Services Authority) etc.

Trafficking is essentially an organised crime and needs to be treated so. It usually has multiple accused and victims, if not at the source, then during transport or at the destination. It essentially has financial implications and therefore requires tracing and confiscation of the

proceeds and assets. (Section 18 of the ITPA, 1986, Inter-state Migrant Workmen (Regulation of Employment & Conditions of Service) Act 1979, The Factories Act 1948, etc.

During handling of child trafficking cases victim centric approach must be a norm. Victims should not be further victimised in the process and due care should be taken to provide a friendly environment during and after rescue.

Prosecution:

Though the charge sheeting rate in trafficking cases is a whopping 84.7% as per Crime in India-2021, yet the dismal conviction rate of 16% does stifle hopes for deterrence against the crime any time soon (many States have not provided the requisite data to NCRB as a result data may be skewed but the available data is also not very promising). (**Annexure-F**)

Some of the reasons that can be attributed to the poor show are:

- Poor investigation and documentation
- Lack of adequate supervision
- Procedural lapses in collection and inclusion of evidence
- Neglect of forensics and scientific investigation
- Protracted trials
- Retraction of statements by victims
- Lapses in prosecution

Conviction in these atrocious cases is not only vital for deterrence but also essential to pull the accused in long drawn legal battles of appeal and judicial processes which are financially crippling and time intensive, which in turn is a deterrent yet again.

There are quite a few recent examples of convictions (2019-2022) in Jaipur, Rajasthan, in cases of trafficking and child labour registered from 2015 to 2019, where imprisonments from 2 years to life were awarded. Out of 15 sentences of conviction, 5 were for life imprisonment, 7 for 10-15 years and 3 for 2 years of imprisonments with varying fines amounting to as high as ₹ 400,000/-, reassuring prosecution performance in the future.

Prevention strategies:

Trafficking is fundamentally an organised crime. It is continuous in nature, has multiple crime scenes- intra and inter-state, at times international ramifications, involves detailed planning and conspiracy, encompasses division of labour- recruiting, transporting, exploitation is done by a different set of people, driven by profit motive, usually involves violence for submission and presence of multiple willing, unwilling and cheated victims.

It will require a carefully tailored, multi-pronged approach which should spread across several jurisdictions and agencies uniformly and implemented with a high level of coordination.

The NHRC Standard Operating Procedure (SOP) for combating trafficking of persons in India 2017 has articulated prevention strategies which would include forming networks for intelligence collection, analysis of existing data and consistent collection of information on identified key vulnerability indicators.

In order to pre-empt trafficking, following ways and means may be employed:

- Identification of potential victims and vulnerable areas with either existence of causative factors or history of trafficking.
- Keeping track of children through cross checking government records like birth, immunisation, Anganwadi, school records to ensure that any child/children missing for some time may be red-flagged and put anti- trafficking machinery to work.
- A natural corollary to the above would be digitisation of the said records for automated red-flagging.
- Developing community sources for collection of intelligence and prior information.
- Strengthening community-police partnership and confidence for seamless information and intelligence exchange.
- Maintaining databases of victim and offenders of trafficking at both the source and destination points. Rescued victims can be potential sources of intelligence while database of offenders of a place assists in surveillance and preventive action. The role of co-ordination and information exchange between law enforcement agencies of different States cannot be stressed more.

- As enunciated by the NHRC handbook convergent action to prevent trafficking should include use of resources such as the DCPU, District Task Force of the labour department, the vigilance committee formed under the ITPA, 1986, the village level child protection unit under the ICPS and other similar community-based resources. Encouragement of community awareness programmes, reporting, monitoring of migration, reporting of missing children etc. Formation of strong networks with the local hospitals, Child Welfare Committees, District Labour Department and children's homes for creating awareness about trafficking and ensuring reporting of any possible indication of the crime of trafficking.

As can be understood, effective prevention and tackling of trafficking is a multi-agency task which requires real-time coordination.

- Authorities managing transit routes- GRP, RPF etc. and manning the international borders- BSF etc. need to be brought on board with other agencies.
- Prevention efforts extend to after repatriation and rehabilitation process because many victims return into the folds of trafficking. A robust local monitoring and feedback system is essential for preventing preying of traffickers on rehabilitated children.

Initiatives undertaken by Government for tackling Trafficking at various stages:

- a. Crime Multi Agency Centre (Cri-MAC)** was established by MHA in 2020 to share information in real time and allow inter-state co-operation for countering major crimes, including human trafficking.
- b. Track the Missing Child** website is useful in tracing missing children. Relevant data of missing children is updated by various agencies on the portal all over India, which can be accessed to trace missing children. In the context of trafficking, it assists in tracing origin of rescued children who, for some reason, cannot provide the details of their parents and residence.
- c. CiSS (Children in Street Situation SOP 2.0)** was developed by NCPDR after Hon'ble Supreme Court took *suo-moto* cognizance of

the issue. An important part of the initiative is identification and registration of street children on NCPCR's Baal Swaraj-CiSS portal. The SOP 2.0 clearly outlines the role of each agency in the effort. It can assist in identification and rescue of children trafficked for beggary, etc.

- d. **The Ujjawala Scheme** by the Ministry of Women and Child Development, Government of India, has been effective since 1st April 2016. The objective of the scheme is to prevent, rescue, rehabilitate, reintegrate, and repatriate children and women trafficked for commercial sexual exploitation by formation and functioning of Community Vigilance Groups, sensitization Workshops/Seminars, awareness generation, information gathering through formation of network of Police, NGOs, Women Groups, Youth Groups, Panchayat, Hotels and tour operators etc., rescue operations, immediate relief on rescue, setting up of Protective and Rehabilitative (P&R) Homes, providing basic amenities, medical and legal aid, education after rescue, vocational training and income generation activities, setting of Half-Way Home and restoration to families.
- e. **Swadhar Scheme** was conceptualised and launched by the Ministry of Women and Child Development in 2001-2002 for providing primary help of food, shelter, clothing and rehabilitation to women in difficulty like abandoned widows, women released from prison and **women/girls** rescued from trafficking, etc.
- f. Under section 2 (21), Juvenile Justice Act 2015, provision for **Child Care Institutes (CCIs)** has been made. They are known by names of shelter homes, specialised adoption agency, children home, etc. They provide care and protection to children in need.
- g. **National Child Labour Project (NCLP)** was designed and launched in 1988 for rehabilitation of children rescued from the child labour. Children aged 9-14 years are rescued and enrolled in NCLP Special Training Centres. They are provided with education, vocational training, mid-day meal, stipend, health care etc. and then inducted into the formal education system.

Since 2018, an online portal PENCiL (Platform for Effective Enforcement for No Child Labour) has been started. Its objectives are to enforce legal provisions and effectively implement NCLP.

h. Economic compensation under various Acts has been provided for victims of trafficking.

- Section 357A of Cr.P.C. provides for funds for compensating victims or their dependents.
- The Government introduced the Central Victim Compensation Fund (CVCF) Scheme to enable support to victims of rape, acid attacks, human trafficking, women killed or injured in cross border firing.
- The Government has made a provision in the Child Labour (Prohibition of Regulation) Amendment Act, 2016 for Child & Adolescent Labour Rehabilitation Fund at district level to provide funds for welfare and education of rescued children. Amounts from employer as fine and contribution of Government are deposited in the above fund for each rescued child.
- Financial Assistance is provided to victims under the provisions of SC/ST(PoA) Act, 1989. The financial assistance is given as per the norms prescribed. The above applies in cases of trafficking when relevant sections of the Act are attracted.
- Central Sector Scheme for Rehabilitation of Bonded Labour has been revised in 2021 and implemented with amendments. It has provisions for monetary and other relief measures for bonded labour.

Road ahead:

In such a vast, populous country like India, it can be very well assumed that the reported cases and data available of trafficking is only the tip of the iceberg.

Moreover, the system in place to handle the issue calls for consolidation, strengthening, and better reach. The problem is not going to go away anytime soon and therefore the vision to tackle it must entail long-term goals.

- There is an urgent need to create social awareness about the

damage done to the society as a whole by human especially child trafficking and lessen its social acceptance.

- Education infrastructure requires expansion in capacity and quality to accommodate marginalised children.
- Human trafficking and related legal provisions should be included in the education curriculum in the early stages.
- Vocational training should be easily accessible.
- Funding for child labour intensive units should be made available to encourage automation of processes.
- Sensitisation of officials of all the departments dealing with trafficking directly or indirectly is required.
- Training of investigation officers should be augmented with a special focus on evidence collection and appropriate application of laws and Acts. Similar endeavours are needed to reinforce prosecution and set up fast track courts for swift clearance of cases.
- Empowering civil society/NGOs to play an enhanced role in countering trafficking.
- Government schemes for supporting victims of trafficking and potential victims require better implementation.
- Establishment of protocols for ensuring irreversible and effective rehabilitation of trafficking victims.

Piecemeal and stand-alone measures to counter the menace of trafficking need replacement with well planned, co-ordinated, intelligence based, sensitive and all-inclusive solutions. Only then do we stand a chance against the scourge of trafficking.

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TABLE 14.1
Human Trafficking Cases - 2021

S. No.	State/UT	Cases Reported			Mid-Year Projected Population (In Lakhs)	Rate of Cognizable Crimes (IPC)++	Chargesheeting Rate
		2019	2020	2021			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
STATES:							
1	Andhra Pradesh	245	171	168	528.5	0.3	99.3
2	Arunachal Pradesh	0	2	3	15.4	0.2	0.0
3	Assam	201	124	203	351.6	0.6	56.2
4	Bihar	106	75	111	1237.0	0.1	88.0
5	Chhattisgarh	50	38	29	296.1	0.1	90.5
6	Goa	38	17	15	15.6	1.0	88.9
7	Gujarat	11	13	13	700.8	0.0	100.0
8	Haryana	15	14	37	296.0	0.1	84.8
9	Himachal Pradesh	11	4	5	74.1	0.1	100.0
10	Jharkhand	177	140	92	386.4	0.2	55.9
11	Karnataka	32	13	13	669.9	0.0	90.9
12	Kerala	180	166	201	355.4	0.6	86.9
13	Madhya Pradesh	73	80	89	848.6	0.1	98.8
14	Maharashtra	282	184	320	1247.6	0.3	99.6
15	Manipur	9	6	1	31.7	0.0	100.0
16	Meghalaya	22	1	1	33.0	0.0	4.3
17	Mizoram	7	0	0	12.2	0.0	-
18	Nagaland	3	0	0	22.0	0.0	-
19	Odisha	147	103	136	457.9	0.3	70.4
20	Punjab	19	17	15	304.0	0.0	81.3
21	Rajasthan	141	128	100	795.7	0.1	100.0
22	Sikkim	0	1	0	6.8	0.0	-
23	Tamil Nadu	16	11	3	764.8	0.0	100.0
24	Telangana	137	184	347	377.7	0.9	98.6
25	Tripura	1	1	1	40.8	0.0	-
26	Uttar Pradesh	48	90	103	2317.0	0.0	90.9
27	Uttarakhand	20	9	16	114.4	0.1	75.0
28	West Bengal	120	59	61	982.9	0.1	72.5
	TOTAL STATE(S)	2111	1651	2083	13284	0.2	84.8
UNION TERRITORIES							
29	A & N Islands	0	0	0	4.0	0.0	-
30	Chandigarh	2	2	2	12.1	0.2	100.0
31	DNH and Daman & Diu@	0*	2	0	11.1	0.0	-
32	Delhi UT	93	53	92	207.0	0.4	81.3
33	Jammu & Kashmir @	0*	2	4	134.4	0.0	50.0
34	Ladakh @	-	0	0	3.0	0.0	-
35	Lakshadweep	0	0	0	0.7	0.0	-
36	Puducherry	2	4	8	15.8	0.5	-
	TOTAL UT(S)	97	63	106	388.1	0.3	80.8
	TOTAL (ALL INDIA)	2208	1714	2189	13671.8	0.2	84.7

TABLE 14.1 - Page 1 of 1

Note: '+' combined data of erstwhile D & N Haveli and Daman & Diu UT

'++' Rate refers to Cases Reported per 1 lakh population

**' data of unified Jammu & Kashmir State including Ladakh

'@' data of newly created Union Territory

• Population Source : Report of Technical group on Population Projections (July, 2020) National Commission on Population, MoHFW

Human Trafficking data published is based on annual data as provided by States/UTs from their Anti Human Trafficking Units

➤ Source – Crime in India-2021, NCRB.

TABLE 14.2
Victims Trafficked - 2021

S. No.	State/UT	Below 18 Yrs			Above 18 Yrs			Total		
		Male	Female	Total	Male	Female	Total	Male	Female	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
STATES :										
1	Andhra Pradesh	29	29	58	1	279	280	30	308	338
2	Arunachal Pradesh	2	1	3	0	0	0	2	1	3
3	Assam	64	151	215	98	147	245	162	298	460
4	Bihar	233	78	311	2	71	73	235	149	384
5	Chhattisgarh	18	25	43	37	16	53	55	41	96
6	Goa	0	0	0	0	38	38	0	38	38
7	Gujarat	1	4	5	0	11	11	1	15	16
8	Haryana	1	20	21	4	20	24	5	40	45
9	Himachal Pradesh	0	4	4	0	3	3	0	7	7
10	Jharkhand	58	88	146	56	48	104	114	136	250
11	Karnataka	1	4	5	38	10	48	39	14	53
12	Kerala	17	202	219	6	37	43	23	239	262
13	Madhya Pradesh	31	56	87	22	48	70	53	104	157
14	Maharashtra	13	39	52	47	819	866	60	858	918
15	Manipur	1	3	4	0	0	0	1	3	4
16	Meghalaya	0	1	1	0	1	1	0	2	2
17	Mizoram	0	0	0	0	0	0	0	0	0
18	Nagaland	0	0	0	0	0	0	0	0	0
19	Odisha	206	291	497	534	444	978	740	735	1475
20	Punjab	3	8	11	1	13	14	4	21	25
21	Rajasthan	395	22	417	0	3	3	395	25	420
22	Sikkim	0	0	0	0	0	0	0	0	0
23	Tamil Nadu	14	2	16	0	0	0	14	2	16
24	Telangana	137	85	222	0	574	574	137	659	796
25	Tripura	0	0	0	0	1	1	0	1	1
26	Uttar Pradesh	1	39	40	2	79	81	3	118	121
27	Uttarakhand	0	9	9	0	13	13	0	22	22
28	West Bengal	6	44	50	0	34	34	6	78	84
TOTAL STATE(S)		1231	1205	2436	848	2709	3557	2079	3914	5993
UNION TERRITORIES:										
29	A & N Islands	0	0	0	0	0	0	0	0	0
30	Chandigarh	1	1	2	0	0	0	1	1	2
31	DNH and Daman & Diu	0	0	0	0	0	0	0	0	0
32	Delhi UT	337	100	437	29	43	72	366	143	509
33	Jammu & Kashmir	1	1	2	16	3	19	17	4	21
34	Ladakh	0	0	0	0	0	0	0	0	0
35	Lakshadweep	0	0	0	0	0	0	0	0	0
36	Puducherry	0	0	0	8	0	8	8	0	8
TOTAL UT(S)		339	102	441	53	46	99	392	148	540
TOTAL (ALL INDIA)		1570	1307	2877	901	2755	3656	2471	4062	6533

TABLE 14.2 - Page 1 of 1

Note: Human Trafficking data published is based on annual data as provided by States/UTs from their Anti Human Trafficking Units

➤ Source – Crime in India-2021, NCRB.

TABLE 14.5
Purpose of Human Trafficking - 2021

S. No.	States/UTs	Forced Labour	Sexual Exploitation for Prostitution	Other forms of sexual exploitation	Domestic Servitude	Forced marriage	Petty Crimes
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
STATES:							
1	Andhra Pradesh	0	223	0	3	0	0
2	Arunachal Pradesh	0	0	0	1	0	0
3	Assam	127	29	0	96	54	6
4	Bihar	197	112	0	24	4	0
5	Chhattisgarh	69	3	0	3	7	0
6	Goa	0	29	0	6	0	0
7	Gujarat	1	13	0	0	0	0
8	Haryana	2	6	0	0	12	5
9	Himachal Pradesh	0	6	0	0	1	0
10	Jharkhand	123	4	0	108	9	0
11	Karnataka	0	6	0	0	1	0
12	Kerala	4	4	0	12	8	0
13	Madhya Pradesh	50	22	0	5	46	3
14	Maharashtra	16	856	0	0	3	0
15	Manipur	0	0	0	4	0	0
16	Meghalaya	0	0	0	0	2	0
17	Mizoram	0	0	0	0	0	0
18	Nagaland	0	0	0	0	0	0
19	Odisha	1018	5	0	186	2	1
20	Punjab	0	14	0	0	0	0
21	Rajasthan	404	8	0	0	7	0
22	Sikkim	0	0	0	0	0	0
23	Tamil Nadu	21	62	0	0	0	0
24	Telangana	202	584	0	4	1	0
25	Tripura	0	0	0	0	0	0
26	Uttar Pradesh	1	16	0	1	3	13
27	Uttarakhand	0	15	0	1	4	0
28	West Bengal	0	23	0	4	15	0
	TOTAL STATE(S)	2235	2040	0	458	179	28
UNION TERRITORIES:							
29	A & N Islands	0	0	0	0	0	0
30	Chandigarh	0	0	0	0	0	0
31	DNH and Daman & Diu	0	0	0	0	0	0
32	Delhi UT	451	9	0	17	1	4
33	Jammu & Kashmir	18	0	0	0	2	0
34	Ladakh	0	0	0	0	0	0
35	Lakshadweep	0	0	0	0	0	0
36	Puducherry	0	0	0	0	0	0
	TOTAL UT(S)	469	9	0	17	3	4
	TOTAL (ALL INDIA)	2704	2049	0	475	182	32

TABLE 14.5 - Page 1 of 2

Note: Human Trafficking data published is based on annual data as provided by States/UTs from their Anti Human Trafficking Units

➤ Source – Crime in India-2021, NCRB.

TABLE 14.5 (Concluded)
Purpose of Human Trafficking - 2021

S. No.	States/UTs	Child Pornography	Begging	Drug Peddling	Removal of Organs	Other reasons	Total Persons
(1)	(2)	(9)	(10)	(11)	(12)	(13)	(14)
STATES:							
1	Andhra Pradesh	0	0	0	0	53	279
2	Arunachal Pradesh	0	0	0	0	2	3
3	Assam	1	0	0	3	109	425
4	Bihar	0	0	0	1	46	384
5	Chhattisgarh	0	0	0	0	10	92
6	Goa	0	0	0	0	0	35
7	Gujarat	0	0	0	2	0	16
8	Haryana	4	0	0	0	11	40
9	Himachal Pradesh	0	0	0	0	2	9
10	Jharkhand	0	0	0	0	3	247
11	Karnataka	0	0	0	0	43	50
12	Kerala	0	2	0	0	162	192
13	Madhya Pradesh	0	5	0	0	26	157
14	Maharashtra	0	0	0	0	15	890
15	Manipur	0	0	0	0	0	4
16	Meghalaya	0	0	0	0	0	2
17	Mizoram	0	0	0	0	0	0
18	Nagaland	0	0	0	0	0	0
19	Odisha	0	0	0	0	78	1290
20	Punjab	0	0	0	0	6	20
21	Rajasthan	0	0	0	0	1	420
22	Sikkim	0	0	0	0	0	0
23	Tamil Nadu	0	0	0	0	6	89
24	Telangana	0	0	0	0	5	796
25	Tripura	0	0	0	0	1	1
26	Uttar Pradesh	0	0	0	0	87	121
27	Uttarakhand	0	0	0	0	2	22
28	West Bengal	0	0	0	0	55	97
TOTAL STATE(S)		5	7	0	6	723	5681
UNION TERRITORIES:							
29	A & N Islands	0	0	0	0	0	0
30	Chandigarh	0	0	0	0	2	2
31	DNH and Daman & Diu	0	0	0	0	0	0
32	Delhi UT	0	0	0	0	27	509
33	Jammu & Kashmir	0	0	0	0	1	21
34	Ladakh	0	0	0	0	0	0
35	Lakshadweep	0	0	0	0	0	0
36	Puducherry	0	0	0	0	0	0
TOTAL UT(S)		0	0	0	0	30	532
TOTAL (ALL INDIA)		5	7	0	6	753	6213

TABLE 14.5 - Page 2 of 2

Note: Human Trafficking data published is based on annual data as provided by States/UTs from their Anti Human Trafficking

➤ Source – Crime in India-2021, NCRB.

Child Labour statistics of Rajasthan (2019 to 2022)

Year	Cases registered	Number of victims rescued from Child Labor				Number of accused arrested	
		Victims of Rajasthan rescued		Victims of other state rescued		Male	Female
		Boy	Girl	Boy	Girl		
2019	582	669	21	590	11	588	4
2020	489	742	54	469	12	583	5
2021	420	455	10	98	10	457	11
2022	556	599	30	488	12	532	5
Total	2047	2465	115	1645	45	2160	25

- Source – Anti-Human Trafficking Branch, Civil Rights and Anti-Human Trafficking, Police Headquarter, Jaipur, Rajasthan, India.

ANNEXURE- E

State-wise details of accused arrested in the cases of Human Trafficking in Rajasthan from January 1, 2019 to 31 December, 2022

S. NO.	Name of State	State-wise number of accused arrested in Human Trafficking cases.				Total
		2019	2020	2021	2022	
1	Rajasthan	97	148	73	58	376
2	Bihar	75	88	99	79	341
3	Madhya Pradesh	8	0	2	1	11
4	Utter Pradesh	0	6	9	14	29
5	West Bengal	22	4	3	7	36
6	Jharkhand	0	5	1	1	7
7	Punjab	1	0	0	0	1
8	Haryana	1	0	0	1	2
9	Gujarat	1	8	3	0	12
Total		205	259	190	161	815

- Source – Anti-Human Trafficking Branch, Civil Rights and Anti-Human Trafficking, Police Headquarter, Jaipur, Rajasthan, India

TABLE 14.6
Police and Court Disposal of Cases of Human Trafficking - 2021

S. No.	State/UT	Total number of Cases Reported	Disposal by Police			Disposal by Court			
			Cases Charge-sheeted	Final Report	Charge-sheeted Rate (Col.4/Col.4+Col.5) X 100	Cases Convicted by court	Cases Acquitted/Discharged by court	Cases in which Trials were Completed (Col.7 + Col.8)	Cases Conviction rate (Col.7/Col.9) X 100
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
STATES:									
1	Andhra Pradesh	168	148	1	99.3	3	29	32	9.4
2	Arunachal Pradesh	3	0	8	0.0	0	3	3	0.0
3	Assam	203	114	89	56.2	0	10	10	0.0
4	Bihar	111	81	11	88.0	0	0	0	-
5	Chhattisgarh	29	19	2	90.5	0	0	0	-
6	Goa	15	16	2	88.9	0	3	3	0.0
7	Gujarat	13	14	0	100.0	0	0	0	-
8	Haryana	37	28	5	84.8	0	5	5	0.0
9	Himachal Pradesh	5	6	0	100.0	0	2	2	0.0
10	Jharkhand	92	52	41	55.9	16	3	19	84.2
11	Karnataka	13	10	1	90.9	0	1	1	0.0
12	Kerala	201	173	26	86.9	1	19	20	5.0
13	Madhya Pradesh	89	79	1	98.8	3	27	30	10.0
14	Maharashtra	320	251	1	99.6	1	3	4	25.0
15	Manipur	1	1	0	100.0	0	0	0	-
16	Meghalaya	1	1	22	4.3	0	0	0	-
17	Mizoram	0	0	0	-	0	0	0	-
18	Nagaland	0	0	0	-	0	0	0	-
19	Odisha	136	50	21	70.4	0	7	7	0.0
20	Punjab	15	13	3	81.3	1	3	4	25.0
21	Rajasthan	100	113	0	100.0	0	0	0	-
22	Sikkim	0	0	0	-	0	0	0	-
23	Tamil Nadu	3	3	0	100.0	1	1	2	50.0
24	Telangana	347	291	4	98.6	0	25	25	0.0
25	Tripura	1	0	0	-	0	0	0	-
26	Uttar Pradesh	103	10	1	90.9	0	0	0	-
27	Uttarakhand	16	9	3	75.0	2	5	7	28.6
28	West Bengal	61	121	46	72.5	4	22	26	15.4
	TOTAL STATE(S)	2083	1603	288	84.8	32	168	200	16.0
UNION TERRITORIES:									
29	A & N Islands	0	0	0	-	0	0	0	-
30	Chandigarh	2	2	0	100.0	0	1	1	0.0
31	DNH and Daman & Diu	0	0	0	-	0	0	0	0.0
32	Delhi UT	92	39	9	81.3	0	0	0	0.0
33	Jammu & Kashmir	4	1	1	50.0	0	0	0	0.0
34	Ladakh	0	0	0	-	0	0	0	0.0
35	Lakshadweep	0	0	0	-	0	0	0	0.0
36	Puducherry	8	0	0	-	0	0	0	0.0
	TOTAL UT(S)	106	42	10	80.8	0	1	1	0
	TOTAL (ALL INDIA)	2189	1645	298	84.7	32	169	201	16.0

TABLE 14.6 - Page 1 of 1

Note: Human Trafficking data published is based on annual data as provided by States/UTs from their Anti Human Trafficking Units

Source – Crime in India-2021, NCRB.

Author's Profile:

Dr. Vikas Pathak, IPS

The author is an MBBS graduate and RR:2008 batch IPS officer. He has been involved in establishing approaches in cyber fraud investigations and use of CCTVs to solve crimes in Rajasthan. The author was instrumental in the development of Senior Citizen Security App and Hot-Spot Analysis Platform while serving as DCP (Crime), Jaipur Police. Rajasthan Police was presented with the FICCI SMART Policing Awards under two categories- elderly safety and surveillance & monitoring on 25th May 2017 at a National Security Conclave in Delhi. He is a regular guest faculty at Rajasthan Police Academy, Jaipur, Rajasthan.

The author has been closely associated with the issue of Human Trafficking all through the career, be the stints in districts, intelligence or training branch. Besides other responsibilities, he has served as Superintendent of Police Human Rights in 2020 and is currently serving as DIGP Civil Rights and AHT where he had been closely associated with the issue of trafficking. It was during this spell that a study on Inter-state Ramifications of Trafficking in Rajasthan: Pressing Need for Inter-state Co-Ordination was carried out.

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Justice for Child Victims as Contrasted with Justice for Adult Victims: An Ethnographic Study

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Abstract

Much clarity has emerged on justice to children in conflict with law. However, there is far less clarity on justice to child victims. Is delivering justice to a child victim the same as delivering justice to an adult victim? If not, what are the differences? Four case studies are analysed to develop more clarity into this critical area of criminal justice and child protection. A literature review of the related themes is also undertaken. The analysis is made in the context of criminal justice, but as justice for a child victim is intertwined with questions of social justice and political justice for them, the debates around these were also consulted. From the study, a set of principles that can give practical guidance to policy making in the field are identified. It emerges, among other things, that the Justinian definition of justice, as 'giving everyone their due', provides a common locus and a practical template the diverse agents of the criminal justice system can follow, throughout the various stages of delivering justice to child victims.

Keywords:

Justice for Child Victims, Police and Child Protection, Police Subculture, Police and Criminal Justice, Banality of Evil, Police Legitimacy

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Justice for Children as contrasted with Justice for Adults: An Ethnographic Study:

‘Never confuse law with justice’,¹ Chief Justice D.Y. Chandrachud asked a batch of law graduates recently. We know justice is the larger concept, and also the aim of laws. However, there seems to have developed some disconnect between this grand idea of justice and the practice of criminal justice. The central argument of this article is this: the agents of the criminal justice system, especially police, need to be guided by a clear idea about justice. This clarity is essential if they have to be successful in providing justice to child victims.

To explore the aspects of justice to children a) a review of the existing literature on justice to child victims is undertaken, b) four case studies are examined in the light of the literature review as well as the experiences of the author in Policing for children.

The literature review shows that *justice to child victims* is not exactly the same as *justice to adult victims*. The examination of case studies reveals the differences more clearly.

Literature Review

Notions of Justice:

The concept of justice has been one of the most extensively discussed ideas in political philosophy. Justice is considered the first virtue of social institutions (Rawls, 1971). The very purpose of the State was to protect the vulnerable from the arbitrary actions of the strong and to uphold justice. Locke says justice is done when people’s natural rights have been *respected*; Kant says justice is only done when people’s rights have been *secured* (Simmons, 2008). In certain circumstances, such as in an ideal family, the situation may be seen as non- juridical or beyond justice, as people respond to the needs of each other spontaneously (Kymlicka, 2005). The preamble to the Constitution of India mentions securing Justice, social, economic and political, as a solemn resolve of the people of India as they enter a sovereign existence.

However, the discipline and the academic discussions about *criminal justice* are of a much more recent origin, having developed in the 1950s

in the United States. Research on criminal justice picked up rapidly only in the 1980s and '90s (Bernard & Engel, 2001). Criminal Justice System comprising police, courts, prisons, other correctional agencies, as well as the agents who operate within these institutions, has become so diverse and complex that a meaningful theory spanning all of them seems daunting (Bernard & Engel, *ibid*). In *Dayal Singh v. State of Uttaranchal*, the Supreme Court held that the criminal trial is meant for doing justice to all- the accused, the society and the victim. However, the most significant stage of the Criminal Justice process has been deemed to be sentencing, for a long time (Ashworth, 1998), and is centred around the culprit (and punishment - retributive justice) rather than the victim. Though some importance is being accorded to the victims (Jackson, 2003; Malimath Committee Report, 2003; Reddi,2006; Bajpai& Kaur,2015) and restitution (Eglash, 1957,58; Kuhn, 1962; Barnett, 1977) of late, the process is still heavily centred around punishing the offender.

Justice for Child Victims:

Much clarity has by now emerged regarding the contrast between justice to a child in conflict with law and an adult in conflict with law (Geraghty, 1997; Ved Kumari, 2004; Bajpai, 2019 to cite just a few). However, there seems to be much less clarity for the specific nature of the justice to a child victim, though there are commendable works on justice for child victims (ECOSOC, 2005; Gal, 2006; Finkelhor et al. 2005; King, 2008; UNODOC,2010) emerging recently.

The authors have drawn attention to “the serious physical, psychological consequences of crime and victimization for child victims and witnesses, particularly vulnerable condition of children and need for special protection, unique needs of children in preventing further hardship and trauma that may result from their participation in the criminal justice process, chances of being mistakenly viewed as offenders when they are in fact victims” (ECOSOC,2005), “fragmentary nature of juvenile victim system as compared to juvenile offender system, issues related to the stress and efficacy of interviewing and medical examinations of child victims, better integration of child victim system” (Finkelhor et al. 2005), “higher

chances of re-victimization of child victims, possibility of children being silenced by adults and also being pressured to be forgiving” (Gal, 2006), and “the need for *therapeutic jurisprudence* where the judge shall actively intervene to disallow questions that are inappropriate to the child’s developmental level, unduly repetitive, harassing or intimidating, the judge be familiar with developmental issues relating to the child (King, 2008).²

Though there is a rich literature on justice for children in conflict with law in the Indian context, the field studies on justice for child victim in the Indian context is relatively scanty if not absent. This study is an attempt to fill this vacuum in a critically important area of justice.

Also, as can be seen from the ensuing discussion, much more themes on the child victim justice system remains to be explored and understood.

A Common Locus for Justice and Criminal Justice:

The wealth of discourses on justice as well as criminal justice is commendable. This indicates that both the academics and practitioners attach importance to a clear understanding of justice. However, it is hard to find studies that aim to connect justice and criminal justice: justice as discussed in the Constitution of India as also the wider political philosophy, and the *justice* in *criminal justice* remain more or less disconnected concepts. It is also that the experience of the author is in consonance with the observations of Bernard & Engel (ibid) that the diverse agents of the Criminal Justice System rarely have unity about the ends they are pursuing.

However, we can see on a closer inspection, a common thread runs through all these discussions about justice. It is the definition given in *Institutes of Justinian*, a codification of Roman Law from the sixth century AD, as ‘the constant and perpetual will to render to each his due’³. *Justice* in the Criminal Justice System implies the same idea, though the application is limited to the realm of crimes.

This means the victim should get her due, the accused should get her due,⁴ and if the accused is proved to be the offender, she should get her due. The society should get its due too.

Unfortunately, the exclusive focus of the Criminal Justice System, as shown above, often is the Retributive Due towards the offender. The⁵ victim's due for a caring treatment, for compensation, for her ability to lead a normal life are at their best secondary aims, and often no aim at all. The accused's due for a fair hearing is mostly out of focus. The offender's due for being considered a candidate for reformation even as she undergoes a retributive treatment is neglected. These are avoidable scratches the idol of Justice has suffered. In the case of children, these omissions are easily noticeable and perhaps we have failed children more frequently than we have failed the adults.

Four Case Studies

Let us now consult the case studies to have a closer look at how the Criminal Justice System is working towards delivering justice to children.

Case Study 1:

In the year 2012, we visited a Children's Home in a South Indian city, as part of the Basic Training of Indian Police Service officers. As soon as the visiting team entered the Home and met the inmates, many of them demanded that they be allowed to go and join their families. They said they are not allowed to go home. As we stood puzzled, one caretaker explained that none of them have any idea where their residences were. The children vehemently denied this and insisted that they knew the address of their families.

Three boys told us their houses were within the city limits. We asked the authorities to permit us to find the homes of those inmates. They hesitantly agreed and we three of the trainee officers took the children to try our luck.

The first child was six years old. When he was three, he came to the Home. With the memory of a three-year-old, he started guiding us. We would travel a distance as he guided us. He would now ask us to return and take a new road. He would remember, "yes, this is the hospital where

my mamma worked". To our utter dismay, he located his house in an hour.

As we tried locating the house of the second boy, it started getting dark. The Children's Home informed us we cannot continue beyond sunset and we had to turn back. This upset the child and he threw back the chocolates we had purchased for him. A most active child of about seven years, he has been chattering throughout our journey. Only six months had the child been there in the Home. He told us we cheated on him. He had great hope of meeting his family and nothing would happen now. Taken aback by his angst and his disappointment, which we also shared, I asked him whether he remembers any phone number of his relatives. Pat he gave his mom's number!!. In utter disbelief, I dialled the number and listened to a mom crying after she knew where her son was. She came the next day. And took home her child.

The third was a silent boy. He did not know where to look for his parents, as his parents were moving from Railway Station to Railway Station repairing umbrellas. He said, in one big Railway Station he had got separated from his parents. All that he knew were the names of his mother, father and his two elder sisters.

Case Study 2:

She was ten years old when her mother gave birth to the fourth girl in a row. Her father said he could not 'suffer 'this anymore and would kill her mother sometime soon. The moron stepped up his beating spree to a level the little girl could not stand. They were from a migrant community and none of their extended family members were around. She ran away from the tears of her loving mother and her sweet little sisters to a world she thought would be brighter.

She soon ended up as a domestic maid after traversing places she did not know about, in the house of a lady who was a schoolteacher. There were two other 'servants 'in the house, two small boys aged nine and eight. The lady was staying alone and would treat the kids with little violence. Except that she would force the kids to engage in some weird sexual acts which they found dirty and nauseating.

Unable to bear this nasty life, they all ran away from the house. They managed to reach the nearest Railway Station and were planning to go 'somewhere'. They did not have any money with them. As the three were moving around in the Railway Station, an auto driver approached them and asked where they were going. The man told them he does not have children and has been looking for talented children so that he can raise them as his own children. The kids trusted him and went with him. When the sun set, he, along with his friend, took the children in his vehicle to a secluded place. They tried to disrobe the girl child, but she and the other two kids offered stiff resistance. Faced with this unexpected and strong resistance, they withdrew from the attempt for now but took them to another place. They tried again, but the kids wriggled out of their clutches and started running away. As luck would have it, the five ran straight into a Police patrol car that was going by. The police party promptly arrested the duo when the children narrated what was happening.

The auto driver and his accomplice were sent to jail by the court and the two kids to Children's Home by the Child Welfare Committee (CWC). Now comes the real tragedy of the story. One year into her life in the Home, which was nothing but a small building with just two rooms and next to a shop. One day when the caretaker had to attend a wedding, he asked his shopkeeper friend to look after the children. When the caretaker left, the shopkeeper came and requested the girl to make him a tea. When she was making the tea, he came to the kitchen and forced himself upon her. Her resistance was to no avail, and he had his way. The girl reported this to the caretaker and others in the Home as soon as they arrived, but they did nothing. She kept complaining and wanted action about the man, but no one did anything. After a point, she started behaving abnormally and became almost mad. The Home could not manage her any further and at last they reported the matter to the CWC, after many months. CWC reported to Police, and the man was arrested and sent to jail.

Case Study 3:

This is about a girl of twelve years, from one of the remotest districts of the Northeastern State of Nagaland. The child was sent to stay with family acquaintances in another district with better schools.. Possibly out of her inability to bear the unfamiliarity and monotony of the new place; she went away from that house, reached to the nearest Railway Station and boarded a train. She had nothing but a few hundred rupees with her. As with most of the kids of the State who have attended school, she could speak reasonably good English.

As the train kept running even after a day with no sign of the station she was expecting, she got panicked and sought the help of a co passenger. She used someone's phone and told her relative that she was on a train but didn't know where, then ended the call. All efforts to return the call failed. Her relatives informed Police; the Sub Inspector who received the information alerted the Station House Officer, the Assistant Commissioner of Police and the Deputy Commissioner of Police, all by himself. The Station House Officer informed his colleague in the Railway Protection Force, losing no time. Within less than 30 minutes, the Inspector from the Railway Protection Force shared the information in his zone and adjacent ones, and eventually all over the country.

Police asked for the phone's location and details and told the Telecom Company they would need their continuous support for the next few hours. Location and the support requested were readily and continually provided.

With the location of the phone, and the details of the train that would have left the Railway Station around the time the girl went missing, a train was tentatively identified as the most possible one in which the girl was travelling. Luckily, the child called again after four hours, but now from another phone and repeated the same message as before. As Police now got this second location, the train she was travelling by was confirmed. The train was moving towards Delhi. She was using phones of her co passengers, and if she alights from the train, it would be nearly impossible to trace her.

After some hesitation, the Deputy Commissioner of Police dialled the Director General of Police directly, a step not usually done. This was to request his intervention in garnering support from the Uttar Pradesh Police. Not only did the latter readily agree, but also he followed up till they finally rescued her. The Uttar Pradesh Police, with the help of the Railway Protection Force, located the girl's compartment. The support of the technical team from the UP Special Forces and deployment of a large number of personnel from the Railway Protection Force proved to be crucial in the rescue. Her parents from Nagaland, accompanied by Police left for Uttar Pradesh by the next train and brought the child back.

Case Study 4:

This is the story of a girl who has difficulty speaking and hearing and also suffering from intellectual disability. She was nine years old, from a tribal community in one of the South Indian states. On a summer afternoon a few years ago, the little girl was raped. The community and Police team identified and punished the culprit, treating the child with respect.

One the day of the incident, at around 03.00 pm, mother and father of the child went to collect firewood. They took the child along initially, but after a while, the mother took the child back home, kept her there, and again left to collect firewood.

When the parents returned home at around 04.30 pm, they were told that the child had tried to follow them back to the forest. The child came back home after some time. She was crying loudly, holding her head and abdomen with her hands. The mute little child could not utter a word, but she kept sobbing. Mother examined her and found that she was bleeding from her vaginal area; she was given a bath and taken to hospital. Police were informed.

Because of the child's physical and intellectual disabilities, the investigating team needed to find circumstantial and scientific evidence.

After a very thorough probe, Police conclusively identified the culprit. He is married to a woman from the tribal community and was staying

near the victim's house. On the day of the event, he was going through the forest area. He saw the child alone, approached her and raped her.

When the victim was crying in her house after the incident, the culprit was passing by on his way to his house. The child pulled her aunt and pointed her fingers towards the accused and his house, screaming.

It emerged that some members of the colony had seen him returning from the said place after the incident. Some witnesses shared the accused was seen shivering after the incident and he told them the case may fall on his shoulders.

Based on the statements, the accused was arrested and interrogated. He showed the place of incidence to the Investigating Officer since the victim could neither speak nor hear. Scientific experts collected soil samples and other evidences from the crime scene.

The clothing of the victim and the accused were seized in the presence of eyewitnesses and sent to forensic experts for analysis. Wound Certificate was collected from the medical officer who treated the child. It stated that there are injuries in the vaginal area. There is evidence of recent vaginal penetration; injuries appear fresh and the findings are consistent with the history of the alleged sexual assault. The swab and smear collected from the genitals of the victim were sent to FSL for DNA analysis.

Considering the disability of the victim (physical and intellectual) and the sensitive nature of the case, the examination of the victim was challenging. A teacher from a special school was brought in to help with translation and photo identification of the accused by the victim. The teacher made good rapport with the child by communicating through hand gestures and other expressions which she could understand. Now, a passport-size photo of the accused was shown to the victim; there was a sudden change of expression on her face. The victim took the photo and handed it over to her father. The photo was shown to the victim after some time again, at which the child raised her hands and pointed to the place of the incident. When pictures of other persons were shown, she expressed no reaction. When the investigating team took the victim with the help of her father towards the place of the incident, she was clinging

to him, frightened. The photo identification done with the help of the teacher was documented and the report was submitted to the court.

The DNA report showed there were traces of human spermatozoa belonging to the accused in the frock worn by the victim and in the dhoti worn by the accused at the time of the incident. There were traces of the victim's blood on her frock and also on the dhoti of the accused.

The case was charge-sheeted under the Section 376 AB, 376 (2) (1) of the IPC, Section 6 r/w Section 5 (k) (m) of the POCSO Act, 2012 & Sec 3 (1) (i) (ii), Sec 3 (2) (v) of the SC & ST (PoA) Act, 2005.⁶ And the chargesheet was submitted well within 90 days.

The Investigating Officer took legal steps to ensure that the accused remained in judicial custody throughout the trial period. A witness protection application was also filed under the Witness Protection Scheme, 2018, before the court, explaining the threat present there for the victim and other prime witnesses.

Investigating Officer noticed the accused tried to influence the victim's family to settle the case. There were chances of the case getting compromised. To avoid this, a victim liaison officer from the police department was deployed in the colony. He remained in touch with the victim's family to provide them with legal support. He warned persons who tried to influence the witnesses on behalf of the accused of legal consequences.

The trial ended in conviction.

Sexual offences are tough cases for investigators and the prosecution. This is because of two reasons. They mostly happen in seclusion, and direct witnesses are rarely available. Second, the victim can suffer from castigation and may soon feel a liability in their own eyes and the eyes of their family and hence withdraw from the process. The difficulties are much more if the victim is a child (as they would have the ability neither for structured recollection nor clear vocabulary and articulation- to explain the acts and then to explain consistently across the various agencies before which she has to depose).

In the present case, the difficulties were compounded because the victim was deaf and mute.

Discussion

Case Study 1:

When I went to the field, as an Assistant Superintendent of Police and later as a Deputy Commissioner of Police in the Northeastern state of Nagaland, I realised that perhaps there is no one on Earth who are more aggrieved than parents who has lost their children. They have lost their most treasured assets and they would give anything to get their children back. Not knowing whether the child is dead or alive, they fear the child may suffer torture in a brothel or might have fallen into lifelong slavery.

Citizens treasure no asset as much as they treasure their children. Yet, cases of a missing child attract far weak a response by Police than, say, losing a car or jewellery. There are thousands of missing children, and their parents, living what must be, as explained above, the most miserable lives on Earth.

From the experiences this author has, he dares say that it is not because policemen have an apathetic attitude towards children. On the contrary, I found that police personnel across the board, even the laziest constable or a corrupt officer, are more than willing to work hard in any search for a missing child. They love children and go out of their way to rescue them. But then why are so many children still missing?

The answer I found is as follows.

1. Performance of the Child Protection systems often reminded this author of what Hannah Arendt called the *banality of evil* (Arendt, 2006, p. 282) in another context. Banality of evil⁷ involves making human beings superfluous. Everyone is following the instructions given to them; these instructions are often as per the dominant paradigm of the individual departments, with not much concern about what objectives they are collectively pursuing 'Law enforcement is a priority' for Police, evidence and evidentiary procedures are priorities for the courts (and the Child Welfare Committee), giving shelter to as many children as possible seems to be the overriding priority for many of the Child Care Institutions.
2. To treat everyone equally before Law⁸ is a precondition for the success of the Criminal Justice System. However, we seem to consider children as small-scale adults. It is extrapolating the baby

meal paradigm to the realm of justice. Done innocuously, this poses devastating consequences for the child. A longer life awaits a child compared to an adult, and a child would hence need a 'larger dose' of justice.

3. The Juvenile Justice (Care and Protection) Act, 2015, has put in place a robust framework for Child Protection. However, the lynchpin concept used is 'the best interest of the child' following the lexicon used in the Convention of the Rights of the Child.⁹ As argued by Michael Freeman, the concept of the 'Best Interest of the Child' is a vague one (Freeman, 2019), definitely not something easily understood by policemen in the field. A more straightforward statement of Justice as 'what the child deserves' would have made the idea clearer and easier to apply.
4. Juvenile Justice (Care and Protection) Act, 2015, may have, as a latent and unintended function, created structures that have a vested interest in keeping as many children as possible as inmates; the numbers are linked to the funds they receive. The most important capital children have is the very strong, biologically driven attachment parents feel towards them. An important second one is the 'social capital' of the larger family/neighbourhood/village, from which the child derives much protection (Johnson et al., 2006, p. 25; IJzendoorn et al., 2011, p. 2). To deny the child of these mighty resources should be done only in cases that fully justify such removal.
5. Police look upon themselves as law enforcers and not as pursuing the ends of justice per se, except in the limited sense of Retributive Justice. The author often felt that unless the culprit is the centre of attention, the system loses focus and finds itself confused how to act. Despite the personal inclination to protecting children, most of the men in uniform find it sort of 'outside their powers' to search for a missing child. This was, until the Supreme Court ruled Police must treat each child missing as a kidnapped child,¹⁰ considered 'not a crime' and hence not be acted upon, mostly.

Case Study 2:

What is going wrong for this little princess wherever she is, be it at her home, the home where she sought work, during her journey to a 'better' place, and finally the shelter home? The tragedy is way too numbing. At the cost of sounding heartlessly academic, one may attempt analysing this. This is one story that refuses to leave the personnel who knew her story after they saved her from the clutches of the two auto drivers.

The common thread that connects her father who tortured her mother, to the lady school teacher, to the auto drivers, to the caretaker's friend who raped her seems to be that *the physically weak*- be it women or children- *is available for USE*. A child removed from the affection of her parents for her is a very weak *being*, seen as readily *available for use* and exploitation, perhaps even with the 'benefits' of the nimble fingers and more (Clopper, 1909, p. 83). Such pervasive affliction demands an urgent introspection about the origin and spread of this gigantic hegemony that *the physically weak* -be it women or children, *are free for USE*.¹¹

A child, though physically weak, normally has a huge power asset in its favour-the torrents of love and affection the parent biologically feels towards that child. Try going near a hen while it is having chicks. The moment this protective network becomes weak or is breached, the child suddenly becomes extremely weak and vulnerable.¹² When children are out of their homes, the *formal* world is, generally, utterly incapable of protecting children, notwithstanding the availability of very many well-meaning institutions and well-meaning personnel who are occupying them. This has perhaps nothing to do with efficiency or the lack of it of the systems, but almost everything to do with the wisdom "it takes a village to bring up a child";¹³ children need a much larger and much more integrated set of *primary* relations to ensure their safety than is available in the formal systems of child protection.

The author had the opportunity to interact with more than 600 officers with extensive knowledge of child protection during his stint at the National Police Academy. Almost everyone agrees rehab structures for children are inadequate.

Violence in the presence of children, as was witnessed by the two boys in the case study, is an extremely traumatic experience for them. Violence in the presence of children is as bad as violence against them. Studies have shown that children who are exposed to violence suffer in unexpected ways; they have more chances of developing asthma (Wright and Steinbach, 2001, p. 1088), they have a clear propensity for cellular changes in the form of telomere erosion (Shalev et al., 2013, p. 1) that has a significant impact on their long-term health.

The cries of Children in difficult backgrounds and living in shelter homes often go unheard.¹⁴ Majority of child abuse cases remain hidden; they do not enter the criminal justice system. Though the children suffered silently, they could not report the matter to any authority. Studies conducted on this elsewhere also highlighted this (Finkelhor et al., 2001, p. 2).

Case Study 3:

Why was there such an outpouring of goodwill for the girl from all the agencies involved and all the personnel who took part in her rescue? Why was it that their coordination was smooth and successful?

1. The author, as the coordinating officer of this effort, felt that the sheer affection everyone in the system shared with the plight of children. Children and their agonies are never far from them, both as their own memories as also the presence of their own children. Many of them expressed the feeling that rescuing a child is one of the most rewarding professional experiences they have ever had.
2. This was a coordinated effort; the Unit had been set on working as per a Standard Operating Procedure (SOP) they had made on their own after many trials and errors. The SOP split the work between the officers and spread it out temporally.
3. The promptness of the response is a necessary element of justice to children; the SOP, among others, had specified that the time to act in a case of Missing Child is the time at which the victim side feels something is amiss.

4. The Telecom Company was a private player. That did not make any difference. Its nodal officer, a former officer of the Indian Army, coordinated the timely inputs from them, crucial for the success of the operation. One could feel the total commitment his team shared towards the plight of a child in trouble.

Case Study 4:

What explains a successful prosecution against these very heavy odds in this case?

1. The child had the advantage of being born in a tribal society, where the social capital is rich. Social Capital can be a critical asset in the emotional recovery of the child, availability of reliable witnesses. Also, the notions of what is a child, notions surrounding virginity, etc. in a tribal society can have a positive role in the feeling of safety for the child.
2. She was lucky to have an Investigating Officer who was not only fascinatingly determined but also an excellent manager. Police often look at the tactical aspects of investigation well but can find itself deficient in the strategic management of unforeseen challenges.
3. The consistent effort at improving the various aspects of Criminal Justice procedures, the latest being the Witness Protection Scheme 2018,¹⁵ seems to have a salutary impact on the success of prosecution.

The Findings:

From the discussions above, we can identify a few principles agents of the Criminal Justice System can follow while pursuing justice for child victims.

1. The Purpose:

It needs to be clearly understood that retributive justice¹⁶ forms only a small though important part of the justice for a child victim.¹⁷ As was

mentioned in the beginning, if we can view justice as giving everyone involved their due, it naturally follows that we need to give the victim whatever they deserve, even as we hasten to give what the offender deserves. What Howard Zehr famously presented as Restorative Justice (Zehr,2005) is, in fact, the same idea. Procedural Justice¹⁸ is an important aspect of justice here where the child receives an empathetic treatment during interactions, interviews, and medical examination. It is worth noting that Police arguably have a bigger role here than the courts¹⁹ in this respect.

2. Transcending the illusion of size:

Children are not lesser individuals. Perhaps they are larger. Equality before Law. Children are not smaller persons than adults. They are persons having a longer life before them than adults. They hence deserve larger serving of justice and not ‘baby meals ’of justice.

3. Ensure easier access and support to children:

Children’s ability to report crimes against them is highly limited²⁰; the usual mode of policing where Police wait for the complaints to come will be of limited, of no use in addressing crimes against children. There should be mechanisms institutionalised to ensure children can report crimes easily (complaint boxes in schools, jointly accessed by School authorities and Police has proved very successful in Kerala). Not only they need easier access but also a sustained support from the Criminal Justice System. Ensuring availability of Child Welfare Police Officers in every Police Station,²¹ with an *exclusive* mandate for looking out for offences against children, can go a long way in proactively identifying such offences.

4. Negligence is potentially crime:

Leaving a child with no protective cover is negligence and one of the major reasons for crimes against children. Such negligence is potential crime²². Those who are in charge of the child, even after giving sufficient allowance for the physical, intellectual or other shortcomings if any (Simester, 2000), is found to be clearly negligent, appropriate law may

have to be invoked against them if we have to reduce such negligence in the future.

5. Justice delayed has bigger impact on Children:

Given the vulnerability of children, promptness of Police response is a cardinal element of justice to children. Any delay can easily lead to further harm, silencing of the child or forced forgiveness by the child. Particularly important is the cases of missing children where they are at potentially imminent risk of violence and life long slavery.

6. Transplanting as a last resort:

Transplanting children from their home should be initiated with extreme care. Childcare Institution is a very poor replacement for the social capital of a home in its extended setting. There can be situations where placing the child in a childcare Institution is the only practical solution available, but this must be resorted after fully understanding that growing up in a Childcare Institutions can have debilitating effect on the overall growth of the child as has been shown in numerous studies (van IJzendoorn et al.,2011; Johnson et al. 2006). Given the series of incidence reported from Childcare Institutions over the years, it must be ensured that children placed in these institutions are treated well.

7. Violence in the presence of children is violence against them:

Violence in the presence of children is violence against them. ²³Police must avoid violence, even against the offender, in the presence of children at all costs. Caring treatment towards children must not be confined to not wearing a uniform while interacting with child victims.

8. Get evidence imaginatively:

A child is incapable of giving an adult like evidence. We should not hold this against them, nor should such evidence be insisted by Police (Cross et al., 2003). Neither do the child has the ability to recollect things systematically, nor does she has the vocabulary or articulation to describe

them as an adult. Also, the child will not be able repeat the story to multiple agencies the same way.

9. Children's courts, not just POCSO courts:

All offences against children, not only sexual offences, warrant special courts. Though sexual offences require special treatment, there is no justification that other serious offences, including murder, are not given such special treatment. Development of such courts will eventually lead to prosecutors and judges deeply specialised in child jurisprudence.

10. Defend privacy as if you are defending child against an offender:

Salutary are the efforts taken by the various actors of the Criminal Justice System to protect the privacy of child victims. But parents and children still feel worried about the details coming out. The situation is like the security paradox where closing ninety-nine doors out of hundred provides you zero percent security; only when you close the hundredth door comes security. To have such foolproof security for the privacy of the details of the victims takes total diligence by every single player in the system. When parents and children develop trust regarding the security of their privacy, we can expect much more reporting of cases.

11. Budget Time:

Children need time. Police and other agents of the Criminal Justice System should spend quality time with children to establish trust before they open up. Even when they have trust, they cannot provide evidence as quickly as an adult. But this is rarely factored in by Police leaders before personnel are deputed for dealing with cases involving a child victim and is a major reason for the hurry shown by a good deal of personnel while dealing with children. Budgeting more time by leaders, to the extent of at least two times the time for adult victim is a must.

Apart from these, the following aspects of the self identity of Police and Police Subculture are identified as relevant findings. First, Police is the state institution that ensures the Weberian monopoly of the legitimate

use of physical force in a territory. This coercive power can blind Police towards the more important power it has, which is the *power to help people*²⁴. It can also confuse Police with such ideas as “only tough-speak suits a man in authority” which are nothing but colonial vestiges of wielding *power over* ‘subjects’.

Second, Police wields a lot of legal powers of the state. This combined access to legal coercion and physical coercion makes Police a uniquely powerful agent of the State. However, an identity as a mere ‘law enforcer’, rather being part of the Criminal Justice System,²⁵ is more prevalent among Police. This can degenerate into a self identity of an accessory or a midwife in the delivery of Justice who is not worried about the jurisprudential principles at play or about the larger objectives of the system.

Third, Police often look at itself as an ‘agent’ and ‘executor’ of decisions taken by ‘authority’. This is natural in so far as the first duty listed in the original mandate given to Police in the Police Act, 1860, is “promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority”.²⁶ Though later legislations gave Police much more autonomy and responsibility to intervene in the prevention of crimes²⁷. Police is often stuck at this ‘executing’ mode which can prevent it from wholeheartedly taking part in an otherwise satisfying aspect of collective life, and also can lead to a situation where it can end up doing serious harm to a child (such as the dutiful cop who mercilessly demands consistent statements from a six-year-old child for the sake of punishing the offender who molested her in its yearning to help the Criminal Justice System) and commit what Hannah Arendt cautioned as the Banality of Evil.²⁸

Fourth, the Indian Constitution represents arguably the biggest political experiment in human history²⁹ where an ambitious Constitution set out guiding the new republic in a providing Justice, Liberty, Equality and Fraternity³⁰. However, the statutes providing guidance to the mandate of Police largely continued their operation unchanged even after a new Constitution came into being. This has left Police with minimal legislative guidance for changing its identity and operations as different

from the previous colonial mode of functioning. Guidance to Police in the form more statutory clarity regarding its role in justice delivery will go a long way in improving its efficiency.

Conclusion:

Children on the whole enjoy enormous goodwill from Police, courts and almost every segment of society. In fact, Child Laws are the fastest growing segment of legislation world over. However, legislations on their own or goodwill on their own will not achieve much.

The Criminal Justice System is a mammoth enterprise that depends upon labyrinths of structures and processes for ensuring its integrity. For this intricate system, an occasional 'decluttering', by identifying workable principles, is required. This study is an effort in that direction, especially aimed at helping the Police on the ground. The idea of Justice is not only a grandiose intellectual concept but also a useful tool in analysing and improving the Criminal Justice delivery. It can also serve as the linchpin that connects the diverse purposes of the disparate players in the system into a meaningful whole. Without such a purposive dimension, efforts of Police may remain disconnected ends and may even morph into outright evil (Arendt, 2006). This can destroy its legitimacy, a warning David Bayley³¹ had given a quarter century ago (Bayley,1996).

Questions are being raised about the very continuation of Police as an institution³². A re-look at how Police are responding to the deepest concerns of citizens is urgently required. If the Police response to issues such as the atrocities against children proves tardy, we can expect public demand for defunding Police and even disbanding Police going more shrill.

In matters of child protection, Police need to assume a purposive orientation where a) law is understood from the requirements of justice, and b) justice is understood as the core idea they are pursuing and taken as the requirement of giving children their due, and, c) the organisational hierarchy is made less commanding and more communicative.³³

Endnotes:

¹ See Quigley(2007) for an elaborate take on this.

² The Protection of Children From Sexual Offences Act (POCSO), 2011 included many of these suggestions, such as disallowing direct questions by the defence lawyer to the child, specific provisions for victim compensation, etc.

³ See Miller, David, “Justice”, The Stanford Encyclopaedia of Philosophy (Fall 2021 Edition), Edward N. Zalta (ed.), for an excellent discussion on this.

⁴ Punishing the wrong person, as can happen when torture is used in interrogation, is injustice to the victim as well as the society as much as it is injustice to the wrongly punished person. The real culprit walks scot free and can commit the atrocity again.

⁵ An exclusively retribution oriented meaning for punishment, let alone the larger purpose of the Criminal Justice System is not after any statutory guidance. Neither the Constitution nor any of the statutes mention anything about the objectives of punishments.

⁶ The combined might of a social legislation (The SC, ST Act), a Special Act (The Protection Of Children From Sexual Offences Act, 2012) and the Indian Penal Code is notable.

⁷ This is accomplished when human beings are made into entities who lack any spontaneity or freedom. According to Arendt, a distinctive feature of radical evil is that it is not done for humanly understandable motives such as self-interest, but merely to reinforce total control and the idea that everything is possible (Arendt 1951, 437–459).

⁸ See Finnis, 2000. The Priority of Persons. In Oxford Essays in Jurisprudence (4th Ed), for a good analysis of the importance of this cardinal but often forgotten principle.

⁹ See Freeman,2019 for an exciting discussion on this.

¹⁰ In Bachpan Bachao Andolan vs Union of India (Writ Petition (Civil) no. 75 of 2012, on 10.05.2013), The Honourable Supreme Court of India has issued numerous commendable directives for protecting

children. This series of interventions from the Supreme Court is a study in the positive role Judiciary can play in Human Security.

¹¹ See Gardner & Shute, 2000, for a clear disposition of the depths of wrongness that a sexual offence is.

¹² This is not to argue the natal home is always safe. There are circumstances, which seem to be on the rise of late, where the protective network available for the child becomes weak within the home itself. Mukta Sharangpani has made a good analysis on this in the Indian context recently (Sharangpani, 2018)

¹³ A useful discussion on this pithy African proverb can be seen at Reupert et al., 2022.

¹⁴ Muzaffarpur Shleter Home case of 2018 has been a watershed event in understanding the vulnerability of children in Shelter Homes. Among other things, this led to a laudable review of the functioning of Shleter Homes across the country, notably by the National Commission for Protection of Children (NCPCR).

¹⁵ The Witness Protection Scheme, 2018, was laid down by the Supreme Court in Mahendra Chawla v. Union of India and drafted by the National Legal Services Authority (NALSA).

¹⁶ The focus here is on culprit and punishing the culprit.

¹⁷ An exclusive focus on Retributive/Corrective Justice will miss much of the justice the child victim would need from the Criminal Justice System. Deploying the Justinian framework of justice as what each deserves gives practical guidance to agents in the Criminal Justice. This might fetch far more practical guidance for the agents of the Criminal Justice System than the more vague phrase of the Best Interest of the Child. The phrase Best Interest of the Child has come in for much criticism along with the other concepts in the Convention of the Rights of the Child. See Freeman, 2019 for a good discussion on this.

¹⁸ Simple interventions such as ensuring a caring conversation with the victim child can have a massive impact on her ability to recover.

¹⁹ Such care has the 'corrective' justice element in so far as this helps correct the trauma the child has suffered.

²⁰ Without a proactively identifying crimes, most crimes against children will be missed by the Criminal Justice System. One of the important ways this happens is the utter inability of a child to identify an injustice done to her as injustice. Grooming is a typical example. Justice, as a fundamental moral concept, can only be ascribed in situations involving consciousness, rationality and a moral sense.

²¹ This *exclusive* mandate is a must under S.107 of the Juvenile Justice (Care and Protection) Act, 2015, but almost never implemented.

²² Children denied of their most powerful protective armours, which is the protection offered by their functional biological parents as well as the protection from the familiar and organic community which they belong to, are immediately vulnerable to predatory behaviour from strangers. Community can be a powerful resource in preventing neglect and unsafe environments for the child, it can also provide crucial inputs during investigation.

²³ Canadian psychiatrist Eric Berne's Transactional Analysis throws much clarity on this. See Berne, E. (1993)

²⁴ For a good discussion, see Pansardi & Bindi, 2021.

²⁵ Juvenile Justice (Care and Protection) Act 2015 mandates that every Police Station should have one Child Welfare Police Officer (CWPO) not below the rank of an Assistant Sub Inspector to be exclusively in charge of Child Protection, the officer should not be given any other work than Child Protection. The author has interviewed over six hundred senior Police officers from the across the country to see if any of the districts in the country has Police Stations with such exclusive mandates for the CWPOs but could not identify any.

²⁶ Section 23 of Police Act, 1861 reads: Duties of police-officers.—It shall be the duty of every police-officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority; to collect and communicate intelligence affecting the public peace; to prevent the commission of offences and public nuisances; to detect and bring offenders to justice and to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists; and it shall be lawful for every

police officer, for any of the purposes mentioned in this section, without a warrant, to enter and inspect any drinking-shop, gaming-house or other place of resort of loose and disorderly characters.

²⁷ See S.149 of Criminal Procedure Code, for instance. It reads: “Every police officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence (emphasis added)”

²⁸ See Scarre, 2012, for a discussion on how organisations can engage in *Banality of Evil*.

²⁹ See Ananya Bajpai’s work *The Righteous Republic* for a cogent argument on this (Bajpai, 2017)

³⁰ See the Preamble of the Indian Constitution.

³¹ See his work *Police for Future*, Bayley, 1996, p 1

³² It has reached a fever pitch countries such as the US and the UK. Careful observers of Police performance had warned of a scenario where demands even for disbanding of the institution will arise shortly unless corrective measures are undertaken.

³³ Communicative Rationality, a process by which more interactions and successful communication result in rational decisions, is often totally missing in organisations that follow rigid hierarchies. Rigid hierarchies have functional utility in a contingency situation such as a war or sudden calamities, a large segment of Police work falls outside such contingencies where time for deliberations are available. See Habermas, 1992.

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Insights into POCSO Cases Investigation: Twin Approach Addressing Societal Realities and Legalities: Tamil Nadu Model

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Abstract:

The criminal justice system has entrusted a great sense of responsibility on the law enforcement agencies with regard to child protection to ensure that the environmental surroundings of children either in families, schools or outside are immune from any form of violence, abuse and exploitation. Landmark legal initiative in this regard was taken in 2012 with the enactment of Protection of Children from Sexual offences (POCSO) Act, 2012.

This paper highlights the steps taken to make the investigation in POCSO cases more humane and child centric. The paper discusses about two categories of POCSO cases-one involving mutual consensual relationships of the victim in the age group of 16 to 18 years and other regarding the true or serious POCSO cases involving non consensual or coercive sexual encounters and the new approaches followed in investigation of these cases are discussed in length. The various steps which have been followed in both these category of cases in three districts of Tamil Nadu i.e., Madurai, Theni and Kanyakumari such as not to resorting to arrest in elopement, mutual consensual relationship

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cases keeping the victim, accused and their families' interest in mind and a slew of relief and rehabilitation initiatives taken in serious POCSO cases are discussed with examples.

A consultative approach was followed while taking decisions, formulating guidelines and instructions and the consultations were supported by a detailed study of the trends in reporting of cases, the response of all the stakeholders involved, the socio-economic profile of the victims and their families. The motto which drove us towards these initiatives was – what is entitled has to be delivered.

Approach to Category – I (POCSO Cases Investigation):

POCSO cases reported out of mutual consensual relationship/love affair/elopement are discussed in this Category-I. In the aforementioned three districts, it was observed that 74% of the total POCSO cases registered falls under this category. The coercive action was being resorted to against the so called accused in these cases for having a consensual relationship with the girl in the age category of 16 to 18 years, which only created further harassment and legal entanglements for the victim girl by criminalising the male partner in the form of arrest, imprisonment, prosecution only to find these cases eventually get acquitted either because the so-called victims turn hostile on account of their marriage with the accused or by way of filing compromise quash petitions in the court. It is also pertinent to note that in many communities it is not a taboo to marry a girl less than 18 years of age. Criminalising youths in these cases will have a deleterious effect on their career, personal life and future since they would have to live with stigma forever.

This brings in a peculiar challenge to the investigation of the POCSO cases in addressing the dilemma between the strict adherence to the POCSO provisions and the compulsions and expectations from the families of both sides in the cases arising out of mutual romantic relationship.

Giving a criminal angle to the innocent romantic relationship between consenting adolescents proved to be counterproductive and the girls in the age group of 16-18 years cannot be considered to be incapable of

giving consent. It was also observed that the attraction of penal provisions under the POCSO Act promoted misuse of the law especially in cases of inter-caste and inter-communal relationships.

It is also to be acknowledged that there is an ongoing debate in the country as to whether there is a need to relook at the stringent provisions of POCSO especially when the children happen to get criminalised /victimised for engaging in a consensual relationship in the age group of 16-18 years.

By studying these cases in detail by taking into account the social-economic conditions of the family concerned in these kinds of cases and their eventual disposal of these cases which is a burden on the criminal justice system and to be in sync with progressive social outlook, a conscious decision was taken, which would be socially sensitive and legally compliant. Hence, in the districts of Madurai, Theni and Kanyakumari detailed instructions were given to the Investigating Officers to not to resort to coercive actions and instead follow the procedure of issuing Summons u/s. 41(A) Cr.PC.

Till this decision was taken, the conventional course of action was to arrest and remand the accused in the judicial custody and the case was being recorded in such a way that the criminal offence would be established and final reports used to be filed in the court. The Investigating Officers were generally not willing to take risks in these cases and the innocent young people would be forced to face the difficulties of imprisonment and prosecution.

CASE STUDY I – Madurai District:

A case was reported in Thirumangalam All Women Police Station, wherein a 16 years old girl had a consensual relationship with an adult male who also happens to be a relative and after a few months she was found to be pregnant and based on intimation given from the hospital, a case was registered in Thirumangalam All Women Police Station Cr. No.21/22 u/s. 5(1), 6 of POCSO Act 2012. In this case, no arrest was made and the Investigating Office served a notice upon the accused u/s.41(A) Cr.PC. Subsequently, both the victim and the accused family

approached the Hon'ble High Court and filed a joint compromise quash petition in the court. After observing that the accused was willing to marry the victim girl after she attains 18 years of age, the Hon'ble High Court allowed the case to be quashed.

CASE STUDY II – Kanyakumari District:

In Kanyakumari district, a lot of labourers from North India, especially from States like Assam, come for work in the Cashew-nut and rubber estates and live in nearby clusters as families. They follow their own customs and many times girls get married even before attaining 18 years of age. One such case was reported in Marthandam All Women Police Station wherein a 17 years old girl from a tribal community got married to a person of her choice from the same community with the consent of parents in Assam and settled in Kanyakumari. While on a regular medical checkup, it came to light that she was pregnant. As she had not attained 18 years of age, based on the hospital intimation, a POCSO case was registered with relevant Sections in Marthandam All Women Police Station. However, without acting in haste and with due intervention of the Superintendent of Police and the Deputy Superintendent of Police, the social background, cultural background and economic profile of the couple was taken into consideration. Following the traditional way of investigation would have led to arrest and remand of the husband, which would have created instability in the family and mental trauma to the girl. The Investigation Officer was sensitised, and the case was considered as consensual relationship, arising out of mutual romantic relationship, and the families were advised to approach the concerned court for quashing the case. This provided a new lease of life to both the boy and the girl without getting entangled in the web of legal complications.

This decision of not effecting arrest and serving notice u/s 41(A) Cr.P.C and issuance of detailed instructions to the Investigating Officers were presented before the Juvenile Justice Committee and POCSO Committee of Hon'ble Madras High Court and Hon'ble judges who were part of the committee appreciated the progressive outlook adopted by the

police in these districts and unanimously opined that the same can be followed across the State of Tamil Nadu.

In compliance with the observations made by the Juvenile Justice Committee and POCSO Committee of the Hon'ble Madras High Court, the Director General of Police, Tamil Nadu, issued a Circular Memorandum dated 03.12.2022 for the Investigating Officers of POCSO cases of Category-I. The directions are reproduced below:

- a) not to show haste in effecting arrest of the accused in mutual romantic cases;
- b) instead issue a notice under Section 41 (A) Cr.P.C to the person concerned for enquiry;
- c) record in the case diary, the decision for not arresting the accused, along with the reasons therefor; and
- d) resort to arrest only with the permission of the Superintendent of Police / Deputy Commissioner of Police, as the case may be.

A conventional approach towards these categories of POCSO offences, which constituted a major portion of total cases reported, created hardship for the children who are falling in love in their teenage, but also created an unnecessary burden on the criminal justice system. The purpose of the POCSO Act was never to criminalise and harass these young people in the name of child protection which was even observed in many of the High Court judgements, but to safeguard the rights and entitlements of the children in serious offences committed against them. Taking into account that in majority of these cases, the families which were getting affected belong to lower social profile, the unwarranted legal harassment was creating huge hardships upon them and this decision was a long step forward in aligning our approach with the evolving social realities.

Methodology:

In all these categories of POCSO, the following methods were involved to have the desired impact.

1. Notice u/s. 41 Cr.P.C was served and the reasons for not effecting arrest were recorded in the Case Diary.
2. The decisions of not effecting arrest were taken on a case-by-case basis by following due diligence by the supervisory Officers by taking into account, the social, economic and educational background of the families, the medical condition of the child involved and other relevant factors.
3. The so-called accused were informed not to apply for bail since applying for bail would nullify the very purpose for which the decision was taken not to effect an arrest.
4. Investigating Officers would record the statements and collect evidences as it is without any fear and ignorance.

Category – II Cases (Serious / true POCSO cases):

The very purpose of enacting the POCSO legislations was to bring the accused involved in series or true POCSO cases to face criminal justice system and ensure various rights, safeguards and entitlements to the victim children are delivered, who become unfortunate victims of an unsafe environment surrounding them. It was found that in the last year 26% of the total reported POCSO Act cases in the three districts of Madurai, Theni and Kanyakumari of Tamil Nadu belongs to this category of heinous offences against the children.

After carefully perusing POCSO Rules of 2020, various hitherto unused and unknown safeguards, rights and entitlements available to the victim children were studied in detail and the methods of bringing them into application was discussed and a series of instructions were issued to the Investigating Officers to follow it in both letter and spirit, so that the purpose of legislation is realised to the maximum.

Upon studying the POCSO cases reported in the previous years, it was learnt that there was no systematic follow up in laying of final reports in these serious POCSO offences. To overcome this important lapse in the

investigation process, a Google Sheet was developed with colour coded indexing for number of days left for mandatory charge sheeting of the cases. This data regarding true POCSO cases were fed into the Google Sheet and were supervised by Superintendent of Police and Deputy Superintendent of Police through regular monitoring of these cases and ensure that the cases are charge-sheeted within the mandatory time period.

Following this meticulous and systematic follow up in the last one year, 41 cases reported in Madurai district, 38 cases reported in Theni district and 38 cases reported in Kanyakumari district were charge sheeted within the mandatory time period. This step was very useful in preventing the accused from obtaining statutory bail u/s. 437 Cr.P.C or while filing bail objection and in expediting the trial process. This was a major boost in infusing confidence in the victims and their families in the criminal justice system and proved a major factor in increasing the credibility of the police department.

Rights and entitlements of the child victim:

Many of the victims and other stakeholders in this child protection law were not aware of various entitlements and services that can be availed by the victim. The Investigating Officers are duty bound to ensure that these rights and entitlements available to the child victims are explained once the case is reported. As provided in Rule 4 and 14 of POCSO Rules, 2020, Form - A (enclosed) is provided which enlists 15 rights and entitlements available to the child victim and these are handed over to the victim/parents/guardians by the investigating officers. This is a first step towards rehabilitation of the child. In the last one year in the all the true POCSO cases reported in the district of Madurai, Theni, and Kanyakumari the Form-A signed by the Investigating Officer were handed over to the victims/parents/guardians and were explained to them.

Form – B

Similarly, Investigating Officer is also duty bound to complete the preliminary assessment report Form-B (enclosed) within 24 hours of the registration of FIR and submit the same in the Child Welfare Committee. This helps all the stakeholders in the child protection law to devise various strategies to reach out to the victims.

Victim Compensation:

A detailed study of the true POCSO cases reported in the districts of Madurai, Theni and Kanyakumari revealed that the social-economic profile of the victims and their families plays a deciding role in the way the case is navigated through the criminal justice system. If timely support is not provided to the victim family, both child rehabilitation and successful prosecution suffer a major setback. The rule 9 of POCSO Rules, 2020 and Section 33(8) of POCSO Act provides for interim victim compensation. Out of ignorance or negligence, the Investigating Officers were not aware that the provision exists for providing interim compensation in POCSO cases by the trial court based on the intervention by the District Child Protection unit. The detailed instructions were issued to the Investigating Officers to assist the child/parents/guardians to file an application with relevant documents for interim compensation, preferably within 24 hours of the registration of the FIR. The special court may in appropriate cases on its own or on an application filed by/ on behalf of the child can pass orders for interim compensation to meet the needs of the child for relief or rehabilitation at any stage after registration of the FIR.

Case study- Chinnamanur PS – Theni District:

A case was reported in Chinnamanur PS, Theni District, in which a victim girl aged 7 years having no parental support was living with her grandmother. On the day of the occurrence while the victim girl was playing, the accused sexually assaulted the child and also inflicted serious injuries. The Investigating Officer duly followed all the instructions and guidelines which were issued to him and assisted in filing of application

for interim compensation before the special Court very next day and within a fortnight, an amount of Rs. 1,00,000/- compensation was awarded to the victim as per the orders of the Court.

Case study - Silaiman PS – Madurai District:

A case reported in Silaiman PS in Cr.No.290/16 highlights the vulnerability of young children to heinous crimes. A young 6 years old victim girl was sexually assaulted by the accused while playing in front of her house. The Investigation Officer helped the victim in filing compensation before the special court and also ensured that the application complied with all the necessary requirements set forth by the relevant legal provisions. Subsequently, the victim girl was awarded a compensation of Rs. 5,00,000/-. By diligently helping the victim in submitting the application for compensation, the Investigating Officer acknowledged the financial needs of the victim and sought to alleviate their suffering. This step also reflects the potential impact that financial support can have on victims, particularly in cases where they may be facing physical or emotional trauma.

Case study - Marthandam AWPS – Kanyakumari District:

A case was reported in Marthandam All women Police Station, in which the victim was sexually assaulted by the accused on the pretext of giving swimming training. While complying with the aforementioned instructions, the Investigation Officer made victims aware about their rights and ensured that they file for the compensation before the special court. Due to which the victim girl was awarded compensation of Rs. 3,00,000/- as a victim relief assistance fund. This proactive action by the investigating officer demonstrates the police department's strong sense of responsibility towards victims and commitment to ensure justice.

Production of child before CWC:

The Investigating Officers were not aware that the victim child need not to be produced before the CWC in all cases. The rule 4 of POCSO Rules,

2020 provides that only in the following cases the victim child has to be produced before the Child Welfare Committee within 24 hours of the registration of FIR.

- a. When the accused and the victim are in the same household or
- b. When the child is living in a child care institution without parental support, or
- c. When the child is without any home or parental support.

Instructions were given to the Investigating Officers in all the three districts and sensitized them regarding the purpose for which the victim children are to be produced before CWC and not to resort to this practice in all the cases. The Investigating Officers were also directed to mention reasons in writing for the need of care and protection of the child and also make a specific request in writing for the detailed assessment by the Child Welfare Committee.

Interpreters / Translators/ Support Persons:

The District Child Protection Unit available in all districts maintains a list of interpreters, translators and support persons as per rule 4(8) of the POCSO Rules, 2020. The Superintendents of Police in the districts of Madurai, Theni and Kanyakumari addressed a letter to the respective DCPU and obtained the list of these resource persons and communicated the same to all the Police Stations in the district.

Case study – Varusanadu Police Station – Theni District:

In Varusanadu Police Station, a 16 years old victim who was speech and hearing impaired was sexually assaulted while she was alone in her house. Due to the trauma, the victim was not able to narrate the crime. Taking the help of the above mentioned rule, the Investigating Officer requested the services of special educator and support persons who were instrumental in getting the details about the crime, which eventually helped in identifying the criminal.

Trial intimation:

It was observed that the accused in these serious cases of sexual offences used to know about each stage of the trial process from the court while the victim were not informed about the same. The child victims or their parents/guardians were not kept in loop regarding the case trial once the case is charge sheeted. The child victims or their parents/guardians were not able to exercise the rights by intervening during the court hearings or to make an informed decision which would affect the eventual disposal of the case which may go in favour or against the child victim. In order to enable the victim child to be always aware of what is happening in their case, a trial intimation system was started in the districts of Madurai, Theni, and Kanyakumari. The list of serious POCSO cases which are in a trial stage in the districts of Madurai, Theni and Kanyakumari were listed and Addl. Superintendent of Police, Crime against Women and Children, were made Nodal Officers to intimate the victim child or their parents/guardians regarding the trial stage by sending them text message or WhatsApp messages. These text messages informed the victim child or their parents/guardians about the next date of hearing, stage of trial, progress made, and so on. These informations would keep the victim in a position to make an informed decision and give more credibility to the whole system of this child protection legislation. In the last one year, in 86 cases in Madurai district, 123 in Kanyakumari District and 34 in Theni districts, trial intimations were sent on time. This system was widely appreciated by the victims and their families, trial court, media and civil society. For instance, in one of the POCSO cases registered in Sedapatti Police Station of Madurai District in Cr.No.28/2019 u/s.5(l) (n) (j) (ii) & 6 of POCSO Act, wherein 29 hearings have been held in the last one year, the family has been given prior intimation on all these 29 occasions.

Bail Cancellation:

Taking cue from Section 439 Cr.P.C (1A), a format was developed to keep the victims of sexual violences where the victims are below 16 years of age informed about the bail hearings in their case (enclosed).

The victims of sexual violence suffer from huge trauma and sometimes it may last one's lifetime. A lot of institutional support, social protection, counseling services, regular monitoring of child mental health are required to bring the victim child out of the mental trauma, agony and depression. In addition to this, the very fact that the accused in a child sexual abuse cases gets released from the prison by obtaining bail and starts roaming freely while the victim is still stuck deep in the clutches of depression and trauma is akin to rubbing salt on the wounds suffered by the victim child. Besides, there are plenty of chances that these accused out on bail would jeopardize the trial by skipping court processes and thus delaying, sometimes even denying, the service of justice.

Similarly, another format was developed to intimate the families of victims regarding the bail hearings in POCSO cases in which the victims are in the age group of 16 to 18 years (enclosed).

Thus, to facilitate quick disposal of cases and enable victims to take control over their cases, 27 victims in Madurai district, 50 victims in Kanyakumari District and 37 victims in Theni district were informed regarding the bail hearings of the accused in their cases in the last one year, which enabled them to represent their cases against granting bail to the accused by getting legal services which are provided free of cost or otherwise.

In the past one year, following this system, 14 bail applications moved by the accused in trial court and High Court were dismissed on account of intervention made by the side of the victim child.

Conclusion:

To quote Nelson Mandela, "the true character of society is revealed in how it treats its children". With the twin approach of investigation adopted for the Category-I and Category-II cases, it not only establishes a strong legal framework that focusses on investigating and prosecuting the offenders, but also ensures a robust child protection and make the system child centric by giving due attention and care and instil confidence to the victims. The approach in the Category-I cases adds a human touch rather than having complete positivists approach towards the law, yet legally

compliant investigation process. The approach in the Category-II cases ensures procedure based, timeline oriented investigation and due attention to the rights and entitlements to the victims, thus reinforcing confidence in the legal system by implementing the POCSO Act in letter and spirit and creating robust environmental surroundings for children to grow up.

References:

1. *Order of the Hon'ble High Court of Madurai Bench of Madras High Court in Criminal Appeal No.490 of 2018, dated: 26.04.2019.*
2. *Order of the Hon'ble High Court of Madurai Bench of Madras High Court in Crl.O.P.No.232 of 2021 and Crl.M.P. No.109 of 2021, dated: 27.01.2021.*
3. *Rc.No.009464/Crime-4(3)/2022 of the Director General of Police, Tamil Nadu, Chennai.*
4. *C.No.25-218/Special Watch/SB/IGP-SZ/2023 of the Inspector General of Police, South Zone, Madurai.*

ENCLOSURES

FORM - A

Entitlement of children who have suffered sexual abuse to receive information and services

1. To receive a copy of the FIR.
2. To receive adequate security and protection by Police.
3. To receive immediate and free medical examination by civil hospital / PHC, etc.
4. To receive counseling and consultation for mental and psychological well being.
5. For recording of statement of child by woman police officer at child's home or any other place convenient to child.
6. To be moved to a Child Care Institution where offence was at home or in a shared household, to the custody of a person whom child reposes faith.
7. For immediate aid and assistance on the recommendation of CWC.

8. For being kept away from accused at all times, during trial and otherwise.
9. To have an interpreter or translator, where needed.
10. To have special educator for the child or other specialized person where the child is disabled.
11. For free legal aid.
12. For Support Person to be appointed by Child Welfare Committee.
13. To continue with education.
14. To privacy and confidentiality.
15. For a list of important contact no.'s including that of the District Magistrate and the Superintendent of Police.

Signature of Informant
I have received a copy of Form - A

Signature of Police Officer
registering FIR

FORM - B
PRELIMINARY ASSESSMENT REPORT

S.No.	PARAMETERS	COMMENT
1.	Age of the victim.	
2.	Relationship of child to the offender.	
3.	Type of abuse and gravity of the offence.	
4.	Available details and severity of mental and physical harm/injury suffered by the child.	
5.	Whether the child is disabled (Physical, mental or intellectual)	
6.	Details regarding economic status of victim's parents, total number of child's family members, occupation of child's parents and monthly family income.	
7.	Whether the victim has undergone or is undergoing any medical treatment due to incident of the present case or needs medical	

S.No.	PARAMETERS	COMMENT
	treatment of account of offence?	
8.	Whether there has been a loss of educational opportunity as a consequence of the offence, including absence from school due to mental trauma, bodily injury, medical treatment, investigation and trial or other reason?	
9.	Whether the abuse was a single isolated incident or whether the abuse took place over a period of time?	
10.	Whether the parents of the victim are undergoing any treatment or have any health issues?	
11.	Aadhar Number of the child, if available.	

Signature of Investigation Officer

Note:-

Form – B shall be sent to CWC within 24 hours of registration of FIR.

Format – I

First Information Report No.-----date-----Police Station --
----- u/s. ----- It is
intimated to you, that the accused concerned in this case has applied
for bail petition before the Hon'ble High Court / Hon'ble Additional
Sessions Court Judge -----district, which is scheduled on ---
----- for hearing.

It is requested to appear compulsorily either yourself/parent/guardian
or through the authorized person with respect to bail petition enquiry as
per Criminal Procedure of Code 1973 u/s. 439 (I-A).

(Signature)
Victim/Parent/Guardian/Complainant

(Signature)
Investigating Officer.

Format -II

First Information Report No.-----date -----Police Station
----- u/s.....It is intimated
to you, that the accused concerned in this case has applied for bail
petition before the Hon'ble High Court / Hon'ble Additional Sessions
Court Judge ----- district, which is scheduled on ----- for
hearing.

(Signature)
Victim/Parent/Guardian/Complainant

(Signature)
Investigating Officer.

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Cadre.



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Child Protection in the era of Social Media Kidfluencers

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Abstract

The use of children as social media influencers is a lucrative commercial enterprise within the influencer marketing industry, which is poised to grow at an annual rate of 25% through 2026. Besides impacting the purchase decision of a large group of parents, kidfluencing can also have implications for the mental health and behaviour of several lakh children who follow the kidfluencers. Kidfluencers usually deliver content supported by family members, typically the parents or professional talent management firms, and can be either domestic or internationally based. Regulation by social media platforms is inadequate, while government bodies have only recently published guidelines for online commercial entertainment activities. Unauthorised social media access and labour by children using their own or their parents' electronic devices, together with the risk of digital addiction, is a matter of serious concern which merits wider discussion and debate. This paper highlights emerging trends in kidfluencing, legal and regulatory provisions for protection, and major risks to both content creators and content consumers, who are mostly children, followed by some recommendations.

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Keywords:

social media, influencer, kidfluencer, content, engagement, child, adolescent, artists, family channels, protection.

Introduction:

Social media influencers, having a large number of online followers and generating considerable engagements in the form of views and likes, are being utilized by various commercial brands to market their products and services through the influencer's accounts and channels on popular social media platforms like YouTube, Instagram, Facebook, SnapChat and TikTok. As of 2022, over 5.5 crore Indians were viewing influencer content, and the value of the influencer marketing industry was projected to reach Rs. 2,800 crores by 2026¹.

There exists an entire ecosystem of influencers who produce child-centred online content, that is delivered, in many instances, by a child influencer, popularly called a 'kidfluencer', whose appeal amongst his peer age group is sought to be monetized. A kidfluencer may be an adult posing as a child, or may be a child being managed by a parent in a fiduciary capacity, or by a talent management company. He gets compensated in multiple ways – in cash, through an affiliate marketing arrangement, in cryptocurrency, or in kind, such as a complimentary branded product received for promotion. India has its own set of popular and talented Generation Z and Generation Alpha online personalities, who shape opinions and choices of their kid fan base, and in turn, impact the buying decisions of lakhs of parents.²

Kidfluencing directly impinges on a child's fundamental right to play, albeit using a digital medium. The concept of play encompasses unstructured informal activities based on free choice, absence of compulsion, and typically associated with loose adult supervision. As more and more children get access to a parent's unlocked electronic devices or start possessing their own smartphones, children are spending more time daily on the Internet, instead of watching conventional kid's television channels or physical play. The television broadcasting regulations which limit product placements and brand endorsements by a programme

character or a show host do not apply to the Internet. As a result, children and adolescents become more vulnerable to social media.

The recent COVID-19 pandemic has exacerbated the situation, as online classrooms and learning resources provided a trigger for parents to allow children to go online en masse. People gained confidence in online retail and digital payments. A June 2021 study by the National Commission for Protection of Child Rights (NCPCR) found that parents reported that 62.6% of children used their parents' phone, while 30.2% of children already possessed their own smartphones over which they had independent control.³ Interestingly, the same survey also sought responses from the children themselves, of which 64.1% reported using their parents' phone, while 27% reported using their own phones to access the Internet. These reporting gaps, though apparently small in percentage terms, point to a wider malaise of many children using their parents' phones without permission, as well as reluctant admission to accessing websites from their own phones. Between the ages of 9 and 17 years, chatting through instant messaging and social media apps like WhatsApp, Facebook, Instagram and Snapchat was found to be the most liked feature of Internet access (52.9%), followed by music (44.1%) and games (31.9%).

According to YouTube, "content" includes videos, audio (for example music and other sounds), graphics, photos, text (such as comments and scripts), branding (including trade names, trademarks, service marks, or logos), interactive features, software, metrics, and other materials.⁴ Kidfluencer delivered content is increasingly becoming relevant for a child's development, replacing traditional edutainment materials such as storybooks and cartoons. To attract a larger audience, kidfluencers use Artificial Intelligence (AI) technologies to dub their videos into multiple languages and accents. Therefore, both foreign and domestic kidfluencers have equal opportunity to garner interest amongst the Indian children, especially in the urbanised communities.

There are many pros to virtual kidfluencer engagement, as viewers tend to readily internalise socially relevant concepts and ideas when they are conveyed by a role model belonging to the same age cohort. These

could be lifesaving advice of wearing helmets and seatbelts, creativity enhancing sessions on arts, crafts, music and hobbies, inspiration for participating in sports and auditions, health and hygiene tips (e.g. first aid, use of gloves and masks), civic and conservation awareness, simplified cybersecurity alerts, do's and don'ts in different simulated situations, etc. In the international context, a few kidfluencers have launched their own brand of merchandise and transitioned smoothly from a minor influencer to a full-time entrepreneur influencer. However, globally, there persists guarded apprehension amongst parents and social scientists regarding the perils of early social media influences, and their impact in adolescent and adult phases of life.

Legal Framework, Conventions and Platform Regulation:

There is no consistency in the Indian laws on the definition of a “child”; it varies depending on the purpose of the statute. The following table summarizes the definition of “child” under various laws:

Statute	Definition of “child”
The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986	A person who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009, whichever is more Note: ‘Adolescent’ means a person who has completed his fourteenth year of age but has not completed his eighteenth year
The Plantations Labour Act, 1951	A person who has not completed his fifteenth year
The Motor Transport Workers Act, 1961	A person who has not completed his fifteenth year
The Protection of Children from Sexual Offences Act, 2012	Any person below the age of eighteen years
The Juvenile Justice (Care and Protection of Children) Act, 2015	A person who has not completed eighteen years of age

Statute	Definition of “child”
The Prohibition of Child Marriage Act, 2006	A person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age
The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021	Any person below the age of eighteen years

Article 13 of the United Nations Convention on the Rights of the Child (CRC) requires States to ensure that “*Children have the right to get and share information, as long as the information is not damaging to them or others. In exercising the right to freedom of expression, children have the responsibility to also respect the rights, freedoms and reputations of others. The freedom of expression includes the right to share information in any way they choose, including by talking, drawing or writing.*” This provision ensures that social media influencing is a protected activity.

On 2 March 2021, the UN CRC published General comment No. 25 (2021) on children’s rights in relation to the digital environment. Despite the consultative approach adopted in drafting the document, it is seen from the official website (<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-25-2021-childrens-rights-relation>) that inputs were not received from any Indian organization, child rights group or stakeholder.

On 18 May 2023, the NCPCR issued “*Guidelines for Child and Adolescent Participation in the Entertainment Industry or Any Commercial Entertainment Activity*” to replace the “*Guidelines to Regulate Child Participation in TV Serials, Reality Shows and Advertisements, 2011*”.⁵ These Guidelines are applicable to over-the-top (OTT) platforms, reality shows, content on social media platforms and advertising. Significantly, Chapter 3 of the Guidelines 2023 deals with children and adolescents engaged in creating content for social media platforms in a family enterprise.

According to Section 3(2)(a) of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, a child (a person below 14 years)

may help his family or family enterprise in non-hazardous work, after his school hours or during vacations. Section 3(2)(b) of this Act allows a child to work as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or any such other entertainment or sports activities except the circus, subject to such conditions and safety measures, provided that no such work affects the school education of the child. Therefore, depending on the managerial controls, kidfluencers could be considered either as members of a family enterprise or as artists working for production houses and marketing agencies. Their rights, working conditions and welfare would be protected under Rule 2B (for family enterprise) or Rule 2C (for artist) of the Child Labour (Prohibition and Regulation) Amendment Rules, 2017.

Rule 2B(a)(iv) places a condition that a kidfluencer working in a family enterprise shall not perform any tasks during school hours and between 7 pm and 8 am. Moreover, Rule 2B(a)(vi) prohibits helping the family in economic activities for more than 3 hours, excluding the period of rest in a day. For a kidfluencer artist, Rule 2C(a) stipulates that he shall not be allowed to work for more than 5 hours in a day, and for not more than 3 hours without rest. Further, Rule 2C(g) specifies that he shall not be made to participate in any audio-visual and sports activity, including informal entertainment activity, against his will and consent. According to Section 90 of the Indian Penal Code, a consent is not such a consent, unless the contrary appears from the context, if the consent is given by a person who is under 12 years of age.

Chapter 5 of the NCPCR Guidelines 2023 imposes several restrictions on advertisements that address or target or use children. One of the advisories is for an advertisement not to make it difficult for children to judge the size, characteristics and performance of advertised products and to distinguish between real-life situations and fantasy. Despite the detailed instructions, the compliance and content take-down regime is expected to be compromised by ambiguities in interpretation, and delays in reporting of violations. Under Sections 14 and 14A of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, the penalties prescribed are imprisonment for a term between 6 months and 2 years, or

fine between Rs. 20,000 and Rs. 50,000, with sufficient protection for parents or guardians in case of the first offence. For a booming social media influencer backed by resourceful brands and marketing agencies, these light-weight penalties hold no deterrent value.

Apart from the laws, every popular social media platform has instituted age restrictions to prevent abuse. YouTube, the most favoured platform for kidfluencing, specifies in its 'Terms of Service' that "*You must be at least 13 years old to use the Service; however, children of all ages may use the Service and YouTube Kids (where available) if enabled by a parent or legal guardian.*"⁶ The platforms Instagram and Facebook "*requires everyone to be at least 13 years old before they can create an account (in some jurisdictions, this age limit may be higher).*" Instagram further specifies that "*Accounts that represent someone under the age of 13 must clearly state in the account's bio that the account is managed by a parent or manager.*"⁷ The restriction on Facebook profiles is stricter, as it considers "*creating an account with false info is a violation of our terms. This includes accounts registered on the behalf of someone under 13.*"⁸

Despite the existence of these terms and conditions, a survey covering 66,000 people located in 287 districts of India has found that there is rampant misreporting of age while registering social media accounts, both by parents and children.⁹ The June 2021 study by NCPCR found that 37.8% and 24.3% of 10 year old children have Facebook and Instagram accounts respectively, which violates the platform age limit of 13 years.¹⁰ Social media intermediaries do not exercise proactive regulation, rather, they wait for content to be flagged as offensive or graphic. On the contrary, the platform's recommendation algorithms tend to redirect the child repeatedly to similar content, leading to addiction.

Considering the aforesaid discussions on age of consent and age deemed appropriate for social media engagement by mainstream platforms, it becomes imperative that a child who becomes an Internet sensation before he can even talk or process his own emotions, should be regarded as an individual coerced into an environment of intense engagement with unknown followers, forced to grow up much faster than

natural children, and consequently, forego a normal childhood. A minor influencer is rarely familiar with the operational aspects of the commercial online enterprise, which includes supporting contracts with advertisers and platforms, intellectual property rights on the content, technologies, financial transactions, communications, and digital marketing strategies.

Significantly, although the laws stipulate work hours for the minor content producers, the minor content consumers are entirely left to the oversight and control exercised by parents and guardians. The fixation with social media becomes worrisome when a child remains hooked to the smartphone during meals, during daily commute to school, before going to sleep, takes selfies repeatedly in search of the perfect shot, and takes breaks during study hours to scroll his mobile for new messages and posts.

Role of Parents and Guardians:

Young parents in the age bracket of 20-35 years have themselves grown up with social media, and are quite aware of digital identities. The motivation for creating social media accounts for children could stem from a plethora of factors, such as recording a digital photo album to share with close relatives and friends who live far away, the urge to showcase one's efforts in carefully capturing high-quality photos and videos of the child, need to maintain a digital identity for social media interactions other than kids and family, the desire to emulate the fame and adulation of celebrity kids, or simply to build a business around the baby.¹¹

A parent needs to differentiate between the child's activities online in the pursuit of learning and hobbies vis-à-vis the need for the child's protection while viewing the videos, photos, songs, messages and vlogs of kidfluencers, who employ attention-seeking behaviours and manoeuvring to attract other children towards specific brands. The children who are presenting and consuming digital content, both do not possess adequate maturity and intelligence to comprehend the ulterior motives and marketing tactics that are subtly embedded within apparently playful activities. An average child would, therefore, ignore any warning

or disclaimer from the platform or embedded within the content. They could be tempted or persuaded to join closed WhatsApp groups, Facebook communities or online chatrooms to get free or interactive content, and may even engage in micro-transactions to keep playing games or receive higher levels of content.

In the face of dual pressures to deliver consistently engaging content to satisfy followers and to attract lucrative corporate sponsors, a kidfluencer has scant authority to design and develop the theme and content for his broadcast. The kidfluencer has limited space for privacy, as he must be a public figure on regular display, like in a reality TV show. Often, the content of pre-teen kidfluencers is streamed through family channels. Although the channel's USP continues to be the kidfluencer, a parent or both parents appears whenever a paid promotional message, usually too sophisticated to be appropriately delivered by the child independently, needs to be relayed.

Parents exploiting a child for near-term profits are typically unconcerned and unaware of the impact of such online 'work' on the child's adult life later, specifically as it relates to the child's psychological maturity to process hateful comments, criticism, trolls, and memes, or in the context of his evolving self-image when age diminishes his cuteness, innocence and celebrity-like appeal. Upon turning 6 years, when a kidfluencer develops the ability to read, but comes across negative comments on his social media profile, he will certainly become anxious, confused and stressed. Sudden inexplicable drops in reach and reactions to any new post of similar quality like previous content may lead to speculation regarding unfair treatment and 'shadowbanning' by the social media platform.

The law requires that at least 20% of the income earned by the kidfluencer be directly deposited in a fixed deposit account in a nationalised bank in the name of the child/ adolescent, which may be credited to the child on attaining majority.¹² However, there is currently no mechanism to monitor how parents manage the kid's finances, the assumption being that most parents will comply. Unscrupulous financial

management by a parent is likely to result in family dispute, and even litigation, when the kid turns 18 years.¹³

Risks of Social Media Influencing:

Unlike mainstream social media influencing directed towards adults who can be duped into a whole gamut of frauds, the target audience of kidfluencers are children who possess limited purchasing power or access to sensitive corporate information. However, the risks of social media influencing apply to kidfluencing as well, since the stakeholders involved can be easily convinced or coerced, yet enjoy protection from prosecution due to their legal status as minors.

Most social media influencers have likely resorted to some unethical practices, such as faking testimonials, comments and ratings, artificially boosting the online engagement metrics (i.e. views and likes) using AI bots, selling products that are not of same quality as advertised, offering products at inflated price, understating a kidfluencer's age, endorsing undesirable behaviour and attitudes, suppression of interests of marginalized communities, etc. They may have committed breaches of law or abetted criminal activities, such as selling of personal information of subscribers, selling of counterfeit products, amplification of rumours, infringement of trademarks and copyrights, facilitation of ransomware attacks, falsification of accounts, evasion of taxes, money laundering, identity theft, cyberbullying, etc.

The experiences and expressions of a kidfluencer could potentially exist as digital records permanently, even if the original streaming source is discontinued. For instance, Google, the parent company of YouTube, has declared in its Privacy Notice that it automatically collects and stores certain information about the services that a child uses and how the child uses them, such as information about the apps, browsers, and devices that a child uses to access Google services, information about the child's activities such as search terms, videos watched, voice and audio information, people with whom they communicate or share content, information about the child's location using GPS, IP address, sensor data, Wi-Fi access points, etc.¹⁴ The individual mannerisms and traits of

kidfluencers could be misused at any time for harvesting credentials and behavioural markers for committing identity theft.

The competition to maintain a ‘wow’ factor and evoke favourable reactions from the subscribers frequently results in kidfluencers staging pranks, showcasing unrealistic perfect lives and unbridled affluence (e.g. unboxing new toys in every broadcast), propagating crass consumerism (e.g. going on shopping sprees, ordering fast foods), and enacting unethical scenarios that involve nagging, feigned jealousy, concealment of facts or items, lying to and deceiving own parents and siblings. A child may be manipulated to share personal information (including photographs) of his own self or family members, disclose an adult’s financial credentials (such as bank account, UPI and PAN details), click on malicious links, visit shopping websites, play online games, or download mobile applications and files – without the knowledge and/ or consent of the legal guardian.

Recommendations:

1. The NCPCR under the Ministry of Women and Child Development, and the Cyber & Information Security Division under the Ministry of Home Affairs, should jointly organize consultations with the most popular social media and OTT platforms to devise AI based monitoring of the kidfluencer profiles and content. A few platforms already have controls to prevent adults from messaging unknown kids, and for parents to track activities of their children on the platform. Many social media platforms provide real-time speech-to-text transcription features, which could be combined with automatic checks using computer algorithms embodying the spirit of the safeguards prescribed in the NCPCR Guidelines 2023. Violations, if detected, should result in immediate blocking of the channel or profile until institution of suitable remedies and/or imposition of fines.
2. Government policymakers, social media tool developers, parents, teachers, child psychologists and researchers should collaboratively develop interventions that reduce the screen time for children, reverse

the declining trend of physical, social engagement, and thereby, prevent poor mental health, body dysmorphia, eating disorders and low self-esteem among the teenagers.¹⁵ Parents should be advised to plan daily schedule to keep the child engaged in a wide range of activities, that should include, besides accessing the Internet, post-school study sessions, co-curricular activities, extra-curricular activities, real-world socializing, and parent-child conversations. Duration of electronic device usage should be limited to 2 hours a day. The Hon'ble Prime Minister of India has strongly encouraged parents to demarcate 'technology-free' zones in the household, and observe 'technology fasting' at regular intervals.¹⁶

3. Law enforcement agencies, the District Child Protection Units and civil society organizations should conduct awareness workshops, especially for teenagers, on safe Internet browsing, efficacy of privacy settings, selection of passwords, offences of identity theft and cyberbullying. Instead of relaying do's and don'ts impersonally, it would be more impactful to discuss case studies on potential abuse of personal information for commission of cybercrimes and financial frauds.
4. Community policing programmes should be conducted at educational institutions and coaching centres to counsel parents, elder siblings and teachers on the need to become role models on Internet etiquette whenever they are in the presence of a child, especially one below 13 years of age which is the universal threshold age prescribed by social media platforms. They should avoid downloading unverified apps (particularly gaming, fintech, instant messaging, file-sharing, dark web browsers) from apps stores, registering or logging on to a social media site, changing passwords, accessing online stores, and performing banking and UPI transactions. Before allowing a child to use a smartphone, a parent should log out of all social media platforms and biometrically lock the instant messaging applications. Any suspected data breach should be immediately referred to a nodal officer whose details should be shared during such awareness workshops.

5. Through workshops organized by police, civil administration and NGOs, parents should be urged to give due consideration to any unusual demand made by a child for purchasing specific branded items, availing specific services, or vocalizing certain phrases and slangs. A consultative approach to discover the origin and justification behind such demands or mannerisms would make it easier for the child to accept the parent's perspective on such demand or utterance. Confrontation and denial without discussion would only erode trust between the parent and the child, and impel the child to explore and arrogate surreptitious means. For cases of teenage depression, a directory of accredited child psychologists, specialising in social media addiction, should be shared with parents.
6. The Intelligence Bureau should establish a dedicated desk for social media influencers, considering the potential for hijacking and misappropriation of family-run home businesses by fraudsters and money launderers who may be part of organized criminal groups or foreign hacking networks. The IB should seek an annual influencer audit report from the concerned District Magistrate for any kidfluencer having 50,000 followers or more, i.e. the Mid-tier, Macro and Mega influencers. This audit should examine the influencer's bio, follower count, posting history (including hashtags and content pieces), quality of engagement (number of profile visits, likes, shares, referrals), links to personal websites, instant messaging accounts or mobile, updates in the permissions from the District Magistrate (in case of child artists), commercial agreements, certified statements of income and bank transactions, etc. As part of the annual audit, the District Child Protection Unit should interview the kidfluencer to validate his consent for publishing his personal details in the virtual space, determine whether the child's regular education has been hampered, whether he has been subjected to any form of coercion, sexual abuse or injuries.
7. As part of Corporate Social Responsibility, the prominent social media platforms should be persuaded to assist schools in operating social media channels for engaging the children and adolescents in

extra-curricular activities beyond school hours. In order to compete with a kidfluencer's channel, the school's channel should host curated content that is both educative and entertaining, such as interactive quizzes with reward points and e-certificates, arts & crafts competitions, puzzles, hackathons, online polls, hobby corner, travel blogs, bulletin boards, etc.

8. Considering the international ramifications of the digital space and foreign kids influencing Indian nationals, the Bureau of Police Research & Development should organize well-planned conferences and webinars, involving experts from multiple stakeholder groups for deliberation on the emerging trends, best practices in legislation and regulation, and inter-agency coordination. Among others, the participants should include representatives from the UNCRC, the INTERPOL, the Indian Cybercrime Coordination Centre (I4C), Producers Guild of India, Institute of Chartered Accountants of India, Financial Intelligence Unit-India, forensic scientists, income tax officials, industry bodies, social science researchers, officials from the Ministries of Home Affairs, Electronics & Information Technology, Information & Broadcasting, Law, Labour, Women & Child Development and Corporate Affairs, and of course, prominent personalities from the social media influencer community. In addition, research projects on the topic of social media influencing should be funded for in-depth insights into this rapidly evolving activity, and to devise evidence-based policy interventions.

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Protecting India's Children from the Harms of Illicit Drug Trade

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Abstract

Illicit trade in narcotic drugs and psychotropic substances (NDPS) is a major threat to security and public health in India. In 2021 alone, the Narcotics Control Bureau (NCB) seized 6,75,631 kg of cannabis and 7,282 kg of heroin, observing an “exponential rise” in NDPS-related activities in the last five years. Such activities are only expected to increase further with increased demand, especially from the cities and towns leading India’s growth. India’s very growth story, fueled by the aspirations of a predominantly youthful population, creates more opportunities for crime, including the illicit NDPS trade, and with it comes more exposure to harms, such as addiction, victimization, injury, and even death. Poised to be one of the world’s leading economic powers in the next decade, India needs to be vigilant about the protection and care that she can offer to her most vulnerable - her children under the age of 18 - who are also her most valuable asset. In this essay, I first outline the threats posed to India’s children by current trends in NDPS trafficking, then highlight recent policies and plans implemented across the country to protect children from drug-related harm, and finally present recommendations to bolster existing provisions of child protection and care against drug involvement.

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The risk of drug harm to India's children:

Illicit trade in narcotic drugs and psychotropic substances (NDPS) in India involves billions of dollars. It is operated at the highest level by transnational organized crime groups, with support from other smaller groups and individuals on the supply side at the regional and local levels. Within the country, these actors work together through clandestine physical and virtual networks to move illicit NDPS to bigger cities and towns that serve as both destinations and transit points for further trafficking.

Globally, India is considered a major transit country for NDPS trafficking, primarily of heroin and cannabis that originate from illicit opium-producing countries in the Golden Crescent to her west (Iran, Afghanistan, and Pakistan) and the Golden Triangle to her east (Myanmar, Thailand, and Laos) enroute to various destinations in Africa, Asia, Central and Western Europe, Oceania, and North America. This has traditionally put States in the North-west (Jammu & Kashmir, Punjab, Rajasthan, and Gujarat) and North-east (Arunachal Pradesh, Manipur, Mizoram, Nagaland, and Sikkim) at high risk of illicit drug entry and distribution by land. States like Uttar Pradesh, Tripura, Mizoram, and Manipur additionally have their own illicit poppy cultivation. In recent times, India has also been targeted as a major destination country for the burgeoning Southern Route of Afghan-origin opiates.¹ This trafficking operation relies heavily on maritime routes in the Indian Ocean Region, putting at risk all 13 States and Union Territories along India's 7,517 km coastline that also includes the island coasts of Lakshadweep, Andaman, and Nicobar. During the COVID-19 pandemic, maritime routes also saw increased utilization in general, driven by stricter enforcements on air and interstate land travel. Post-pandemic, maritime routes continue to be favored, partly due to the relative ease of entry from a vast and porous sea border and driven by proximity to more lucrative markets in populous hubs of commerce and

education such as such as Mumbai, Pune, Chennai, Bangalore, Hyderabad, Kochi, Kozhikode, and Thrissur.² Thinking in terms of specific geographies of risk, we may interpret these trends as indicators of high risk of NDPS exposure for India's children in developed or developing towns, cities, and States closer to the peninsular coasts in the South and to regions in the North-west and North-east with existing NDPS distribution networks. Children in these high-risk regions also need special protections against criminal involvement, addiction, victimization, injury, and death related to illicit NDPS availability.

Organized crime groups and other actors can target residents of any age within their catchment area as buyers, facilitators, distributors, or even sellers. This may have serious consequences for the juveniles who get involved, since it is a criminal offence under the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 to engage in the production, manufacturing, possession, sale, purchase, transport, storage, and/or consumption of any NDPS.³ The National Crime Records Bureau (NCRB) reported 264 cases of juveniles being booked under the NDPS Act in 2021, increasing by 21 percent over the previous year 2020; this was also twice the number of juvenile cases in 2015, and more than thrice the number of juvenile cases in 2010.⁴ While this is still relatively low compared to the number of adults booked annually under the Act, the fast growth in juvenile drug-related bookings is a cause of concern.

The NDPS Act allows graduated sanctioning for smaller quantities of possession, presumably for personal consumption and reserves the most severe penalties for repeat convictions of trafficking larger quantities, with prison sentence terms that can be as lengthy as 30 years and fines of up to Rs. 2 lakh for the most serious cases.ⁱ However, the NDPS Act also contains procedural safeguards and immunities for juvenile drug offenders under the age of 18 years, who are primarily governed by the tenets of the Juvenile Justice (Care and Protection of Children) Act, 2000.ⁱⁱ Among other things, this deference to the Juvenile Justice Act

ⁱ See: <https://dor.gov.in/narcoticdrugspsychotropic/punishment-offences>

ⁱⁱ See: <https://dor.gov.in/narcoticdrugspsychotropic/procedural-safeguards-and-immunities-under-ndps-act>

ensures that the juvenile booked under the NDPS Act is treated more sympathetically with rehabilitation and reintegration in mind, being placed instead in observation homes or special children's home or juvenile detention separate from adults. This immunity also protects children from excessive punishment, including protections against being imprisoned if they are unable to pay monetary fines or fees. More importantly, Chapter 2 of the Juvenile Justice Act provisions alternatives to punishment such as discretionary release, release conditioned on good conduct after a period of probation or adult supervision, diversion to group counseling or similar programs, and alternative sentence of community service. Chapter 4 of the Juvenile Justice Act further outlines opportunities for sponsorship and after-care for children to help them "lead an honest, industrious, and useful life". Notably, Chapter 1 of the Juvenile Justice Act lays out many considerations for children in need of care and protection, such as housing security, financial strain, abuse and coercion from parents or guardians, lack of agency, mental and physical health, sexual exploitation, trauma, vulnerability to drug abuse or trafficking, and lack of adult guidance or supervision. These are crucial protections, given the higher risk of drug-involvement in children experiencing poverty, homelessness (or life on the streets), runaway status, domestic violence, maltreatment, child labor, abuse, and trafficking.⁵

The NCRB also reported an uptick in the number of accidental deaths due to drug overdose, which increased by 43.4 percent from 514 in 2020 to 737 in 2021, after having declined consistently between 2018 and 2020.⁶ In 2021, the top 10 States reporting the highest number of accidental deaths due to drug overdose included Tamil Nadu (250), Rajasthan (113), Punjab (74), Manipur (36), Madhya Pradesh (34), Gujarat (30), Mizoram (25), Uttar Pradesh (24), Karnataka (24), and Bihar (21). Drug or alcohol use contributed to more accidental deaths from driving under influence and suicide. Notably, drug or alcohol abuse was the third largest cause of suicides in 2021, causing about 6.4 percent of all reported suicides. In 2021, drug or alcohol abuse drove particularly high numbers of suicide in bigger cities such as Chennai (299), Delhi

(114), Bengaluru (146), Mumbai (132), and Nagpur (108) followed by smaller cities like Thrissur (76), Indore (67), Bhopal (66), Madurai (59), Nasik (51), and Coimbatore (51). The following five states reported the highest number of drug or alcohol related suicide in 2021: Maharashtra (2818), Karnataka (1319), Tamil Nadu (1590), Madhya Pradesh (1634), and Kerala (902). While children are reported to have a low share in drug-related accidental deaths overall, they are still at some risk. An additional point of consideration is the significant risk of child drug addiction in families of smaller or nuclear size and parents with a history of addiction.⁷ This means that cities, historically having a higher occurrence of nuclear families, may see a high prevalence of child drug addiction and especially in those cities reporting a high prevalence of adult drug addiction.

It is also very likely that families and children refrain from seeking help or reporting drug-related accidents or deaths, due to a culture of silence and stigma over drug addiction, and lack of awareness of child vulnerabilities to drugs; other reasons may include lack of motivation, lack of information about treatment facilities, and even scarcity of specialized adolescent treatment programs.^{8&9} An older national survey (2004) cites data from the Drug Abuse Monitoring System (DAMS) to highlight how children under the age of 20 years comprise only 5 percent of treatment-seekers.¹⁰ However, another study also reports about 9-10 percent of treatment-seekers initiate drug use as children under the age of 15 years and an additional 25-32 percent treatment-seekers tend to initiate as older adolescents in the 16-20-years age bracket.¹¹ This gap suggests that there are actually more children in need of protection from drug harms than the available data indicates.

Using policy and practice to protect children from drug harm:

Drug trafficking is a very complex problem involving many different actors at the transnational, national, regional, State, and local levels who work together to create and fill demand in areas that offer a combination of ease of access, ease of daily operations, and populations with some degree of purchasing power. Networks and syndicates involved in this

illicit enterprise can be viewed as engaging in top-down strategy for distribution patterns and higher-level decisions to adopt more efficient or effective platforms and partners. They also favor a bottom-up approach to on-ground operations of recruitment and sale, localizing their targeting, product offers, partnerships, and methods of retail to fit local norms. This strategic approach to business and operations, resembling that of successful transnational corporations, has ensured a solid foothold for the illicit NDPS market in India, especially in regions targeted by the Golden Crescent, Golden Triangle, and Southern Route. In response to the multi-level nature of drug trafficking operations and to generate a more impactful multi-agency response, the Ministry of Home Affairs in 2016 formed a four-tier Narco-Coordination Centre (NCORD) to improve communication and collaboration between law enforcement agencies, security agencies, and other stakeholders at the District, State, Executive, and Apex levels. The National Narcotics Coordination Portal was also created to facilitate coordination between multiple agencies and stakeholder in real time. Internationally, India continues its existing collaboration with partners such as the United Nations Office on Drugs and Crime (UNODC) and the International Narcotics Control Board (INCB) and is committed to several treaties and conventions with partner countries or organizations to control NDPS trafficking, including mutual legal assistance treaties (MLATs) to facilitate the sharing of information and evidence. In a show of increased inter-agency cooperation, the Central Bureau of Investigation (CBI) launched the multi-phase Operation Garuda in 2022 in coordination with Interpol, NCB, and State police, which led to several seizures and arrests across multiple States. Resilient and efficient frameworks of cooperation with trusted partners, particularly in the Indian Ocean Region and border regions, hold promise for the deployment of more sophisticated co-surveillance and joint risk assessments, that can offer better protections for civilians, including children.

In recent times, drug traffickers have become almost entrepreneurial in their efforts to seize every possible opportunity to grow, including the use of unregulated dark net and cryptocurrency, doorstep parcel delivery

by private courier services, and even taking advantage of police reluctance to intercept girls and women as suspects. These newer methods are especially well-suited to target youth, given their appetite for digital and on-demand services, and furthermore portend the possible misuse of underage children as suppliers who are likely to receive no or few penalties under the juvenile protections of the NDPS Act. Recently, the NCB shared details of a multi-level money-chain marketing model used by a Kerala-based drug cartel which recruited buyers on a 30 percent product commission basis to convert contacts in their personal networks as new buyers.¹² For every fourth conversion, the buyer even received, for free, the same amount of product that was purchased by the fourth conversion. Among the victims of this scheme was the son of a police officer. The NCB cautions that this approach could potentially increase the reach of the illicit NDPS trade to more people who would not have had the means earlier to purchase the product, with added risks for children and for villages adjoining bigger cities. It is highly likely that similar models of child-based recruitment of buyers are already operating in bigger cities, which could explain substantially high prevalence of substance abuse cases and NDPS addiction among street children in India with little money estimated at about 40 to 70 percent, with higher prevalence likely to present in trafficked or abused street children.¹³ All these factors together point to the sheer scale and strength of illicit NDPS trade in India, which makes it very difficult to stop its growth, let alone eradicate it completely, through reactive situational crime control methods alone. Through its network, it continues to pose a threat to the safety, health, and wellbeing of vulnerable children.

Recognizing these hard realities, the Government of India has adopted a multi-pronged approach, focusing primarily on (a) boosting existing crime prevention and law enforcement capabilities, and (b) driving drug demand reduction and anti-drug resiliency among at-risk populations, including vulnerable children and youth. It has earmarked the National Fund for Control of Drug Abuse to meet costs incurred toward the combat against illicit drugs, education campaigns and public outreach, and the treatment and rehabilitation of people addicted to drugs. The

National Action Plan for Drug Demand Reduction (NAPDDR) for the period 2018-25, implemented by the Ministry of Social Justice & Empowerment (MoSJE), further supports a variety of initiatives and activities such as awareness campaigns in schools and higher education institutions, workshops with parents, drug treatment facilities, NGO-run Integrated Rehabilitation Centers for Addicts (IRCA), assistance to service providers, and Community-based Peer-led Intervention (CPI) programs. The CPI framework is specifically intended to assess drug use in the community, implement early prevention education led by trained peer educators, and to provide referrals to counseling, treatment, and rehabilitation services in the community.ⁱⁱⁱ While drug treatment inpatient/ hospitalization facilities are available to those who need help, they have yet to achieve the scale of demand for such facilities. A 2019 study conducted by the National Drug Dependence Treatment Centre (NDDTC) of the All India Institute of Medical Sciences (AIIMS) found that only 1 out of every 20 people with drug dependency problems has ever received any drug treatment care.¹⁴ It is very likely that even fewer drug treatment facilities exist that can cater to juvenile-specific needs.

On 15 August 2020, the *Nasha Mukta Bharat Abhiyaan* (NMBA) for a drug-free India was launched with high visibility especially in schools, colleges, and universities in 272 vulnerable districts across 32 of the highest-risk States and Union Territories, supported by over 500 voluntary organizations under the NAPDDR. The districts were identified from data collected by the Comprehensive National Survey and with inputs from the NCB. The NCB-led observance of the UN-declared International Day against Drug Abuse and Illicit Trafficking on June 26 is another important annual event during which multiple state agencies, drug law enforcement agencies, and non-government organizations (NGOs) come together to hold mass awareness campaigns against drug use, in public gatherings as well as through TV, film, radio, billboards, internet, and social media channels.

Separate from the government's current policies focused on drug trafficking, the centrally sponsored Integrated Child Protection Scheme,

ⁱⁱⁱ See: <https://socialjustice.gov.in/schemes/95>

aligned with India's Constitutional rights and protections for children and citizens in general, continues to provide free services of food, clothing, bedding, medicine, and education to children in need of care and protection, including children in conflict with law. This scheme is particularly beneficial for vulnerable street children who have a high prevalence of substance and drug use.¹⁵

Recommendations:

Based on this limited study of the most salient risks and harms to India's children posed by an increasingly sophisticated and entrenched NDPS trafficking network, the following measures are recommended to bolster existing child protections against drug-involvement:

1. Adopt newer data-based tools to identify and assess NDPS-related risk:

Risk terrain modeling (RTM) has emerged as an effective way to predict the risk of crime or victimization in specific locations based on environmental and socio-ecological factors.¹⁶ Having been applied successfully to understand outcomes such as child maltreatment, assault, drug dealing, drug market distribution, and drug hot spots, RTM methods can offer valuable insights on locations whose residents are at highest risk.^{17&18} This can be very useful in policing, providing real-time risk assessments and improving situational awareness in law enforcement.¹⁹ It can also help local administrators and community partners to deploy resources appropriately to minimize harm from drug-related crime, without having to rely on security and intelligence agencies to share confidential information that could nevertheless be vital for public safety. Sample RTM applications in support of child protections from drug-related threats include the identification of schools, neighborhoods, and street sections in which children are at highest risk of being recruited into drug trafficking or being exposed to gateway drugs.

2. Invest in community resources to protect and care for NDPS-involved children:

The current NAPDDR provisions for community-based peer-led interventions (CPIs) who are responsible for monitoring drug use in the community, as well as early prevention intervention through education, and referrals to treatment.^{iv} Per identified community/ area, the intervention is proposed to be staffed by 20 peer educators, 2 trainers-cum-supervisor, and 1 area coordinator. The framework can be improved further by collaborating with community-based stakeholders such as teachers, faith-based leaders, civic volunteers, social workers, and community police to identify and assess a juvenile's risk of drug-involvement or drug use through simple observation or a threat assessment checklist.

Earlier, this essay noted a severe shortage of inpatient or hospital-based drug treatment facilities. This can be addressed by developing community-based outpatient treatment-and-rehabilitation centers equipped with case managers, visiting physicians, and other service providers to address related needs such as housing, safety planning, aftercare, life skills training etc.

3. Streamline multi-agency referrals to juvenile treatment facilities:

Outside of police and law enforcement referrals, it is currently unclear how juveniles in need of drug treatment or other drug-related protections are being referred to the relevant services. Multiple streams of referrals may be available through the Ministry of Health, Ministry of Social Justice & Empowerment including the proposed use of CPIs, and state-level Child Welfare Committees to mention a few. Similar to NCORD, a single

^{iv} See:

<https://socialjustice.gov.in/writereaddata/UploadFile/Operational%20Guidelines636868637186365567.pdf>

centralized system of child services referrals could greatly reduce much confusion and lead to better monitoring of children clearly identified by some agency to be at risk.

4. Prioritize treatment-based harm reduction targeting specific child needs:

Once a child is identified to be addicted to drugs and referred to treatment, a case manager or a social worker should document the child's risks and needs known to exacerbate drug dependency, such as a history of abuse, parental addiction, homelessness, and school dropping out. The child's treatment plan should be responsive to these risks and needs.

Earlier, this essay highlighted an abysmally low level of help-seeking behavior in children in need of drug addiction support, which could be driven by factors other than access to quality treatment, such as stigma, lack of awareness, or lack of motivation. The child's assigned case manager or social worker should be trained and empowered to proactively offer guidance during the treatment period and to conduct periodic follow-ups for aftercare and prevention of relapse.

For drug-using children in conflict with the law, police and other law enforcement agencies should be encouraged to increase their use of alternatives to arrest and criminal conviction for children with less severe criminal offences. One potential alternative involves diversion to treatment-based programs or counselling, which can be offered as part of a more comprehensive child protection and care program developed specifically for children picked up for drug-involved minor crimes.

5. Realize natural synergies between law enforcement and public health:

The drug addiction problem is firmly tied to the problem of drug trafficking. They are two sides of the same coin, with much

overlap stemming from individual, environmental, and broader geographic factors. Data trend-watching, service referrals, and harm reduction strategies are other areas in which law enforcement agencies could potentially collaborate with the public health system, reducing redundancy and saving costs in the process. Given the added protections for children under the NDPS Act, in alignment with the Juvenile Justice Act, it may even be more feasible for the public health system to maintain case-level data on drug-involved children, including case history of conflict with law, drug abuse, and key risks and needs in relation to drug use.

Conclusion:

India is a highly lucrative market for transnational drug trafficking. Home to the largest population in the world and flanked by two major opium-producing regions with global distribution networks, her people are extremely vulnerable to the harms of drug involvement. Children in cities and towns with entrenched drug networks, especially those living on the streets, are at high risk of early initiation and life-long addiction to drugs. While the Indian government has taken several steps to mitigate drug trafficking harms to children, covering law enforcement capacity-building as well as drug demand reduction, these efforts need to be further bolstered with investments into more effective and targeted systems of treatment and aftercare services. Shifting from control to resilience, from siloed operations to multi-agency collaborations, and from situational action to continual protection are all steps in the right direction. It is now time to rethink the problem of drug trafficking beyond the paradigm of security and law enforcement alone, and to invite more stakeholders to the conversation to fully address the risks and harms posed by illicit drugs to the people and children of India.

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Child Protection: Hearing the Voiceless

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Abstract:

Nelson Mandela had said, “the real character of a society is revealed in how it treats its children” and unfortunately, our crime statistics reveal that we have not been treating our children well. According to NCRB, 17 crimes against children are being reported every hour in our country and since all crimes are not reported, the real situation may be much worse. Despite having a strong constitutional and legal framework, we have not been very successful in providing a safe, secure space to our children. This paper is an attempt to bring the issues on ground to the fore and help identify the gaps which need to be plugged in order to have a robust child protection framework in the country. The article also suggests possible solutions for the same, some of which have actually been tried by the author herself. Since children do not have a voice due to lack of political and financial power, this article primarily aims to bring to everyone’s attention the country’s dark spot, which is often sidelined on pretext of other “important” issues.

Keywords:

Crime against children, JJ Act, POCSO, Community policing, child marriage, child labor, NCPCR, child protection committees

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Introduction:

One fine morning while in office, I received a tip off that four minor girls were being used for performing obscene dances and as escorts and were currently housed in a locality in my jurisdiction. On raiding the place with Anti-Human Trafficking Unit (AHTU) and SHO of the concerned police station, we found the girls aged 12 to 17 years. Having little idea of what they were being made to do and why it was wrong, the girls explained that they loved dancing and the accused just gave them the opportunity to do more of it. The girls were being used as escorts and as dancers in private parties. They were rescued and the man and his wife were booked under POCSO and Child Labour Act and relevant sections of IPC. In another case, five child labours were rescued from a brick kiln factory in my jurisdiction in the same week. In yet another case this month, National Commission for the Protection of Child Rights (NCPDR) informed the district police through a notice u/s 13(1)(i) of CPCDR Act, 2005 that two minor girls have been married to two males aged more than 25 years in Sikandarabad Tehsil of Bulandshahr. On this notice, district police reached the address, rescued the girls and registered the FIR. These are very few selective stories from Tier 3 city of India where police action was taken timely and children were saved. Needless to say, there are many such stories which don't even reach us. What we are seeing in Bulandshahr is not even the tip of the iceberg.

According to National Crime Records Bureau (NCRB), every hour, 17 crimes against children were reported in India in 2021 totalling to 1,49,404 cases¹. This is 16.2% higher than the number registered in 2020. Although the highest number of cases was registered under the head of kidnapping (45%), what is more disappointing is that every third crime against a child was registered under the POCSO Act.

Unfortunately, a whopping 140 children became victim to rape and murder, the most heinous of POCSO cases. The accused in POCSO cases are not limited to just acquaintances but even include biological fathers and the age of victims range from less than 1 year to 17 years, including both genders. The vulnerability and helplessness of children is also evident from the numbers that we are home to the largest number of child

labours in the world with 10.1 million children aged 5-14 years engaged in child labour (census 2011)² and our every fourth girl aged 20-24 years was found to have been married before 18 years of age according to National Family Health Survey -5³. Besides these crimes, statistics which are conscience shaking, the common site of children working in dhabas, begging on streets, roaming alone on railway stations is a stark reminder of the fact that children in this country are still far from being safe.

Children are suffering silently. Crimes against them are being committed in all spaces from home to schools to marketplaces to community settings to even cyberspace, yet the issue is not being dealt in the war mode only because they are “voiceless”. Being politically unimportant (as they can’t vote) and financially weak, they are dependent on us to raise their issues, to make them heard at the highest level. Therefore, it is high time that we gear up not only to secure rights to our children but also to ensure that our country is able to capitalize the largest pool of children in the world in national development.

In this article, we will try to analyze the current legal and policy framework concerning child protection, causes behind the dismal child protection scenario as I have come to understand with my limited experience in field in the State of Uttar Pradesh and also discuss the possible solutions to provide our children a safe space to grow, learn and bloom full to their potential.

Legal and Policy Framework concerning Child protection:

Children are the most vulnerable in all stages of their childhood. They are innocent, trust easily, and are not mature enough to differentiate the good from bad. Whenever a crime happens against a child, it not only affects them physically but leaves a deep mental and emotional imprint, which stifles their true development and thereby affects the development of the nation as a whole. The framers of the Constitution were well aware of this fact and therefore, in the Constitution itself, children were accorded due priority in fundamental rights and directive principles of State policy. They encompass most of the child rights included in the United Convention on the Rights of Child.

Besides the rights which Constitutional guarantees specific to children are as follows:

- Right to free and compulsory elementary education for all children in the 6-14 year age group (Article 21 A)
- Right to be protected from any hazardous employment till the age of 14 years (Article 24)
- Right to be protected from being abused and forced by economic necessity to enter occupations unsuited to their age or strength (Article 39(e))
- Right to equal opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and guaranteed protection of childhood and youth against exploitation and against moral and material abandonment (Article 39 (f))
- Right to early childhood care and education to all children until they complete the age of six years (Article 45)

Besides these, they also enjoy rights as equal citizens of India just like any adult, mainly Article 14, Article 15, Article 21, Article 23, Article 29, Article 46 and Article 47.

Being a signatory to the United Nations Convention on the Rights of Child and considering the special requirements of children, India has also enacted several laws to protect children from various crimes. These mainly include Juvenile Justice (Care and Protection of Children) Act 2015; the Protection of Children from Sexual Offences Act 2012; Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act 1994; Prohibition of Child Marriage Act, 2006; and Child Labour (Prohibition and Regulation) Amendment Act, 2016.

Recognizing that a multi-sectoral and multi-dimensional approach is necessary to secure the rights of children, the National Policy for Children was also adopted in the year 2013. The Policy has identified four key priority areas: survival, health and nutrition; education and development; protection and participation, for focused attention.

In addition to this, the draft National Child Protection Policy was also unveiled in 2018, which aims at providing a safe and conducive

environment for all children through the prevention and response to child abuse, exploitation and neglect.

A dedicated statutory body, the National Commission for Protection of Child Rights (NCPCR) has been established by Commission for Protection of Child Rights (CPCR) Act, 2005. It is mandated under Section 13 of CPCR Act, 2005 "to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and the UN Convention on the Rights of the Child."

The Ministry of Women and Child Development is the nodal ministry to take care of all issues related to children.

Where we lack:

Despite these Constitutional, statutory and institutional measures, we have not been really successful in providing a safe and secure environment to our children, as can be seen in the statistics given in previous paragraphs. The possible reasons, in my opinion are as follows:

1. Lack of due attention:

Children are definitely not on priority at the district level. The focus in crime meetings and in review even at the highest level is on the major crime heads like murder, loot, dacoity, rape etc. Children are nowhere in picture until it's a kidnapping for ransom or a minor girl being kidnapped or a case of elopement where the issue becomes sensitive w.r.t law and order arising out of caste/religion of the parties involved. The apathy of the district administration and police department can be best seen in the case of missing children.

Missing children, especially missing boys, don't receive due attention. The Investigating Officers after the first few days end the search and shrug off their responsibility by completing the formalities of preparing the missing person report and getting the details published in newspaper and telecasted on Doordarshan.

As per the latest figures of NCRB, 59,262 children went missing in India in 2020. With 48,972 children remaining untraced from the

previous years, the total number of missing children has gone up to 1,08,234 with girls forming 77% of the share. On the other hand, many rescued children whose families could not be traced are currently housed in child care institutions.

Resolution of this issue just requires a little attention and coordination at the national level.

2. Poor execution of JJ Act on ground:

- **Child welfare officer and practices followed at police station:** Police officers are not being formally assigned the role of child welfare officer. Normal sub-inspector handles the case and interacts with child in uniform. Moreover, there are no child-friendly spaces in the police station and on many occasions I found children seated with adult offenders. This was disturbing and action against the officer was also taken, but the problem lies in a lack of knowledge and sensitivity in sub-inspectors and the P.S. staff in general.
- **Poor conditions of the Child Care Institutions set up under JJ Act, 2015:** On personal visits, it has been observed that more number of children have been housed than the capacity, the rehabilitation and reintegration services as envisaged in the JJ Act are not being provided in a true sense. The principle of best interest of child is not being observed while taking decision on bail leading to a longer stay in the institution.

Case study - 1

On my visit to one of the CCIs, I found one child being kept in isolation. I went ahead and met the child who started crying profusely on seeing me. He said he wanted to play and eat with other children but was not allowed. On asking the in-charge of CCI, I was told that the kid is HIV+ve and therefore not allowed to mix up. Untouchability was at its worst and that too by officers in position. It took reprimand and counseling to give that child some freedom.

- **Anti-Human trafficking units and Special Juvenile Police Unit:** JJ Act envisages setting up of SJPU in each district, but it seems that the unit has been set up as a formality. It is keeping

records of crimes against children but it lacks the aggressive approach to prevent those crimes and bust the organized gangs involved. The very high numbers with respect to child labours, child beggars, child marriages as enumerated before also raise a question mark on the working of these units.

3. POCSO related issues:

Although these are the highest priority cases for police, yet the child victims sometimes have to go through arduous procedures and inconvenience due to lack of sensitivity of criminal justice system in entirety. Some perturbing issues are as follows:

- Doctors advising the child victim informally to deny medical test thereby destroying the best possible evidence.
- **Uncalled for remarks on children** by the nurses and sometimes by police personnel as well. In one case being monitored by myself, one police sub-inspector told the father of the victim that it was his lack of supervision and control on the child that led to her rape. The officer was punished for his remark, but it deeply affected the child who called me and narrated the entire incident in a sobbing voice.
- **Statement under 164 CrPC is not done in a child-friendly way:** The victims are presented in CJM court in front of everyone who then assigns her to a woman magistrate who can record her statement. The waiting time is long and sometimes not even done on the same day, citing lack of time. Sometimes multiple visits have to be made. There is no priority order. The girl's identity remains no more a secret due to her multiple visits.
- **Poor conviction rate:** Analysis of POCSO cases⁴ after ten years of enactment of the law by an independent think tank revealed that 43.44% of trials end in acquittals and only 14.03% lead to convictions. As maximum POCSO cases involve family members or someone known as accused, there is an extremely high chance of a victim turning hostile. Also, on an average, it takes 509.78 days or nearly one year and five months for a POCSO case to be disposed of as against the one-year time period stipulated by Section 35 of the Act.

Filling the gaps, the way ahead:

Hitting the roadblocks is a testimony to the fact that we have started walking the path at least. Therefore, the picture presented above may appear gloomy, but we'll encounter issues only when we are committed towards implementation of laws in letter and spirit. All the issues highlighted above therefore should be taken as opportunities to make the child protection system more robust.

A. Reaching out to children, "Police – My friend":

As explained before, children are voiceless. They also fear police more than any other citizen of this country as since childhood, it is embedded in them that police is someone to be scared of. Therefore, innovative measures are required to reach out to them, to win their trust so that they open up about the crimes they are facing and seeing in their daily lives. They are the best "sources" police can ask for. One such reach out initiative is being tried out by me, called "Police-My Friend".

As trainee IPS officer in Lucknow, it was noticed that in general, people were hesitant to come to police stations even for their genuine problems. To bridge the gap and to gain trust of people, we started a community policing initiative named "Police-My Friend" during my charge as SHO, Sushant Golf City. Its aim was to befriend the law-abiding citizens, get policing related inputs from the people themselves and also spread awareness about crimes specific to the group we were addressing.

The initiative had two components: a school component and a community component. In this article, I would like to emphasize more on the school component.

School component: In this component, we organized a police – student interaction program in schools of our jurisdiction. Since we were interacting with children, we wanted it to be a fun-filled activity than lecturing. For this, we first asked school administration to organize three competitions in their respective schools:

- 1.) Class I-IV: Greeting card making competition on the theme, "A message for police uncle/aunty"

2.) Class V-VIII: Poster making competition on the theme “Naye Bharat ki Nayi Police”

3.) Class IX – XII: An essay writing competition on the theme “Naye Bharat ki Nayi Police”

We collected all entries from the school and distributed them to the police personnel across the Lucknow Police Commissionerate so that police personnel know what children think of them and what their expectations are. And after selecting the best entries from each category, we went to schools on the pretext of prize distribution for the competitions held.

In these programs, we emphasized that all classes be present, especially classes from 1-VIII and in a 30-40 mins program, we presented the following:

1. A dance drama on the functioning of police and role of police in keeping the society safe.
2. A skit on Good touch Bad touch.
3. Fun quiz on traffic rules.
4. Information on helpline numbers through a poem.

After each section, we used to ask several questions to children to test their understanding of what we explained and distribute chocolates for best answers. We also took a lot of questions from children so as to address their doubts. In the end, we used to share our phone numbers and email ids so that children can reach out to us whenever they want to and with respect to anything which they feel require our intervention.

This initiative worked both ways: it sensitized our police personnel towards the special needs of children and brought a behavioral change in them and also allayed fears in the hearts of children. Later was evident in the police station visits we had from children with their parents, the number of messages we received on WhatsApp and on how children were enthusiastic about getting photographed with uniformed personnel after each meeting.

Community component: In this component, we made a beat-wise roster so as to cover maximum villages and localities in our jurisdiction. In these meetings we would first take problems from the people and then spread awareness about cyberfrauds, importance of CCTV, domestic violence, ill-effects of drinking and drugs and how the community can cooperate in eliminating these, good touch-bad touch, menaces from society. We also shared our numbers to enable people to share whatever information they have. We made sure that these meetings had children, women and elders because these are the sections we wanted to reach out. Once people saw immediate action on their information, they shared more due to increased trust and a virtuous cycle was created.

To wean away children from drugs, crimes and mobiles, we also started **inter-village sports competitions**, athletic meet etc in which we also participated. This pushed village children into sports, started a sports culture and also generated immense goodwill and friendship between young constables and village youth.

Since my posting as ASP Bulandsheher, I have continued the initiative with one school and one village a week in my jurisdiction.

Learnings:

1. Received inputs from children: Children proposed solutions like “children booth” on the lines of pink booth/ pink police stations which cater specifically to children needs in their essays. They also expressed their desire of having a more tech savvy police like in western world and visualized them in their posters. The concern about corruption and highhandedness in police was common in their write ups and interactions. But their greeting cards reflected huge respect for police and how kids see police as protectors and guardians of the society.

2. Opening new cases: After school interactions, we received calls from students on domestic violence, about children who were into drugs and who were their suppliers, etc. The best success story has been narrated in the Box.

Case Study 2: Unveiling the POCSO case

After one such school program, school principal and a teacher from a reputed school visited me in my office with a sealed letter for me. The letter was from a 9th grade student Pooja (name changed). Written in flawless English, Pooja narrated how she was being continuously raped by her own father since last few years. Her father started bad touch with her since she was 9 years old which reached to the stage of penetrative sexual assault when she was 13. Her father was in army and would sleep with her on his every visit to home. Her mother knew about this but took no action because she had two younger kids as well and he was the only earning member of the family. Pooja said that she didn't want to die but want this pain to end. We registered the case, arrested the man from Punjab and coordinated with army to take care of financial needs of the family.

3. School Police partnership: Pink boxes have been installed in the schools in places like toilets so that children can without hesitation and anonymously submit their complaints. These boxes would be opened everyday by the concerned female beat constables and redressal would be done by the P.S. concerned. WhatsApp groups of teachers and female beat constables were also made, so that there is continuous communication between police and schools. Once in a while, these constables would also stand in front of schools to prevent eve teasing at the time of school opening and closing.

4. Child Protection Committees: In the villages or communities, we can have Village/ Community Level Child Protection Committees which can consist of teachers, volunteers from the community who can identify the vulnerable in their area and act as a bridge between police and children.

The Child Welfare Officer, the Women Welfare Officer and a representative from NALSA should also be part of these committees to provide a holistic solution to children.

Proposed model on the lines of “Police – My friend”:

- Make it mandatory for GOs, SHO, Beat constables to at least cover one school and one village a week.
- Include child specific components like awareness of good touch-bad touch, traffic rules, helpline numbers, working of police, online crimes, ill-effects of drugs etc. in the program
- Prepare circle wise / sub-division-wise teams from the staff itself who can conduct these programs in a fun way. Inclusion of videos, documentaries, distribution of prizes in these events.
- Action taken reports on children complaints be taken at district level every week to monitor if complaints are being addressed.
- Non-redressal will widen the trust deficit and the program will fail in entirety.
- WhatsApp groups of teachers, beat, child welfare officer, women welfare officer be made for continuous interaction.
- Conducting visits of students to police stations, organizing sports meet to allay their fears.
- Greeting children with smiles and candies whenever traffic constables or police personnel meet them for continuous image building.

This approach is different from Student Police Cadet program because it aims at bridging the gap between children and police in a more child-friendly way and gaining their trust so as to prevent child specific crimes and to detect them timely if at all they happen. The aim is to reduce the suffering of children and make them feel more secure and safe.

B. Sensitization and Training of Staff: Police officials, lawyers, judges and doctors i.e., all stakeholders should have a mandatory sensitization program with respect to special needs of children. POCSO, JJ Act should be made a necessary part of their curriculum. Violations of the provisions of the act should be taken with utmost seriousness and punishment given and exceptional actions be

rewarded so as to enforce child-friendly behavior in the entire community.

c. According priority at highest level:

- a. Status of crimes against children be reviewed in crime meetings at district level.
- b. Action by AHTU, SJPU in the period be reviewed and targets given.
- c. **Children weeks:** Special drives against child marriages, child labour be carried out by the entire district police force instead of just these depts. This can be done on similar lines like traffic weeks being organized in various States.

Case study 3: Operation Khoj

This was started to track all missing children in my jurisdiction. With dedicated teams consisting of investigating officers, surveillance and cyber cell teams working on it, we recovered more than 50% children in one-and-a-half months.

d. Missing Children:

- i. The inter-district and inter-state coordination need to be improved through dedicated teams and technology for effective action against child trafficking and track the missing children in the country.
- ii. Partnership of police, civil administration, NGOs, Village/ community child protection committees etc need to be formalized for the same and all stakeholders be made a part of these dedicated teams.

D. Legislative/procedural changes:

a. POCSO:

- i. Age of consent may be reduced or a separate provision be made to deal with cases of elopement when children are in the age group of 16-18 years. Boys in these cases invariably end up in jail, affecting them irreversibly on multiple fronts.

- ii. One stop Centres for child victims: Medical, statement u/s164 Cr.P.C, counseling, legal assistance, application of financial compensation, etc should be done under one roof. Going to normal courts should be totally done away with.
- iii. Like in Uttar Pradesh⁵, monitoring of POCSO investigations and trials be done at the highest level to prevent delay and turning of hostile of victims.
- iv. Assigning a couple of POCSO victims to one gazetted officer to ensure follow up and instill a sense of security in the victims.

b. JJ Act:

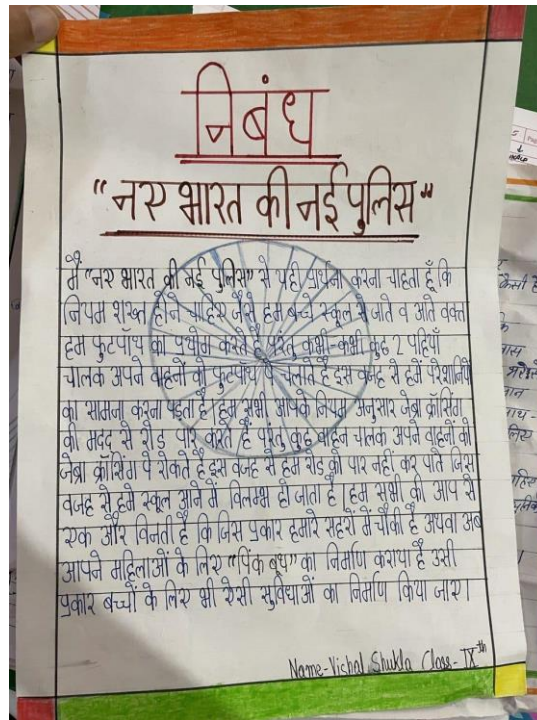
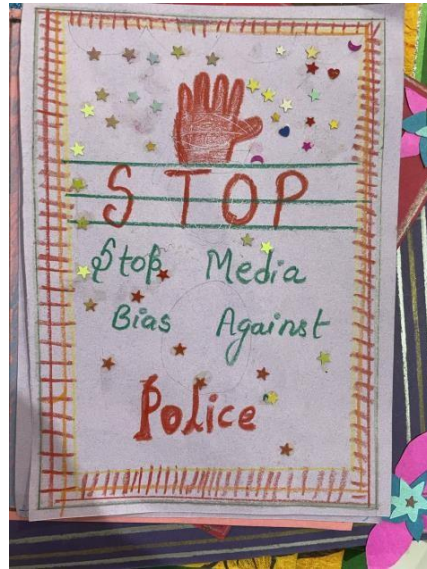
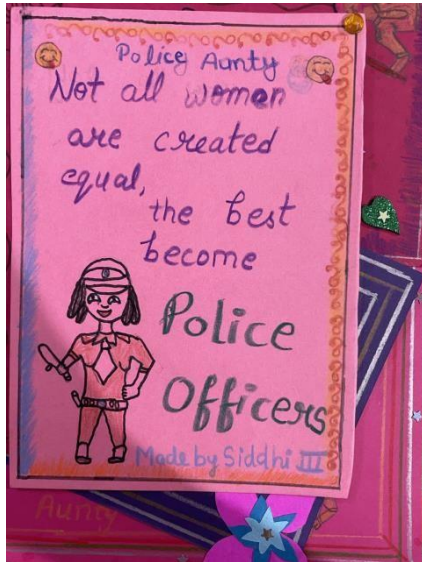
- i. Child-friendly spaces and Child Welfare Officer at P.S. be made a reality now through insertion of punitive measures for not implementing the JJ Act provisions and JJ rules with respect to the same.
- ii. Child Care Institutions (CCI):
 1. Mandatory inspection by DM and SSP at least once in two months and not by any other officer.
 2. Hand holding and mentoring of children once they move out of CCI to prevent their fall back to delinquency. Coordinating with schools and ITIs to make them financially independent in the future.

Conclusion:

Children have been the most vulnerable of all sections. For ages, they have suffered in silence. Enactment of POCSO and JJ Act, establishment of NCPCR, etc. are welcome steps in providing voice to this unheard, innocent lot of our society. However, whenever we are undergoing a transformation and new laws are being implemented, issues are bound to arise. This article is just a small endeavor in bringing ground realities to everyone's notice so that we plug in the gaps and provide our children a more secure, safe space to live in and at least start a discussion towards pinning the child protection agenda on top of our policing priorities. Hope, together we add to the shine of rising India by bringing smiles on

millions of tiny faces and enable them in becoming a productive, responsible future citizens of this country.

Some entries for Police-My Friend school competition



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