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A Socio-Legal Study of Child Sexual Abuse in India

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ABSTRACT

Child Sexual Abuse (CSA) is "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 and cannot give consent, or that violates the laws or social taboos of society". It is a cruel and tragic occurrence and a serious infringement of a child's rights to health and protection.

In this article, I would begin by analyzing the issue of childhood sexuality. I would then profile the various actors of the crime i.e., the offenders, victims, and the informers. I would then discuss the support or otherwise for the victim offered by the police, hospitals, judiciary, and support person during the excruciatingly painful road to justice and rehabilitation. I would analyze the reaction of the family and society, as they are the primary caregivers who provide support and solace to the victim.

I would then proceed to analyze the impacts of sexual abuse of children. Finally, I would discuss certain facets of the offence - The Protection of Children from Sex Offences Act, 2012 (POCSO), juvenile sex offenders, male victims of sex offence, consensual sex, and incest.

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Keywords: Child Sex Abuse, POCSO Act, Victimization, Offenders, Justice System

CHAPTER ONE
CHILDHOOD SEXUALITY

Introduction

Child Sexual Abuse is any offence of a sexual nature against a child, which in this case is defined as a person who has not attained the age of 18 years. In India, a child is sexually abused every 15 minutes [1]. It is one of the most heinous crimes against one of the most vulnerable sections of society, and leaves an indelible impact on the minds of the minor as their personality, value system, and morality are still developing.

The impact of Child Sex Abuse is manifold and long-lasting however, to understand the correct extent of its impact, it is essential to begin by trying to understand childhood sexuality, as this oft-ignored facet of children plays a determining role in the perpetuation of the offence as well as in its aftermath. In this chapter, I would deal with childhood sexuality, trying to establish the existence of sexual feelings in children and analyze why it is important to understand the perceived feelings of charm and pleasure about sex in the mind of a child.

Till recent times, in India, the discussion of childhood sexuality was abhorred by parents, educationists, doctors, sociologists, policy makers, and legal experts alike, let alone being researched, a neglect which

has multiple effects on dealing with the impact of CSA and hampers the rehabilitation process of the victims. Childhood sexuality has been established by researchers since a long time, however due to prevalent socio economic norms it has always been brushed under the carpet in India- a chasm which has devastating repercussions.

Childhood Sexuality: An Enigma

Childhood sexuality is an oxymoron as society believes that childhood and sexuality cannot coexist. A child is considered an innocent and immature being, and it is presumed that he cannot have sexual desire. In India, sex is a taboo topic, and parents don't impart sex education to even teenagers. It is this veil of secrecy that steadfastly makes people believe that sexuality is absent in children and any desire or curiosity of children is snubbed mercilessly. Any question or act of a child related to sex is termed as perverse, which can lead the child to believe that there is something wrong with them. However, as per existing research, all humans are sexual beings and sexual feelings are present since birth, but they are brutally suppressed.

In his book Infantile sexuality, Freud has said that there seems to be no doubt that germs of sexual impulses are already present in the newborn child and that these continue to develop for a time, but are then overtaken by a progressive process of suppression [2]. He adds that even an infant has sexuality, and every habit of the baby depicts some kind of sexuality. As soon as the infant experiences the pleasure of breastfeeding the infant starts to enjoy the lip movement and doesn't want to get detached from his mother as the infant starts feeling sexually satisfied with the lip movement and thereafter to satisfy himself the infant starts thumb sucking and it may be assumed that children who do so, there is a constitutional intensification of the erotogenic significance of the labial region [2]. If that significance persists, these same children when they are grown up will become epicures in kissing, will be inclined to perverse kissing, or, if males, will have a powerful motive for drinking and smoking.

Freud adds, children who are making use of the susceptibility to erotogenic stimulation of the anal zone betray themselves by holding back their stool till its accumulation brings about violent muscular contractions and, as it passes through the anus, is able to produce powerful stimulation of the mucous membrane. In so doing, it must no doubt cause not only painful but also highly pleasurable sensations [2]. One of the clearest signs of subsequent eccentricity or nervousness is to be seen when a baby obstinately refuses to empty his bowels when he is put on the pot—that is, when his nurse wants him to and holds back that function till he himself chooses to exercise it. He is naturally not concerned with dirtying the bed, he is only anxious not to miss the subsidiary pleasure attached to defecating [2]. The act of holding back stool involves a lot of pain for any human, but the child takes it as an act of pleasure, just as sex provides both pain and pleasure.

A child's myriad questions show that they have immense curiosity regarding sexual acts- children often seek answers to questions like where do children come from or how are they produced? Unfortunately, in India, such questions elicit weird responses, which have no bearing to scientific facts, as caregivers abstain from mentioning anything related to sex, and such roundabout answers cause the child's curiosity to flare up.

Even when parents teach kids about sexuality, they don't use words like vagina or penis or breast, but instead use other terms that are non-sexual in nature, demonstrating the belief that children are incapable of understanding the correct terminology. In the novel 'Lolita' [3] the 12-year-old protagonist narrates her experience of having sex for the first time simply because she was curious about it and then found pleasure in the act.

In India, the predominant belief among parents, educators, and policy makers is that sexual thoughts are absent in children and any child exhibiting sexual behavior is labelled deviant. However, Freud says, one feature of the popular view of the sexual instinct is that it is absent in childhood and only awakens in the period of life described as puberty. This, however, is not merely a simple error but one that has had grave consequences, for it is mainly to this idea that we owe our present ignorance of the fundamental conditions of sexual life [2]. A thorough study of the sexual manifestations of childhood would probably reveal the essential characters of the sexual instinct and would show us the course of its development.

Sterling Fishman has an interesting take on the way childhood sexuality is perceived. He says, that prior to 1700 little regard was paid to childhood sexuality even by those whom one might expect to be most concerned, i.e. religious moralists; that in the eighteenth century, first theological, then medical moralists began to condemn childhood sexual activity as either sinful and/or physically harmful, or as a pathological problem; that in the nineteenth century childhood sexuality, especially masturbation, came to be considered a social evil and not merely an individual problem, a threat to the polity as a whole requiring harsh measures if necessary to eradicate it; and that in the post- Freudian climate of the twentieth century, there has been a complete volte face and childhood sexuality is now seen as a normal and natural expression of the infant and child, the suppression of which creates both individual and social problem [4].

Conclusion

The continual neglect of the fact of sexuality in young children reaffirms the blanket denial of such feelings, and any such display is brutally suppressed. Since discussions about sex are prohibited, it becomes a secret and hence, coveted object. It has to be remembered that children, even very young ones, due to the lethal combination of their ignorance, curiosity, and natural desires may exhibit pleasure and desire for the sexual act, preventing them from objecting even when they are being abused. At this stage, they may be ignorant about the concept of consent, in all likelihood have no knowledge about the aftermath of sexual encounter and are definitely afraid of being found out, creating a perfect recipe for disaster.

The situation becomes more complex when a child's natural queries may be later used to brand her as morally deviant and then accuse her of having invited the sexual attack. Worse, she may even be accused of having found pleasure in the attack, giving the perpetrator an excuse to escape.

This chapter dealt with childhood sexuality and how it is important to acknowledge children as sexual beings. It is a fact that sex education in the country is in shambles, reinforcing the idea of shame in the sexual act. In India it is widely believed that the start of the menstrual cycle turns children into sexual beings, but it has to be understood that sexuality is not a sudden process but is present since birth.

This refusal to acknowledge childhood sexuality creates a barrier in communication, feeding misinformation in the young minds, which creates a potpourri of emotions preventing them from understanding what constitutes abuse, when to report and most dangerously it leads the children to blame themselves for having invited the assault. There is an urgent need to study childhood sexuality, to understand the psyche of both the victims and offenders, and also establish why understanding this complex emotion can help to reduce the incidence of the crime as well as aid in accelerating the recovery process of the victims.

CHAPTER TWO
PROFILING THE VARIOUS ACTORS

Introduction

The previous chapter dwelt on the concept of childhood sexuality and tried to establish the fact that children too are sexual beings and how the denial of this fact actually leads to an environment where the possibility of such abuse is increased.

In this chapter, I would be analyzing the profiles of the various actors of CSA - the offenders, victims, and informants.

I would profile the victims in terms of their age and socio- economic background. The impact on very young children differs from the impacts faced by pre-teens, as the very young victims tend to forget the event with time, their innocent minds not having comprehended the extent of the enormity of the crime.

As regards the offenders, I would examine the proportion constituting family members, close relatives, and teachers - people with whom the child establishes her first emotional bonds or whom she trusts, or those are duty-bound to provide care and protection. It is noteworthy that the law prescribes enhanced punishment for offences committed by those in a position of trust like police, army personnel or educators, underlining the gravity of the offence when perpetuated by those whom the child loves and trusts, since the scars run deeper when the offender is known or trusted.

I would then attempt to analyze the profile of the informants- whether family member, teacher or neighbor - this aspect holds a key to understanding the issue, as silence is a major hurdle in prevention and resolution of such offences and an understanding of this aspect would provide clues on better reporting of such crimes.

1. CSA Victims

Delhi Commission for Protection of Child Rights (DCPCR) conducted a study in 2019 on child rape victims in Delhi, encompassing the profile of the victims, relationship with community, challenges faced, compensation, legal aid, and counselling received by the victims, and their future plans.

The report profiled the victims in terms of age, family income and occupation, social status, and religion. It is seen that majority of the victims are of 11-15 years, a stage of developing mental and physical maturity. As per the report, out of 94 girls in the sample, 46% are in the age group of 11 to 15 years. While the shares of girls in the category of '16 to under-18 years' and 'six to 10 years' are almost equal- 22% and 20% respectively, those in the age group of 'two to five years' and 'below two years' constitute 11% and 1% of the total girl victims respectively [5].

The report further states that the families of 55% child rape victims are poor with a monthly family income of Rs. 10000 or less. A large number of victims were from socially backward groups- while a majority of the victims belong to other backward classes (43%), the Scheduled Castes (32%) and general category (25%) occupy second and third positions respectively [5].

Though the data tends to suggest that the victims primarily belong to lower socio- economic strata, caution must be exercised in reading such data, as CSA is a grossly under-reported crime, as in India, the convoluted concept of family dignity restrains reporting. There is a high possibility of the crime occurring in the upper echelons of society too, but not being reflected in statistics due to non-reporting, to avoid tarnishing the family reputation.

2. Offenders

Kailash Satyarthi Children Foundation (KSCF) founded by Nobel Peace Laureate Shri Kailash Satyarthi, working in the area of child rights brought out a report during the COVID pandemic, which had marked

an upsurge in cases of CSA.

According to it, 60% of the perpetrators in cases of CSA are acquaintances i.e., family friends and neighbors, 30% are relatives and only 10% are a stranger or an outsider [6]. This grim statistic should be taken as a wake-up call for parents and caregivers, as protecting a child from known persons is a complex problem, and so is reporting the crime and ensuring justice for the victims. The fact that the offender is a known person makes the crime more heinous and creates deeper scars in the minds of the vulnerable victims as they take a long time to process this violation by a known and loved one.

3. Informers

Human Rights Watch (HRW), an international organization engaged in protecting human rights across the world, conducted a survey in 2013 in India, in the wake of several reports of child abuse, highlighting the alarming number of cases, poor response, and the failure of the justice system, along with their recommendations.

As per their report entitled 'Breaking the Silence', the vast majority of victims (72 percent) said that they did not report the matter to anyone, and only 3 percent of them or their families told the police [7]. Former Chief Justice of India D Y Chandrachud had painfully observed that sexual abuse of children remains a hidden problem, as there is a culture of silence. Therefore, the State must encourage families to report abuse even where the perpetrator is a family member. Since in most of the cases offenders are known, reporting becomes all the more difficult. I had contacted Kailash Satyarthi Children's Foundation in connection with this research and in response to my query, they informed that in cases where a perpetrator is a known person, close relative, victim/parent/others, the known person or immediate family member reports the case whereas in some cases the neighbor or the extended family member reports the case.

Conclusion

To understand the impact of CSA, it is essential to have an overview of the victims and offenders so that targeted policies can be drafted both for prevention as well as for rehabilitation of the victims.

However, it is essential to note that statistics may not always provide the real or complete picture of the offence, as in India due to the shame associated with rape, reporting is severely lacking, with people refraining from the same to avoid social stigma and to protect family reputation. Though the data seems to indicate a higher prevalence of the offence in the socially and economically backward segments of society, there is a possibility of the offence occurring in equal or maybe higher frequency in other sections too.

It is essential to create an atmosphere of trust in the system, which would enhance reporting, for which it is essential to strengthen the efficiency of the responders, which I would be analyzing in the next Chapter.

CHAPTER THREE
EXAMINING THE RESPONDERS

Introduction

Once the crime is reported, ideally the various stakeholders should initiate the due process for support, redressal and rehabilitation. The first responders to the crime are the police who investigate the case, then the doctors examine the victim and help the police in supporting their case. The matter then is decided by the judiciary on the basis of facts and evidence. The process of recovery and reintegration of the victim is facilitated by a support person, however family, school, and society also play an integral

part in the process. Unfortunately, the appalling attitude of the police, hospitals and judiciary often forces the victims to give up their fight while the blatant discrimination of society further traumatizes the innocent victim. In this Chapter I would examine the ground reality in this regard.

1. Police

As per various surveys, the response of the police ranges from refusing to believe the victim, insinuating it to be consensual, coercing them to not register First Information Report (FIR), to downright torture if the offender is socio economically powerful. This has been by highlighted by the organization Human Rights Watch in its report 'Breaking the Silence' where they have quoted several case studies, like the case of 12-year-old Krishna, who was raped by a man from a politically strong background. She was detained by the police for 12 days to coerce her to retract the complaint [7]t.

According to a report of Kailash Satyarthi Children's Foundation, 84% of the respondents are also ready to take the initiative to inform the police if they come across any incident of CSA, but many of them express that they would try several other means of redressal before doing so [6].

To aggravate the situation, the police are notoriously slow in carrying out investigations and arrests. According to KSCF, there are many factors which delay the prosecution, such as delay in the submission of the charge sheet by the police. It is shocking that police take days together to even get the forensic samples analyzed. VIDHI Centre for legal policy, an independent think tank conducted a research titled 'A Decade of POCSO' as per which in 49% of the cases, it has taken the police anywhere between 31 days to greater than one year to deposit samples with forensics, a criminal delay which just adds up to the delay in concluding the case and providing a closure to the victim [8].

2. Doctors

Though the POCSO Act has prescribed the safety measures to be followed while examining victims of CSA, it is unfortunate that the medical examination of the victims is invariably traumatic.

In one of the cases reported in the HRW report 'Breaking the Silence' Abida was abducted and gang raped by three men in Varanasi. When she reached home, her family thought she was menstruating so they washed her clothes due to which the doctors refused to believe her complaint solely on the basis of the fact that her clothes were clean. The doctor asked her if she was menstruating [7], it is appalling that trained doctors are unable to distinguish between assault and menstruation and concluded that she had not been raped. Based on this warped medical report, the police asserted that there had been no rape, even accusing the victim of lying.

The HRW Report concluded that many doctors in India simply do not have the skills to perform such an important and sensitive role. Many acts of child sexual abuse do not involve violence or penetrative sex, and victims often wash themselves after being assaulted, which doctors fail to appreciate and then report that there is no evidence of rape [7].

3. Judiciary

The judicial process is India, even in sensitive matter of child abuse, is excruciatingly long. This delay not only forces the victims to relive the crime multiple times, tragically due to the inordinately long proceedings, families cannot afford to take the case to its logical conclusion, which leaves a festering wound on the child's mind and prevents closure.

Though the POCSO Act provides that a CSA case should be disposed off within a year it takes an average of a year and five months. Further, 43.44% of cases end in acquittals and only 14.03% lead to convictions [8]. The shockingly low conviction rate is often a result of botched up police investigation and incorrect medical reports.

If the perpetrator is acquitted, there might be a repeat of abuse on the victim, or her family and society may punish her for being a liar. All these leave scars on the child's mind as she morphs into adulthood, and the trauma affects her future relationships too.

Victims of child sexual abuse and their families face the daunting prospect of a judicial process that can drag on for years. Court proceedings in India generally are a long and trying ordeal, and in child sexual abuse cases, where the burdens of testifying repeatedly and over long periods of time fall on already traumatized children as well as parents, the complainants end up feeling battered by the process, in some cases leading them to withdraw their complaints.

The child has to appear multiple times in court over years and also have her statement questioned and doubted which force many victims to drop the case. HRW report cited the case of Amrita, a 14-year-old girl who was physically and sexually abused by a couple who hired her as maid, where the husband used to ask her to stand naked in front of him, but even after three years and 18 court appearances, Amrita still has no idea when her ordeal will be over [7].

The POCSO Act not only mandates that a child friendly Court be present for CSA cases, but it also prescribes the time limit for disposal of cases, but this provision is far from being implemented. According to a report of KSCF in 2016, if there are no fresh CSA cases reported then existing cases would complete by the year 2117 [9]. These statistics pathetically highlight the extent of pendency in cases whose closure is essential for the children, as they need to focus on their education and career.

The inordinate delay has multiple effects on the trial- it often happens that the victim gets married and the family then prefers to drop the matter. In response to my query, KSCF reported that if the victim gets married during the pendency of the case, they turn hostile, given the premium placed on virginity in India and the pressure to marry off girls, families prefer to forgo justice.

Due to long delays, there is possibility that the parties forget details of the offence which adversely affect the outcome of the trial. According to a report of VIDHI, as more time passes, witnesses might start to forget important details pertaining to the case, particularly Investigating Officers, who might also be transferred, negatively impacting the outcome of the case. [8]

4. Support Person

A support person guides the child victim by interacting with her and keeping her updated with the whole legal process, but in a study conducted in Maharashtra after four years of the implementation of the POCSO Act, it was found that 94% of Child Welfare Committees were unaware of the provision of appointing a support person as per the POCSO Rules [10]. It further found that not a single DCPU that was a part of the study was aware of the provisions under which they could be appointed as support persons under the POCSO Rules. This reveals how the lack of awareness and the will to implement the provisions of the Act denies victims of CSA from availing the expertise of a support person who can ease their trauma.

5. Family and Community

Most case of CSA involve offenders who are known to the victim and her family due to which the matter is not reported, with sometimes even the police asking the victim to settle things among themselves to avoid tarnishing the family image. Often the victim or her parents may be financially dependent on the offender and if they insist on reporting the crime, they may be thrown out of the residence which impedes the process of redressal as well as rehabilitation.

Another salient fact impacting victims is that traditional values profess that family is a safe place and a known person cannot harm. All the historical sagas, fairy tales and movies represent family as a happy

place and hence when an abuse by a family member occurs, the victim is seen to be questioning established beliefs, which families find difficult to process, which aggravate her troubles.

Children need the support and assistance of trusted adults to protect them from sexual abuse, but the response of adults to these cases is often inadequate. They might not wish to confront a relative or risk attracting social stigma to the family. The government's failure to create public faith in its institutions further discourages them from coming forward.

The crime shatters the entire family as often other family members are threatened or harmed if the offender is powerful, there is loss of livelihood due to multiple court visits, other siblings have to suffer loss in school or work to provide safety to the victim or due to victim shaming. Unfortunately, community fails to provide the requisite support, with several victims often being forced to relocate, due to shaming by the neighbors and in school.

Conclusion

We as a society have failed our children- evidenced by the callous and slow response of the police, doctors and judiciary and most shockingly by the victim shaming of the society and attempts to muzzle the victim by the family.

The police are the first responders to such crimes, however various studies have highlighted their lackadaisical attitude, inefficiency and downright corruption. The medical examination of the victim sets the base for the entire case, and any lapse in it can mar the chances of conviction. Also, for the victim, this sets the tone for her journey of seeking justice- an insensitive handling, victim shaming or discrediting her trauma can dissuade her attempt to seek justice. Studies have shown that misogynistic attitudes coupled with lack of appropriate knowledge and insensitive behavior of the staff have often traumatized victims further forcing several of them to desist from proceeding with their complaint.

As far as the response of the judiciary goes, the journey to justice would be eased significantly by implementation of the provisions of law in letter and spirit. The inordinate delay and low conviction rates of offenders fails to inspire faith in the victim and family. The failure to appoint support persons who are supposed to help the victim in the judicial process as well as ease their recovery is a glaring lacunae. This examination is an attempt to enhance better understanding of the shortfalls in the responders supposed to redress this menace and serve as guiding

light to law and policy makers and enable them to make targeted efforts towards eradicating this horrendous crime. Low conviction rate, threats from the offender, notions of family honor end up in protecting the perpetrator leaving the child confused and wary, and the perpetrator emboldened to repeat the crime. Having had an overview of the ground reality with reference to the responders, in the next chapter I would deal with the impact of the crime on the survivors where I would highlight how the behavior of the responders aggravates the scars of the victim.

CHAPTER FOUR
IMPACT OF CHILD SEXUAL ABUSE

Introduction

In this Chapter I would analyze the impact of the crime on the victim during her arduous journey meandering through the labyrinth of police, hospitals and courts. I would dwell on how the torturous process changes the course of her life impacting her emotional well - being, physical health, education and career, relation with family and community and impact her relationships in adult life.

Many times, the children have to face victim shaming by even their parents, which cause a permanent dent in their mind and impact their views on sex. When victims are unable to report the crime, it may lead to repeated long-term abuse- directed at them or a younger sibling – which can cause feeling of guilt and helplessness leading to various psychological problems.

Kailash Satyarthi Children's Foundation (KSCF) conducted an exploratory pilot study to analyze the psycho social impact of CSA in 2017 .The study found that CSA affects not only the physical, mental and psychological health of the victim but also impacts her socially through changes in the behavior of neighbors, relatives, family members and in school towards her and concluded that CSA has severe impact on a child's psychological state, health, level of independence, social relationships and education, impact that may last throughout the lifespan of a survivor [6].

The report further states that CSA is amongst the most heinous of crimes against children and an extreme violation of child rights. Sexual abuse puts the child in perpetual trauma and shock affecting her/his physical, mental, psychological as well as social well-being and placing her/his overall growth and development in jeopardy [6].

To analyze the various impact of CSA I have divided this Chapter into different sections - the first part would deal with the emotional impact of the trauma, then the physical effects proceeding to discuss the impact on education and career, change in her relation with family and society and will finally discuss how the trauma impacts her future relationships as an adult.

1. Emotional Impact

The emotional impact of CSA varies depending on different factors like severity of abuse, age of the victim, and the frequency and duration of abuse. Experts assert that the relationship of the abuser to the victim is also a significant factor. The various impacts on mental health are;

1.1 Post-Traumatic Stress disorder (PTSD)

PTSD refers to a condition where the survivor experiences frequent nightmares, avoidance towards a situation, sleepier than usual after having faced a traumatic abuse [11].

1.2 Cognitive Distortions

CSA is a crime that torments the survivor at various levels. The survivor is sexually abused, disbelieved when she reports the crime, and then faces multiple obstacles while attempting to seek justice, all of which impacts the victim severely. A variety of studies document chronic self-perceptions of helplessness and hopelessness, impaired trust, self-blame, and low self-esteem in abused children. These cognitive alterations often continue on into adolescence and adulthood [12].

1.3 Emotional Distress

The incident of sexual abuse is traumatizing, especially as the survivors are unable to speak to anyone regarding the incident, as it is considered "inappropriate" and, for no fault of theirs, they are termed characterless or worse, even the one responsible for the incident. The continuous taunts of the society lead to depression, anxiety and anger among the survivors and even when they grow up they are more prone to depression [12].

1.4 Avoidance

The abuse causes immense shock and pain, and survivors try to deal with it in different ways. Avoidant behavior among victims of sexual abuse are attempts to cope with the chronic trauma and dysphoria induced by childhood victimization. Survivors may resort to substance abuse, self-mutilation and indiscriminate sexual activities [12].

1.5 Suicidal tendency

Increased suicidal ideation and behaviors have been linked to sexual abuse in child victims [12].

1.6 Eating Disorders

These survivors in their adult life often face eating disorder problems, specifically bulimic bingeing and purging.

1.7 Lack of Confidence

According to a 2017 KSCF report, older children realize what has happened and face the wrath of social discrimination, exclusion and stigma. As a result, even if they are ready to accept the experience and move on, these external pressures eventually break their self-confidence, self-respect and self-esteem. This also makes it difficult for them to regain trust in people [6].

1.8 Court Anxiety

Court proceedings are long and intimidating specially when the survivor is not well educated and unable to understand the intricacies of the legal maze. Most Courts are not child friendly which further lead to anxiety aggravated by negative and adverse experiences in court, in spite of which they are still forced to go there [7].

2. Impact On Physical Health

The crime adversely impacts the physical health of the victims also. As per the DCPCR report; half of those who reported health complications linked to rape suffer from lower abdominal pain. Victims suffering from weakness or anemia are a close second with 42% suffering from health problem. While 16% child victims each suffer from reproductive tract infection and pain in legs and back, 19% from major health complications like epilepsy, fits and surgery following rape. The study also came across one victim who had become physically disabled due to rape as the culprit had attacked the girl's head with a glass bottle that resulted in fracture of skull and permanent damage to one eye, and another victim who suffers from light bleeding [5].

3 Impact On Education and Career

The crime adversely hampers the studies of the victim as the survivor faces derogatory comments in school or sometimes the victim is forced to change her residence due to ostracization by neighbors which disturbs their studies. A child repeatedly revisits the trauma which disturbs her focus on studies impacting the academic performance and frequent court visits also impact the survivor's education. All this leads to an inherent disadvantage to the victim in their career leading to low level of success in life.

According to the Delhi Commission for Protection of Child Right (DCPCR) report on child rape victims in Delhi, only 52% of the total child victims are currently studying in schools, and the corresponding shares of school goes among girls and boys are 51% and 67% respectively. There is, however, a huge gap in educational attainment, as could be noticed in the share of dropped out children, who form 42% of the total sample. Out of the total drop out children, 9% are planning to restart the study and 33% have completely dropped out. While 4% victims are studying from residence, 2% have not yet been enrolled in school [5].

The high dropout could be due to the fear of being abused again or due to the survivor receiving threats from the offender, which scares the guardian. Survivors who want to pursue their education are discriminated by teachers and tutors.

This is one of the most tragic impact as the victims become directionless in life, without the routine of

school, which also decisively reduces future employment opportunities. As per the DCPCR report, 56% respondents out of the total sample could not share their future career plan. This is indicative of their ignorance as well as inability to set goals of life [5].

The lack of education and consequent lack of jobs pushes many survivors into the sex trade, with childhood sexual abuse found to be a significant predictor of prostitution.

4. Relation with Family and Society

The survivor goes through a traumatizing situation, even though she is not at fault, as Indian society considers sexual abuse as a stigma for the victim as well as her family. The continuous victim blaming leads to the child becoming secluded and not trusting anyone, even in her adult life.

RAHI, an NGO based in Delhi dealing with CSA, found that one of the survivors was abused by their domestic help, who had also abused her other two sisters, but when one of her sisters tried to share it with their mother, the mother replied that she must have enjoyed it. When a survivor discloses such a crime, the worst thing for her to hear is that she seduced the man or that she enjoyed it, that too by her primary caregiver.

Rape is a crime that leads to the survivor being ostracized by the community. As per the DCPCR report, while studying the nature of community relationship in the light of the incidence of rape, majority of the survivors rated their relationship with communities as 'average', while community relationship was rated poor by 18% respondents and very poor by 4%, the shares of those who rate the relationship as very good and good being 7% and 22% respectively. In other words, community relationship of majority of families is either average or below average [5].

5. Impact On Future Relations

Child sexual abuse introduces the child to sexuality in ways that are psychologically and physically overstimulating, and for the child victim, sexually abusive behaviors are age inappropriate as well as developmentally and maturational 'out of sync' due to which survivors often experience changes in sexual behavior and distorted sexual development which can have varied outcomes in adulthood.

5.1 Trust issues

A survivor whose account is disbelieved, especially by her caregivers, suffers from lifelong inability to trust people. As per a survivor story reported by NGO RAHI, when as a child, a girl was not believed by her mother, she couldn't trust a man, even when she was married- she was insecure and jealous of her husband even talking to other women.

5.2 Problems in Sex and Sexuality

Finkelhor and Brown coined the term 'traumatic sexualization' according to which the child's sexuality is not shaped in a proper way after an abuse due to which as adults these survivors sometimes consider sex as something associated with pain [13].

Survivors may suffer from repeated flashbacks of the incident, have problem in arousal, orgasm, and vaginismus, are more conscious about their body shape, might also indulge in sexual activities more, and are more prone to sexually transmitted diseases. Indulgence in frequent sexual activity is a method for them to experience the pleasure in sex and forget the trauma.

Conclusion

CSA has multiple side effects on the survivor, and this chapter has attempted to list a few of them. There might be many others that are still not known or not researched adequately enough. Further, each

individual makes peace with the crime in their unique way, e.g. some survivors exhibit promiscuity, and some take refuge in celibacy- two diametrically opposite behaviors.

Often, victims are disbelieved or coerced into silence due to compelling social and economic constraints of the family, leading to trust issues. Victims have to deal with physical and emotional trauma, which impacts their education too. The child grapples with various unkind comments of family, relatives, friends, and society, which collude to leave scars on their impressionable mind permanently denting their personality and even impacting the relationships they form in their adulthood.

Each victim suffers emotional trauma to varying degrees, faces hurdles in education and career while the family also suffers financial loss and social stigma.

In the next Chapter I would be focusing on some controversial and taboo aspects of CSA, such as consensual sex, incestuous abuse to gain a better understanding of the topic.

CHAPTER FIVE
FACETS OF CSA

Introduction

In this chapter I would be examining some unique and controversial aspects of CSA. I would begin by examining the legislation in this regard i.e. the POCSO Act- an extremely laudatory law which has led to great strides in the road to tackling CSA.

I would then examine juvenile sex offenders and how their life meanders after being mired in this crime. I would also discuss about the unfortunate male CSA victims- innocent boys who not only face disbelief but also become the butt of cruel ridicule.

I would then delve into the controversial aspect of consensual sex- an issue which needs a relook by the legislature and judiciary. Finally, I would also examine the painful aspect of incestous child sex abuse- a very under researched aspect in patriarchal India.

POCSO Act

POCSO was enacted by the Parliament of India in the year 2012 to protect children from sexual violence. Before that, there were no special laws to address the issue of sexual abuse and violence against children and provisions of Indian Penal Code (IPC) were used, which were found to be inadequate in protecting the rights of children effectively.

The Act has defined sexual assault in extremely broad terms and provides for enhanced punishment for offences committed by those in position of trust. The Act has defined penetrative sexual assault to include penetration of any object or body part in the anus, vagina, urethra or mouth of the child. It has criminalized sexual assault i.e. touching the private part of the child or any physical act with sexual intent. The Act makes sexual harassment like showing obscene material, making sexual gestures, or making sexually explicit remarks punishable. It prohibits using a child for pornographic purposes and in the 2019 amendment, the definition has been expanded to include even an AI image of a child [14].

The Act provides special provision for recording the statement of the victim at a comfortable place by a lady police officer, who should not be in uniform. The medical examination of the victim has to be conducted by a lady doctor in the presence of her parent or a trusted person. It provides for the establishment of special courts and to make the entire process child friendly [14]. The Act was a huge step forward in terms of protecting children from sexual offences. It has included acts other than peno-vaginal penetration in the definition of offence.

Certain aspects of the law have been criticized- one of them being the criminalization of the failure to report any such offence which has been held to be draconian. Further it has been held that the definition of a child as one who has not reached the biological age of 18 years may be modified to include victims whose mental age is also less than 18 to provide wider protection. However, it has to be acknowledged that the promulgation of the Act is an extremely commendable step towards eradicating this menace. Though, there are several provisions which are yet to be implemented even after a decade of its enactment still it has to be acknowledged as a positive step in the right direction.

Juvenile Sex Offenders

CSA often is committed by offenders who themselves are minor and have to be tried under special provisions applicable to juveniles. In the year 2013, out of all cases of POCSO, 1815 offenders were juvenile [12]. There are a number of reason for young children committing such heinous crimes which range from access to unfiltered and often violent pornography, the desire to mimic hyper-masculine ideals propagated in some sections of media, and the unregulated use of social media platforms. The education and career of such offenders are adversely impacted due to incarceration in juvenile homes and their reintegration into society is also often lacking.

Male Victims of CSA

The idea of males being raped is a thought which finds very few takers in a patriarchal society like India, where notions of sex and abuse are highly stereotypical. In such a scenario, a boy being abused is met with ridicule and he becomes the butt of cruel jokes. In fact, families of male victims probably find it more shameful than having a girl being raped. However, statistics tell a very different tale. In the year 2007, out of the total cases of CSA, 57.30% were boys who were subjected to severe form of sexual abuse. 52% of the boys were forced to click nude pictures and 60% of them were asked to exhibit their private body parts. In Delhi, 65% percent of the victim were male. Worldwide 1 in 6 victims of CSA are boys [10].

Since, the crime itself is considered impossible by society, the victims face double trauma. Most of the male victim, once when they grow up prefer having aggressive sex with their partners. Also, as male CSA is not considered plausible, most of these survivors refrain from telling anyone about the incident and fall in the trap of repeater abuse.

Consensual Sex

Consensual sex or marriage by girls who are between 16-18 years of age is an extremely controversial topic. India has one of the highest incidents of child marriage in the world, most being arranged by families of the boy and the girl with the approval of the community, however, as per the POCSO Act it constitutes an offence.

There are several instances where a minor girl willingly marries or has sex with a boy of her own volition but families which do not approve of the match seek recourse to the POCSO Act and have the boy booked under the offence. Experts have held that girls in this age group have mental maturity to take a conscious decision in this regard and even Courts have opined that the government may consider decriminalizing such associations.

Incest

Incestous abuse is one of the most heinous aspect of CSA, but an extremely prevalent one. Incest means illegal sex between members of the same family for example a brother and sister. The book ‘Interrogating Incest’ by Vikki Bell says incest is a form of sexual abuse, one that is perpetrated mainly by men, and

one that has to be understood within the context of a society in which men are able to exercise power over women and children in a sexualized way.

Incest as a concept is widely ignored in India and shockingly, often when the crime comes to light the family doesn't report the matter which emboldens the perpetrator and shatters the victim. As per reports, 30% of the perpetrators of CSA are relatives - this fact makes reporting difficult and the victim being disbelieved which multiplies the impact of the trauma. [12]

Incest complicates things for the parents of the victim who might be financially dependent on the offender or staying in his house and thus cannot stop the abuse even if they wish to support the victim, for fear of being rendered financially destitute. This is an extremely unfortunate situation which can deeply scar the victim. Often in such cases parents might pressurize the child to bear with the continual abuse which can confuse the young mind of the victim.

Conclusion

CSA is a multi- headed hydra, with several layers. It is an extremely complex crime. In this Chapter I analyzed certain specific aspects of the crime so as to aim to achieve a clearer understanding of these nuances. The resolution of the crime necessitates an understanding of the various nuances of its facets for proper analysis, discussions and forging a way ahead.

Way Ahead

There are 444 million children in India- one of the highest in the world. Nelson Mandela said "We owe our children, the most valuable citizens in our society, a life free of violence and fear."

CSA is an offence which impacts the most vulnerable section of the society. The crime is so heinous, with most of the aggressor being known and trusted persons, that it changes the life trajectory of not only the victim but her family and even the community.

This offence has multiple layers, which need more research, so that the reasons for the offence, the response to the offence and the impacts can be understood so as to create an environment where effective steps can be taken for curtailing the abuse and for rehabilitation of victims as well as to ensure timely delivery of justice.

The impacts of the crime run deep and often last lifelong impacting the victim's education, career, marriage and even the relation she shares with her children. In fact, the actual extent of the crime, its impacts, its economic impact still needs lot of research and understanding

It has to be understood that this crime needs to be studied in depth as it mars the life of children who will be the future citizens of the nation and joining the work force. If they are grappling with the trauma of the childhood assault they will neither be able to function efficiently nor reach their full potential at work, which will in turn harm the economic growth of the nation, a loss which we as a developing economy can ill afford. This research is an attempt to understand the crime and initiate reforms which will lead to prevention, redressal and rehabilitation of the victims.

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