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# Child Abuse: Is India Well-Equipped for the Challenge?

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**Abstract**

*The issue of child sexual abuse stems from the psycho-social structure and the archaic social systems that exist in India, where the vulnerable and unaware are misguided, sometimes oppressed and their rights exploited, resulting in discrimination that widens across generations. The scope of this study is not just to understand why abuse happens, and the changes that take place subsequently, but also to explore ways of preventing it from happening in the future. This is significant because it brings with it the inter-relationship of various stakeholders that engage with each other to make children conscious about the potential threats they may face. In such a scenario, sex education and awareness of sexuality helps in initiating talks about changes in one's body and related physical and psychological vulnerabilities. The present research seeks to collate and understand the shift that occurs in the child's psyche from sexual abuse, and his/her level of awareness of the various illicit behaviours that he/she may or already has come across. Moving forward, the research illuminates the role of the social apparatus that exists to redress the violence of sexual abuse and provide education, protection of rights and psychological support that may nip this issue in the bud. These apparatus need to promote an environment of openness about sex education, that may counter the shame and stigma associated with such a topic, for their other initiatives to have a positive impact.*

**Keywords:** *Child abuse, stakeholders, challenges, harassment, sexual abuse.*

## 1.0 Introduction

Childhood is a nascent stage of life which lays the foundation for shaping the beliefs, lifestyle, culture and character of an individual- in the words of Richard L. Evans, "Children will not remember you for the material things you provided but for the feeling that you cherished them." Experiences and learnings at this age can play a major role in personality development. According to the United Nations Convention on the Rights of the Child, a child is any person under the age of eighteen (18) unless an earlier age of majority is recognized by a country's law. Different countries have different legislation defining the age of a child- in India's context, Section 2(11) of the Child Labor (Prohibition and Regulation) Act, 1986, a child is a person who has not completed the age of 14 years (Jayasurya, 2012). Exposure to any unintended or unprecedented events during this stage of life has an impact on the overall development and well-being of a person and is referred to as Child Abuse.

In 1999, the WHO Consultation on Child Abuse Prevention drafted the following definition: ''Child abuse or maltreatment constitutes all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power.''(World Health Organization, 1999). Child Abuse includes any instances which endanger a child's physical or mental health and the damages which cannot be reasonably explained and are non-accidental in nature. Abuse can be manifested in different forms:

- Physical
- Emotional
- Neglect
- Sexual abuse and exploitation.

Child sexual abuse (CSA) is a form of child abuse which can result in profound psychological consequences presenting in different forms throughout life. CSA comprises of a wide range of sexual activities including fondling, inappropriate touching, intercourse, child trafficking and pornography or cyber abuse by online perpetrators.

The World Health Organization (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 and cannot give consent, or that violates the laws or social taboos of society."

According to a child abuse helpline, 1098 CHILDLINE, India has the largest number of CSA cases. A child below 16 is raped every 155$^{th}$ minute and below 10 years of age is raped every 13 hours (Kumar, Chandran, Rao, & Maheshwari, 2019). Data reports by the National Crime Record Bureau (NCRB) showed that 109 children were abused sexually in India daily and an increase of 22% of cases has been observed in 2018 compared to 2017. The number of cases reported under the Protection of Children from Sexual Offences Act (POCSO) has also increased substantially according to this report. The POSCO Act (2012) is a law which provides protection to children from sexual assault, harassment and pornography. The law requires setting-up of special courts, prosecutors and support for the victims. The number of rapes and overall crimes against children has shown a steep increase of over 6 times according to these data reports over a period of 10 years from 2008 to 2018 (NCRB Report, 2020). In the wake of the recent covid-19 pandemic, the **CHILDLINE 1098** received more than 90,000 calls in the first week of April, reporting Child abuse and violence at home (Law School Policy Review, 2020). In spite of the alarming rise in proportion at the national and international levels, the exact numbers remain uncertain due to lack of reporting statistics (Jayasurya, 2012).

Although the magnitude is high, there is a lack of awareness and understanding of child sexual abuse (CSA) in India. This research paper intends to identify the major lacunae in the awareness, prevention and tackling of child sexual abuse. The research focuses on the role of stakeholders in advocating changes to aid the formulation of policies and implementation.

The objective of the research is to recommend strategies for raising awareness levels for the child, the family, teachers and also the respective authorities to aid in the prevention of abuse and the after-care of victims. Recommendations for the development of comprehensive systems in India at the Local, State and National levels to facilitate identification, reporting and therapeutic care of victims, thereby effectively contributing to the safeguarding of children. The research paper also addresses the need for bridging the gap in statistical evidence-base, only possible through interventions and policies to record data on a regular basis. However, regular

monitoring and surveillance both play a major role in the assessment of the impact of interventions or policies.

## 2.0 Identifying Child Abuse

The effect of abuse is different for every child as it depends on the kind of abuse, frequency, duration and severity of the maltreatment, as well as the relationship between the abused and the perpetrator. (Child Welfare Information Gateway, 2019) In Indian households, beating up a child is considered an act of 'teaching him/her a lesson'. This not only instils a fear of the adult in the child's mind but also the idea that physical abuse is the key to getting things done by others. When it comes to sexual abuse, the impact is internal and sometimes, difficult to detect. Firstly, for children who are very young, they may hardly understand that they have been abused. Repeated abuse may lead them to be confused, ashamed and guilty, leading to an acceptance that wrecks their childhood forever. If the perpetrator is a family member, these are some of the signs that can be vital to understand if the child has been abused:

1. Withdrawal from friends and activities
2. Aggression, hostility and/or hyperactivity
3. Depression, anxiety and unusual fears, or a loss of self-confidence
4. Apparent lack of supervision
5. Frequent absences from school
6. Reluctance to leave school activities as if he/she does not want to go home
7. Attempts at running away
8. Rebellious or defiant behaviour
9. Self-harm or attempts at suicide

(Mayo Clinic, 2018)

Regardless of the type of abuse, the result is serious mental and emotional harm which is often irreversible. In the Indian context, abuse is considered a taboo and is suppressed for fear of ostracization and insults. This further cements the perpetrator's crime as a socio-cultural norm and normalises the act.

The Juvenile Justice Act, 1986 defines child sexual abuse as "interaction between a child under the age of 18 for girls and 16 for boys) and an adult (who is significantly older than the victim and is in the position of power or control over the child, or may even be an acquaintance or an unknown person) in which the child is being used for the sexual stimulation of the perpetrator or another person." It is essential to understand the causes of sexual abuse to identify the associated of the same. Kewalramani's study (1992:78) approached the problem of sexual abuse with a 'systems model' and perceived it as a behaviour that is influenced by factors at several different levels. The analysis of family environment revealed that conflict between parents and weakening of inhibitions leading to neglect of children, absence of affectionate protection to the child, alcoholism of the bread-winner male member, his lack of accountability, adequate control on the children, illicit relations involving mother, dominance of stepfather and social isolation of the family were more important factors of child sexual abuse (Kewalramani, n.d). The sub-cultural learning, that is the socialisation in a violent home, or experiencing violence in childhood, is yet another cause of sexual abuse (Ram Ahuja, 2016).

A child who has been sexually abused shows signs of the same which need to be identified. They usually involve:

1. Having pain, itching bleeding, or bruises in or around the genital area
2. Have difficulty walking or sitting, possibly because of genital or anal pain
3. Suffer from urinary tract infections
4. Be reluctant to take off his/her coat or sweater, even on a hot day, or insist wearing multiple undergarments
5. Demonstrate sexual knowledge, curiosity, or behaviour beyond his/her age (obsessive curiosity about sexual matters, for example, or seductive behaviour towards peers or adults)
6. They may go back to younger behaviours like soiling their pants or wetting the bed, have eating problems, or have problems at school.

(The Whole Child, 2018)

According to WHO, particular features that characterise child sexual abuse are:

1. Physical force/ violence is very rarely used to dominate the child, often perpetrators manipulate the child to gain the child's trust
2. The perpetrator is usually a known and trusted caregiver
3. Child sexual abuse often occurs over many weeks or even years
4. The abuse frequently occurs as repeated episodes and become invasive over time
5. Perpetrators usually engage the child in a gradual process of sexualizing the relationship over time, known as grooming
6. Incest/intrafamilial abuse accounts for one-third of child sexual abuse

(Guidelines for Medico-legal care for victims of sexual abuse, WHO, n.d)

Kewalramani's study laid down some significant behavioural changes in the child in the aftermath of repeated sexual abuse. The first is the loss of self-esteem indicated by the fact that abused children develop a negative view of themselves, which Hjorth and Ostrov (1982) referred to as 'poor self-image', which lead the children to believe that they have no choice but to accept the perpetrator's abuse. According to Kewalramani in his study (1992), 75% children who were abused felt that they were weak at studies, 84% were indifferent towards their work or felt dissatisfied with the current activity, and 86% thought of themselves as shirkers rather than helpers to their parents in the household.

The second change is a dependency shift from the parents/caretakers to secondary persons or teachers for the gratification of needs such as physical needs, and emotional and social support. The third change can be seen with the introduction of deviant behaviour in the child as an act of violation of social norms. Kewalramani's study found that 50%-80% victims of sexual and emotional abuse miss school frequently, one-tenth of the victims either become drug addicts or start smoking, taking tobacco or consuming alcohol. Around 48%-78% had developed hostility and aggressiveness towards the perpetrators and solicitors of the crime meted out to them. The fourth change can be seen in social and interpersonal skills, indicated by the child's lack of interest in communicating and coping with problems, failure in developing intimate relationships, isolation and withdrawal from interactional settings. In the study, 68%-83% avoided situations where interaction was required, and only 24% had someone they could trust and openly communicate with. Further, the study revealed that a child once abused will

essentially be abused again, either by the same person or a different perpetrator/s in the same period or at some other point in their lives. With time, the child may develop cognitive traits that may help him/her oppose the crime, but his/her previous experiences will play a major factor in his opposition or acceptance to the abuse.

**3.0 Child Sexual Abuse- Awareness of a Child**

The fragility of the age hinders the understanding of a child to recognise it when he or she is being abused. Often, the perpetrator is a close family friend or a member of the family which complicates the situation. The perpetrator gains trust from the child initially by pampering them with gifts, showing a lot of care and attention, which is essentially lacking from the parents (Stop It Now.org, 2020). This makes the child vulnerable and he/she falls prey to such perpetrators. Sometimes a child may be in a state of confusion if the abuse resulted in experiencing arousal, positive physical pleasure or emotional intimacy, hindering the incident. (Stop It Now.org, 2020).

It is a fact that any child is not equipped with the necessary information related to abuse. "The eye sees only what the mind is prepared to comprehend", said Robertson Davies. The mind is prepared to see only what it knows and in this scenario, the perpetrators often gain the confidence and trust of the child making it hard for the children to understand that something wrong is happening with them. However, this can be prevented by educating children about the dangers of abuse and alerting them about certain behaviours a perpetrator can display at an early age.

Children often resort to methods like drawing, expressing in their mood to show rather than tell that something is bothering or worrying them. Due to limited knowledge of sexual abuse, the children may give us only vague hints about the abuse. Often the child may not find appropriate words to express their concerns, so it is our responsibility to identify the signs and ensure that the child is safe.

The Indian Family structure has seen a significant shift from a joint family setting to a nuclear setting in recent times, leaving the child more exposed and vulnerable to perpetrators. As the family model transitioned from a joint to a nuclear one, the Indian child is also experiencing a transition from protection by the other members of the joint family to vulnerability (Sinha, 1984). The traditional family structure exposed the child to an upbringing by grandparents which helped in personality development and also acted as protection. But the present family structure is resulting in minimal socialising with the parents due to working patterns thereby resorting to strict and harsh parental controls. A study conducted in five villages of rural India suggests that harsh parental discipline practices are prevalent in India, although this cannot be generalised to the entire nation due to the vast cultural and linguistic variations (Hunter, Jain, Sadowski, & Sanhueza, 2000). Parental disciplinary patterns in India can also be a cause of concern, questioning the confidence of a child when instances of abuse arise, putting the child in a confused state whether to reveal the information to the parents and the fear of the resulting consequences.

Sex education is one of the most neglected topics in India, due to cultural and social norms of the society. But the fact that lack of knowledge is one of the factors resulting in abuse makes it essential to include sex education in the education curriculum. However, abuse at very early ages of childhood is not uncommon in India, emphasizing the role of the family in educating the child about the dangers ahead. The child also requires a lot of attention and care from parents which will enable them to trust and disclose essential information which will help prevent abuse.

## 4.0 The role of Stakeholders in Awareness, Prevention and After-care of Child Abuse

### 4.1 Family

For a country grappling with the issue of a rapid increase of population, sexual intercourse as a practice is a topic that is bounded by taboo, so much so that teens often hide their curiosity and seek other platforms to gain knowledge. When abuse occurs, victims fail to open up to their parents out of fear of emotional and physical abuse as it is considered immoral and humiliating to talk to elders. Lack of knowledge about consent, sexual health and intercourse often make children, especially teens, vulnerable to manipulation and abuse. Thus, it is very

important to initiate discussions, at the family level, so that the child/teen can make informed choices.

According to Neeru Garg, sex education provides knowledge on physical, social, moral, psychological, and behavioural changes and developments during puberty and is an essential process for the transition of the boy into manhood and the girl into womanhood. It is significant to have open conversations about the aspects of sex education, sexuality and sexual health because sexual abuse is closely linked to the idea of safe sex and consent. She further shows the incidence of a survey conducted in Mumbai where 88% of the boys and 58% of the girls among college students had not received any sex education at home and their only source of information was friends, magazines, books, and the internet. The same survey revealed that a majority of the parents do not take responsibility for educating the child. The stigma attached to the discussion exists because sex education is often viewed in a narrow sense, limited to anatomical and biological differences.

In order to understand why abuse takes place, Sharon Lamb is of the belief that sexual perpetrators are ill-informed about human sexuality, and this ignorance fuels unhealthy attitudes toward sex. To reduce violence, education about sex as something more than genital pleasure is pivotal (Lamb, 1997). Healthy family sexuality is the open expression of sexuality within the family that enhances the sexual health and personal identities of members and encourages a coherent family system. This model is egalitarian in the way that it gives importance to both male and female members to influence decision-making, exercise self-control, maintain boundaries and initiate action. This also enables the respectful nurture of children's sexuality within the family without being exploited. (Maddock, 1989)

In a study conducted in Nigeria (Manyike, et.al, 2014) to understand the impact of sex education on child sexual abuse, it was found that 46.2% of the children were educated by the mother and 45.2% by both parents, which had a direct effect on the reduction of child abuse, as it was discovered that those who had been educated were 1.23 times less likely to be abused. This shows that children who receive healthy sex education are less likely to be manipulated and abused than those who are not educated. In the Indian context, there is hardly any evidence of

whether discussions regarding sex are initiated at the family level and how it impacts sexual abuse.

Despite parents wanting to play an active role in the sex education of children, they are criticised for not being effective sexuality educators. (Calderone, 1972) Many parents are often hesitant to talk about sex with the children and pass the responsibility to the teachers or other professional, or sometimes even other family members. Sol Gordon (1987) opines that parents are unable to become effective educators because they have received little to no education from their parents. Without proper role models, the cycle of noncommunication is more likely to be repeated generation after generation. Newman and Newman (1986) explained, "Even if discussions about sexuality are not frequent, parents communicate messages about sexuality. The very fact of saying nothing about sex may tell a child something about how a parent feels on the subject." According to Calderone (1985), silence is a pernicious form of sex education, doing more harm than good. Unfortunately, Indian families often adapt the technique of changing the subject, treating the topic causally or teasing the child in order to avoid such discussions. Personal experiences of teens, especially females, revolve around awkward conversations with their mother as they hit puberty, with sexual words thrown here and there, often leading to the development of wrong ideas and misconceptions that stay for a very long time. In families which are patriarchal and conservative having distinct differences in the role and status of the members, children refuse to open up to parents who are authoritative, thus closing the window of open discussions. However, the new generation families engage in conversations and its effect is yet to be seen. Children are easy to manipulate and therefore sexually exploited, especially if they remain uneducated. Thus, the importance of sex education remains pivotal, given the recent statistics of rising sexual abuse cases.

There is minimal evidence on the effectiveness of family-centred or parent focussed programmes aimed at preventing undesirable sexual health outcomes in children (Downing et al., 2011). Thus, there are limited discussions regarding the aspect of support and stigma attached to abuse in Indian families. But the problem of abuse is rising exponentially even though they are reported less. This proves that the issue is engraved into the very social structure and needs to be distinguished and exposed before effective measures can be taken.

**4.2 School**

The relationship of a student and teacher in ancient India was one with much respect, a nurturing kind of long-lasting relationship, in which the students always looked up to their Guru or teacher as a role model. The students also developed utmost obedience and respect towards their Gurus. In 1931, Mahatma Gandhi expressed his view on the teacher-student relationship as a beautiful tree with the roots. In modern times, this relationship has developed into a more casual one rather than one with reverence and respect. The present education system does not allow for this kind of a bond between the teacher and student due to the pressures associated with hectic schedules and curriculum, making the relationship a merely mechanical one. However, a factor which influences the relationship between the teacher and the student is the attitude of a teacher towards the student, which in the Indian context is deeply rooted in the cultural aspects of gender, caste, social inequality, hierarchy (Brinkmann, 2015). This makes it difficult to establish a bond which in turn will help the personality development of a child.

A study conducted in rural areas of Maharashtra to analyse the extent of awareness related to sexuality and AIDS (Verma, Sureender, & Guruswamy, 1997) in a school suggested that most of the girls expressed the opinion that sex education has to be provided at an early age as the age of attainment of puberty is different for each of them. Knowledge about sex and menstruation cycles at an early stage will help them understand physiological changes better and be prepared for the situation without having to face shame or guilt. According to this study, most of the teachers and principals had an opinion that sex education can be a part of something extracurricular but is not included in the curriculum. However, such opinions may be the result of a number of factors like the inability of a teacher to communicate effectively about sex in a classroom environment, the thinking that specialised expertise is essential to deal with such aspects or a complete disregard to the importance of educating the children about sex at an early age. The role of schools in child sexual abuse is of great significance and can be utilised to play a preventive role in minimising sexual abuse. School-based education and prevention programmes can help children understand their sexuality and physiological changes better and accept them as early as possible. The Child abuse prevention programmes in schools must also include self-defence classes and mental strength to be able to identify a dangerous situation and bailout as early as possible and report such instances. Millions of preventive programs in the United

States (Fayaz, 2019) include programs aimed at substance abuse and suicide prevention, among others. The programs which include guidance related to good touch, bad touch and Assertive Training which helps say 'No' to any form of abuse, can facilitate child abuse prevention. The consequences of CSA include both short term which is mostly physical to long term ones which include emotional and behavioural consequences like low self-esteem, guilt, poor personal relationships, shame, depression, anxiety, suicidal tendencies, drug dependency etc., which will affect the overall health and quality of life of the individual. Although the consequences related to child sexual abuse are obvious at some point of time in their life, there are hidden costs associated, both financial and societal, namely- treatment costs, costs related to poor performance in education, drug dependence related costs, legal costs, unrelated medical expenses when the abuse is unrecognised, cost of years of life lost due to death, disability and so on.

The proper identification, prevention and aftercare of victims are essential steps in the foregoing all these costs and providing a safe childhood for the younger generation. Although some steps are undertaken by the Indian government to aid in the prevention of sexual abuse, the systems of identification, reporting and therapy of victims are still at their initial stages. There is a dire necessity to provide guidelines, assign responsibility, define the role and provide training for all the stakeholders involved, especially the healthcare professionals whose contribution is significant in preventing and recognising abuse.

**4.3 Healthcare Professionals**

According to CHILDLINE 1098, India has the world's largest number of cases in child sexual abuse, but even with a large population, there is a gap in the awareness of child sexual abuse, along with poor knowledge in the medical profession. Even though there are organisations working in this sphere on reporting and the legal aspects of the situation, there is a lack of systematic training in medical academia, which has led to ignorance and sensitivity in the subject. In hospital settings, residents are often the first points of contact in emergency situations as well as out-patient settings, and victims are needed to be handled with care to avoid further drama. Most of the residents are aware of the basic essentials, however, they are not educated in many deeper aspects such as evaluation of the patient without tampering evidence, detailed

documentation, legal responsibilities, implications for victims and care-givers, further referral to other medical specialists or to an expert managing CSA.

The regular physician should be equipped with the knowledge of the genitalia, which can help in identifying abuse. An external examination can in itself verify the abuse and provide the basis for further procedure. In a study conducted by Stephanie Ladson and her colleagues (1987) on whether physicians recognise sexual abuse, with a special focus on pre-pubescent girls, the data claimed that pre-adolescent girls are most vulnerable to sexual abuse and 77% of the physicians surveyed indicated examining the genitalia of the pre-pubescent girls over half of the time. As courts rely heavily on the physical findings for the case to be arbitrated a sexual abuse case, a delay in reporting by the child may allow healing to take place, leading to almost no evidence. The study concluded that there is a requirement of untrained professionals and physicians to educate themselves and improve their knowledge of the dynamics and consequences of sexual abuse and report their findings. Further, there is a need to distinguish the impact of intrafamilial relationships or incidental sexual contact on psychosexual behaviour of the pre-adolescents.

The idea that a child will feel safe to communicate with his/her regular physician stems from the behavioural changes that occur once he/she is abused. When a child is abused, he/she will open up to a person he/she will trust the most. Thus, there is very little evidence on whether the child will open up to the regular physician. However, it is also important to maintain that the physician is almost always the second person who intervenes in the case, as the child, after disclosing the trauma to a trusted person, is taken to the physician for physical examination. With the aspect of mandatory reporting of abuse to the police as under the Section 357C, Criminal Procedure Code and Section 21 of POCSO, healthcare professionals are often at the crossroads of maintaining confidentiality as part of medical practice ethics and helping the victim by reporting the abuse, making it a contradiction of various existing legal provisions such as informed consent (Section 164A of the CrPC, amended in 2005), voluntary reporting (POCSO and CLA, 2013), and abortion (MTP Act).

The Protection of Children from Sexual Offences Act, 2012 provides a detailed idea pertaining to the role of healthcare professionals in handling abuse cases. Every medical professional must seek consent from the victim (above 12 years) or his/her family members (below 12 years) to conduct the examination and must explain the process of the procedure. The first step to the diagnosis is to create a detailed account of the medical history of the victim which involves the narration of the traumatic experience in detail, family's psychosocial background, child's developmental level, past incidents of abuse and injuries, body language, demeanour and emotional responses, and a verbal review of physical problems that arose as a result of abuse. The next step is the medical examination where the physician conducts an optimal diagnosis of the genital area and collects specimens for sexually transmitted diseases, screening and forensic evidence. Forensic evidence includes blood, semen, sperm, hair, or skin fragments which can be used to link the assailant to the case. The purpose of forensic examination is to understand the duration, magnitude and attempt or completion of penetration as well as ascertain if issues such as alcoholism, physical abuse and force are involved. Thus, medical practitioners play a very distinguished role in recognising and reporting the case and providing after-care to the child.

To do effective recognition and reporting of child abuse, medical professionals need to be properly trained to conduct a thorough examination and collect evidence. In India, many initiatives are being taken in this direction. For instance, The Indian Academy of Pediatrics has started the Child Right and Protection Program (CRPP) under VISION 2007, to incorporate paediatricians into the garb of child protection services. Further, The Indian Medical Association has conducted various sessions of regional training to disseminate information about child sexual abuse among medical practitioners in association with the UNICEF. To fully train the professionals, aspects of examination and reporting should be included in the medical academic curricula, complete with demonstration classes involving discussions about interview techniques, the examination of genitalia and collecting forensic evidence, along with expert lectures, journal reviews and multidisciplinary team discussions. According to Botash, et.al, a self-paced course in handling child sexual abuse can help in more effective learning. Along with this, medical practitioners should be well informed of the latest statistics and magnitude of abuse in order to develop a quick and efficient diagnostic plan when handling a real case.

Although the physician's role in prevention, recognising and therapy of the victims is of utmost importance, the role of other healthcare professionals such as a nurse, dentist, psychiatrist, gynaecologist, statisticians, public health professionals cannot be ignored. Emphasis has to be laid on interventions and policies for their inclusion in the prevention, recognition and therapy of a victim, as the consequences of abuse are not confined to physical damage. The psychological aspect which is not given much significance has to be stressed upon to prevent fatal long term consequences like depression, anxiety and suicidal tendencies. The moral and psychological support provided to a victim after the abuse plays a major role in the quality of life, emphasizing the importance of regular and constant monitoring of the victim.

**4.4 Social Welfare Organisations**

The reporting of child abuse has become mandatory and is supposed to be immediate to the local child protective services or local law enforcement. The law requires reporting by personnel involved in healthcare, education, mental health and law enforcement according to the Indian Child Protection and Family Violence Act. Also, failure to report and interference with reports of child abuse is also considered a crime. The reporting procedure is to contact law enforcement agencies or social services or call the child abuse hotline 1-800-633-5155. The persons reporting the abuse may not provide evidence or describe the events of abuse but the child's name, age, the urgency of the situation, location of the child, the child's parent names to locate and help the child in need (Province of British Columbia, 2019).

Apart from the government-established structures for child abuse reporting and prevention, Non-Governmental organisations play an important role in building awareness through their campaigns and initiatives. The Juvenile Justice (care and protection of children) Rules 2007, have given certain rules to aid in the proper functioning of the organisations. The rules include the formation of a management committee and an in-charge officer who will coordinate with local voluntary organisations and experts in the child care field to set up children's committees.

Section 39 of the POCSO Act also lays guidelines for the involvement of NGOs, child psychology professionals and health care professionals related to the well-being of the child in the pre-trial and trial processes to help the child. Thus, the act provides for the involvement of a

social worker in coordination with the police to bring the child in contact with the Child Welfare Committees (Deb, 2015).

Despite the presence of well-established laws to define the role of the majority of stakeholders involved in the reporting and aftercare of the survivor/victim, increasing number of child abuse cases in India suggests that a reform in functioning and coordination at all levels is essential to reduce instances of abuse. A multidisciplinary approach involving a combination of the government, NGOs, social workers and experts is crucial to combat the evil of child abuse effectively.

### 4.5 Current Legal Framework in India

The Government of India has passed various legislations in handling sexual abuse, especially child sexual abuse. Before the enactment of the POCSO Act, several provisions that could be invoked in child sexual abuse were present in the Indian Penal Code (IPC). These involved Section 293, Section 323-325, Section 354, Section 375, Section 506, Section 509, and Section 511. Besides this, there are several other provisions for the protection of child victims such as The Children Act, 1960 and Juvenile Justice Act 1986, which was repealed and a new act was passed called the Juvenile Justice (Care and Protection) Act, 2000.

There are specific federal protections crafted specifically for child abuse cases to protect the victim, punish the assailant and provide after-care.

#### 4.5.1 Juvenile Justice (Care and Protection of Children) Act, 2015

This law deals with two categories of children- those who are in conflict with the law and those who need care and protection. The key provisions include incorporating of new nomenclature to distinguish children, change of ‘juvenile’ to ‘child’ or ‘child in conflict with law’ clarifying powers of the Juvenile Justice Board and Child Welfare Committee, providing special provisions for heinous crimes by children in the age-group of 16-18 years, provisions on adoption, the inclusion of new offences committed against children such as sale and procurement of children, corporal punishment in childcare institutions, use of children in militant groups, offences against disabled children, and kidnapping and abduction of children, along with mandatory registration of childcare institutions. Special care is to be given to children in

childcare institutions in the aspects of health, education, nutrition, de-addiction, treatment of diseases, vocational training, skill development, counselling etc.

This act has been instrumental in dealing with child offenders as well as providing protection to children in a variety of cases. However, certain provisions have faced criticism due to the treatment of juveniles as adults in heinous criminal cases. This amendment of 2015, mainly deemed a populist measure due to the discontent in the masses in support of Nirbhaya rape case 2012, the provisions blur the distinction of children between the age of 16 and 18, whether he/she is a child or an adult. The validity of the life sentence (up to 20 years) punishment has also been criticised as there has been no conclusive evidence of a positive outcome in the child. Thus, it will lead to a specific problem of identifying the severity of the crime, leading to a subjectivity and error in judgement. Further, the Children's Courts, which was initially developed to arbitrate cases of violence against children have now shifted its focus towards trying offences by children, thus leaving very little room for victims to get justice.

**4.5.2 Commissions for Protection of Child Rights (CPCR) Act, 2005**

The National Commissions for Protection of Child Rights was set up in 2007 under the Ministry of Women and Child Development to make sure all the laws, policies and mandates are in consonance with the Child Rights perspective in the Constitution of India and the UN Convention on the Rights of Child. The functions and powers of the National Commission involve examining and reviewing the legal procedures, prepare periodic reports upon the working of the legal safeguards, inquire into abuse cases and initiate legal proceedings, spread awareness of child rights, undertake research in child rights, inspect institutions for juvenile offenders, inquire and investigate complaints of violation of the rights of the child, and undertake other necessary functions for the protection of children.

The jurisdiction of the Commissions follows a federal structure, with a National Commission at the centre and State Commissions at the respective states. However, with such a structure and delegation of administration, difference of opinion between the two often results in error of judgement. In a specific case of child trafficking in Jalpaiguri district of West Bengal, arguments between the State and National Commission received a lot of criticism. This power

issue will often deter the main purpose of the commissions which is to protect children's rights. Further, the commissions have faced criticism due to their inefficiency and ineffectiveness, as child labour, trafficking and child abuse are still rampant in the country.

### 4.5.3 Protection of Children from Sexual Offences Act (POCSO), 2012

This act is pioneer legislation which establishes specific offences to protect children from sexual assault, sexual harassment, and pornography and provide for the establishment of special courts for the trial of such offences, making sure to protect the child in every step of the legal proceeding and offers speedy trial and punishment to the offenders. Section 19 of the Act makes it mandatory for the victim or his/her family to report the abuse that is likely to take place or has already taken place. Section 21 mentions that the failure to report the abuse will lead to punishment, with exceptions to the victim. It lays a detailed explanation of the role of the healthcare professionals, child protection structures, courts, and NGOs in handling the victim, investigating the case, legal proceedings and punishment and after-care of the child.

This act does not have a clear distinction for cases which are consented by minors. Under its provisions, any sexual activity committed by a minor with an adult, even though it is consented, will be booked under this act, thus leading to false arbitration. Many instances have shown the difficulty in proving the age of the child; any document beyond those referred by the act will not hold validity, creating a disparity and often segregation of the child victims. While reporting and investigating the case, hostility and inefficiency of the police and hospitals also leads to error in judgement and embarrassment to the victims.

The Constitution of India provides judicial protection to the rights of children. According to the Constitution, the state, as directive principles of state policy, must seek to ensure, "that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment." The State is forbidden to impose its control on the individual liberty of citizens. The following are the rights which are relevant to the child:

**Article 14:** The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India;

**Article 15:** The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth, or any of them;

**Article 15(3):** Nothing in this article shall prevent the State from making any special provision for women and children;

**Article 19(1) (a):** All citizens shall have the right (a) to freedom of speech and expression;

**Article 21:** Protection of life and personal liberty-no person shall be deprived of his life or personal liberty except according to the procedure established by law;

**Article 21A:** Free and compulsory education for all children of the age of 6 to 14 years;

**Article 23:** Prohibition of traffic in human beings and forced labour-(1) Traffic in human beings and beggars and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law;

**Article 24:** Prohibition of employment of children in factories, etc.,—No child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment;

**Article 39:** The state shall, in particular, direct its policy toward securing: (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength; (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Even if there are various legislations enacted and implemented, the number of cases are rising exponentially and threatening the very rights the government is trying to protect. The major concern is that more than half of the cases do not get reported, and many children live with the abuse forever. With the advent of COVID-19, cases have increased threefold, but the reporting of the same has decreased, as per various protection helplines in India, as the victim is unable to remove him/herself from the traumatic environment and the offender. In such cases, the local government bodies should be more stringent in identifying signals of abuse in the households in the area and take appropriate cases.

**5.0 Recommendations**

The child abuse problem can be prevented to a maximum extent by increasing the awareness of the child at an early stage and preparing them for such situations.

1. The curriculum in schools to include sex education can be a step forward to increase the awareness of children regarding sexuality, improving their knowledge and prevention of abuse.
2. Introduction of training programmes for teachers to address their deep cultural beliefs related to sex education, their role in shaping the personality of a child on a regular basis.
3. Educational programs related to self-protection, knowledge related to abuse which help the child to recognise the signs related to abusive behaviours and be warned in advance and abstain from perpetrators in a clever way. Evidence from western countries showed positive results when such programmes were introduced. A combination of passive and active role-play techniques have been utilised yielding positive results (Zwi et al., 2007). However, further research to identify any negative implications like anxiety resulting from such knowledge is essential.
4. Building of systems to increase the awareness at family and community level, the empowerment of families to expose the perpetrators within the family and not protect them due to pressure or coercion.
5. The large population and socio-economic barriers in India call for a more sophisticated public health approach. This requires functioning at grass root levels to facilitate proper implementation, monitoring and surveillance of the existing child protection programmes in India and also aid in further research to inform future policies to strengthen the existing policies and devise new ones.
6. Formation of committees or government bodies to monitor the adequate allocation of resources to programs related to child abuse.
7. Incorporation of officials from an external agency like the UN, UNICEF, WHO to monitor the utilisation of funds to improve the accountability and to prevent opportunistic behaviour by the stakeholders involved in child abuse prevention and awareness programs.

8. Development of monitoring, surveillance and research bases for data collection to increase the evidence base on the success or failure of the implemented policies and interventions.

Although India has made some progress over the past few decades towards prevention of child abuse, initiatives on a large scale with well-developed monitoring and surveillance systems are essential to keep track of the progress made and to identify the lacunae of implementation.

## 6.0 Conclusion

In conclusion, the life of a child revolves around the areas of family, school, society and state, emphasising the responsibility of every person in shaping the personality of the child. The role of all these entities in ensuring the protection and safety of a child cannot be ignored. Although India is advancing in its preventive approach towards child abuse, more sophisticated systems are to be developed to effectively identify vulnerable groups and bring them to safety. Based on the large variety of cultures in India, it is essential to devise culture-sensitive programs to effectively decrease the instances of child abuse. Framing policies to prevent child abuse, ensuring their effective implementation at the local, state and national levels are the key to checking child abuse. However, there is a dire need for inputs in the form of human resources to bring about intended outcomes. Recent advances in the preventive approach of India towards Child abuse are evident but require a broader level of implementation with large-scale efforts to sustain in the long term.

## References

Agnihotri, S., & Das, M. (2015, December 21). *Reviewing India's Protection of Children from Sexual Offences Act three years on*. South Asia@LSE. https://blogs.lse.ac.uk/southasia/2015/12/18/reviewing-indias-protection-of-children-from-sexual-offences-act-three-years-on/

Ahmed, T. (2020, July 24). *Child Protection Law and Policy*. Library of Congress. https://www.loc.gov/law/help/child-protection-law/india.php

Ahuja, R. (2014). *Social Problems in India: Third Edition (Fully Revised, Expanded and Updated)*. Rawat Publications.

Brinkmann, S. (2015). *Learner-centred education reforms in India: The missing piece of teachers' beliefs.* Policy Futures in Education, 13(3), 342–359. *https://doi.org/10.1177/1478210315569038*

*Child abuse - Symptoms and causes*. (2018, October 5). Mayo Clinic. https://www.mayoclinic.org/diseases-conditions/child-abuse/symptoms-causes/syc-20370864

*Commissions for protection of child rights can't become means to obtain power: SC*. (2020, January 13). The Times of India. https://timesofindia.indiatimes.com/india/commissions-for-protection-of-child-rights-cant-become-means-to-obtain-power-sc/articleshow/73232281.cms

Deb, S. (2015). *Child Safety, Welfare and Well-Being: Issues and Challenges*, (August 2016), 1–409. https://doi.org/10.1007/978-81-322-2425-9

Fayaz, I. (2019). *Child Abuse : Effects and Preventive Measures.* The International Journal of Indian Psychology, 7(2), 871–884. *https://doi.org/10.25215/0702.105*

Garg, N. (2015). Sex Education to Indian Adolescents: Need of the Hour. *IOSR Journal of Humanities and Social Sciences*, *20*(1), 59–61. https://doi.org/10.9790/0837-20115961

*Guidelines for Medico-legal care for victims of sexual abuse*. (n.d). WHO. https://www.who.int/violence_injury_prevention/resources/publications/en/guidelines_chap7.p*df*

*Healthy Sexuality Education as Child Sexual Abuse Prevention.* (n.d). Pennsylvania Coalition Against Rape. https://pcar.org/sites/default/files/resource-pdfs/healthy_sexuality_education_as_child_sexual_abuse_prevention.pdf

Hunter, W. M., Jain, D., Sadowski, L. S., & Sanhueza, A. I. (2000). *Risk factors for severe child discipline practices in rural India. Journal of Pediatric Psychology, 25(6), 435–447. https://doi.org/10.1093/jpepsy/25.6.435*

International Journal of Legal Developments and Allied Issues. (2019, July 31). *Child Sexual Abuse Laws In India*. The Law Brigade Publishers. https://thelawbrigade.com/criminal-law/child-sexual-abuse-laws-in-india/

Jayasurya, G. (2012). *Human Rights of the Child in the Context of Child Abuse. SSRN Electronic Journal.* https://doi.org/10.2139/ssrn.1627148

*Juvenile Justice (Care and Protection of Children) Act, 2015*. (2016). Vikaspedia. https://vikaspedia.in/education/child-rights/juvenile-justice-care-and-protection-of-children-act-2015

Kumar M Pramod. (2006). *No One is a Stranger. (V. Kesari, Ed.) (First Edit).* Chennai: Sri Ramakrishna Math. Retrieved from *https://www.researchgate.net/publication/305768086_Teacher-Student_Relationship_in_the_Indian_Scenario*

Kumar, A., Chandran, S., Rao, K., & Maheshwari, S. (2019). *The Need for Training Medical professionals in Child Sexual Abuse.* Journal of Psychosexual Health, 1(2), 192–194. *https://doi.org/10.1177/2631831819833618*

*Ladson, S. (1987). Do Physicians Recognize Sexual Abuse? Archives of Pediatrics & Adolescent Medicine, 141(4), 411–415. https://doi.org/10.1001/archpedi.1987.04460040069016*

*Long-Term Consequences of Child Abuse and Neglect*. (2019, April). Child Welfare Information Gateway. https://www.childwelfare.gov/pubPDFs/long_term_consequences.pdf

Manyike, P. C. (2015, September). *Impact of Parental Sex Education on Child Sexual Abuse Among Adolescents*. Nigerian Journal of Paediatrics. https://doi.org/10.4314/njp.v42i4.8

Mathew, L. (2016, August). *A Multidisciplinary Approach to Child Protection for Sexual Abuse in India: The Law*. Springer Publishing. https://doi.org/10.1007/978-81-322-2425-9_25

Medora, N. P., & Wilson, S. (1992). *Sexuality education for young children: The role of parents. Day Care & Early Education, 19(3), 24–27.* doi:10.1007/bf01617079

*NDTV Report. (2020, January 12), pp. 1–17. Retrieved from https://www.ndtv.com/india-news/22-jump-in-cases-of-child-sexual-abuse-in-2018-says-report-2162716*

Province of British Columbia. (2019). *Reporting Child Abuse in BC*, 2–4. Retrieved from

https://www2.gov.bc.ca/gov/content/safety/public-safety/protecting-children/reporting-child-abuse.

Seth, R., & Srivastava, R. N. (2017). *Child Sexual Abuse: Management and prevention, and protection of children from Sexual Offences (POCSO) Act*. Indian Pediatrics, 54(11), 949–953. https://doi.org/10.1007/s13312-017-1189-9

Sherawat, D., & Kallivayalil, A. J. (2020, January 16). *Analysis: The Juvenile Justice (Care and Protection of Children) Act, 2015*. Lexlife India. https://lexlife.in/2020/01/16/analysis-the-juvenile-justice-care-and-protection-of-children-act-2015/

Sinha, D. (1984). *Some Recent Changes in the Indian Family and their Implications for Socialization. Indian Journal of Social Work, 45(November), 271–286.*

Tyagi, R. (2020, December 12). *Juvenile Justice Act 2015: Critical Analysis | Legal Jumble*.Medium. https://medium.com/legal-jumble/the-juvenile-justice-act-e3870ce5fd3d

Verma, R. K., Surender, S., & Guruswamy, M. (1997). *What do school children and teachers in rural Maharashtra think of AIDS and sex? Health Transition Review : The Cultural, Social, and Behavioural Determinants of Health, 7 Suppl(Published by: National Center for Epidemiology and Population Health (NCEPH), The Australian National University), 481–486. Retrieved from https://www.jstor.org/stable/40652318*

*Why don't children tell if they have been abused ? (2020). Retrieved from https://www.stopitnow.org/faq/why-dont-children-tell-if-they-have-been-abuse*

World Health Organization. (2020). *COVID19-XIX: Child Abuse in India amidst the Pandemic – Law School Policy Review. Retrieved from https://lawschoolpolicyreview.com/2020/05/29/child-abuse-in-india-amidst-covid-19/*

Zwi, K., Woolfenden, S., Wheeler, D., O'Brien, T., Tait, P., & Williams, K. (2007, July). *School‐Based Education Programmes for the Prevention of Child Sexual Abuse*. The Campbell Collaboration. https://doi.org/10.4073/csr.2007.5