

INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION

[ISSN 2581-9453]

Volume 6 | Issue 4

2024

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Silence of Male Child Sexual Abuse in India

ANSHUL¹

ABSTRACT

Victimisation of children occurs both inside the care institutions and inside their own homes around the world, India being no exception. There have been many instances in which a child is sexually victimised inside the orphanages or educational institutions or shelter homes and most of the times these crimes even go unreported. Ministry of Women and Child Development, India in the year 2007 conducted a nationwide study of children aged between five and eighteen years of age and found out that a shocking 52.94 percent of boys had experienced some kind of sexual trauma and 23.06 percentage of them had faced a severe sexual assault. This research article aims to examine several elements of male child abuse, including the underreporting of such crimes and the related stigmas. The researcher will also study the impact such abuse has on a male child and how these cases of abuse are dealt with in India. Mapping the interventions of government as well non-governmental organizations, it further examines different practices and challenges faced in the process of addressing the issues emanating from the dominant notions of masculinities and sexuality in the context of India. The instances of such abuse are dealt under the POSCO Act, 2012 which was enacted by the government to bring the abusers to justice.

Keywords: Sexual Abuse, Masculinity, Underreporting.

I. INTRODUCTION

The involvement of a child in any kind of sexual activity that the child doesn't fully understand or is able to comprehend and thus is unable to form a informed consent about or for which the child is not fully developed or what violates the taboos and laws of such society is considered as child sexual abuse by the World Health Organisation.² Child Sexual Abuse (CSA) is a broad concept that includes an array of sexual activities like fondling or inviting the child to touch or being touched sexually, intercourse, child prostitution or pornography. All the stigmas and taboos surrounded around the CSA and the sensitivity of the issue makes it difficult to engage first hand with the victims. Most of the times these crimes even go unreported because of all the stigmas and taboos, or for the concern of privacy or the fear of dignity. In most of the instances it can be

¹ Author is a LL.M. student at The West Bengal National University of Juridical Sciences, India.

² World Health Organisation, Report of the Consultation on Child Abuse and Neglect Prevention, 29-31 March, Geneva Switzerland, WHO, 1999.

seen that the instances of fondling with child's genital or breasts are considered minor types and are often shushed. CSA is a traumatic event in child's life. WHO in its 2009 report stated that CSA results in actual or potential harm to child's health both physical and mental. Mental issues involved are in the context of survival and development or dignity in the context of relationship or responsibility.

According to an analysis conducted by an organisation in 2009, around 65 studies involving 22 countries an estimated 7.9% male children and 19.7% female children have been sexually victimised.³ Approximately 40 percent of total world's child population resides in India but the irony is that India is ranked sixth unsafe country for children. According to the study carried out by the Ministry of Women and Child Welfare in collaboration with United National Children's Fund carried out a study and found that around 53.22 percent children faced sexual abuse and among them the number of boys was close to 52.94 percent. Among the 69 percent of physically abused children in thirteen states, 54.68 percent were boys and 88.6 percent were abused by parents. Children living on the streets or the ones in the care institution or children at work were reported to be more vulnerable to these sexual assaults.⁴

CSA is punishable in India under Prevention of Children from Sexual Offences, 2012 (POCSO) which is a gender neutral law and envisages to protect both male and female children from these sexual offences.⁵ Though coming out and reporting of such cases is a difficult decision that needs to be made by the survivors as many believe that reporting will lead to revictimization and the fact that they might be blamed for the same.⁶

Sexual abuse of boy children is mostly under addressed and under acknowledged, although the girl children are 2.5 to 3 times more likely to be sexually abused than boys⁷ but the fact boys and men are less likely to disclose such abuse and more likely delay such disclosures owing to the stigma of homosexuality, embarrassment or guilt or in most of the cases they don't know who to tell. Survivors may get silenced by the person they choose to tell about their experiences by ignoring the instances or try to minimise their experiences.⁸ Normative gender practices play a

³ Global Prevalence of Child Sexual Abuse by Wihbey J., Journalist Resource, 2011

⁴ Ministry of Women and Child Development, Government of India. Study on Child Abuse: India 2007. New Delhi: Ministry of Women and Child Development, Government of India; 2007.

⁵ Ministry of Law and Justice, Government of India. Protection of Children from Sexual Offences Act, 2012. New Delhi: Ministry of Law and Justice, Government of India; 2012.

⁶ Behere PB, Sathyanarayana Rao TS, Mulmule AN. Sexual abuse in women with special reference to children: Barriers, boundaries and beyond. *Indian J Psychiatry*. 2013;55:316–9.

⁷ Putnam F. W. (2003) 'Ten-year research update review: Child sexual abuse', *Journal of the American Academy of Child and Adolescent Psychiatry*, 42(3), pp. 269–78

⁸ Hébert M., Tourigny M., Cyr M., McDuff P., Joly J. (2009) 'Prevalence of childhood sexual abuse and timing of disclosure in a representative sample of adults from Quebec', *Canadian Journal of Psychiatry*, 54(9), pp. 631–6.

vital role in making it challenging for the boys and men to disclose their abuse experience. Socio-Cultural norms which guide masculinity always gets in the way of male victims to be seen as potential victims of violence particularly sexual violence. As masculinity is confused with the notion of emotional toughness and the resultant emotional vulnerability which is caused by sexual abuse makes them unmasculine. Gender norms that guide the amount of emotions a person can show and vulnerability a person can have a great impact on the lives of such victims.

II. LAWS IN INDIA

In the year 2018, Maneka Gandhi who was India's minister of Women and Child Welfare in an interview said "Boys who are sexually abused as children spend a lifetime in silence because of the stigma and shame attached to male survivors speaking out. It is a serious problem and needs to be addressed." The constitution of India guarantees several right to children and has provisions which enable the state to make provisions to ensure holistic development of a child which certainly includes protecting them from any kind of sexual abuse. Following the principle of protective discrimination the constitution under Article 15 empowers the state to enact special laws and policies to safeguard the interests of children. The 12th Five Year Plan of India i.e. 2011-2016 Ministry of Women and Child Welfare clearly stated that there is a dire need for strict measures that need to be taken to ensure safety of children from sexual abuse.⁹

The National Policy for Children, 2013, recognizes that "childhood is an integral part of life with a value of its own". One of the key priorities of the Policy mandates the State to "create a caring, protective and safe environment for all children, to reduce their vulnerability in all situations and to keep them safe at all places, especially public spaces" and "protect all children from all forms of violence and abuse, harm, neglect, stigma, discrimination, deprivation, exploitation including economic exploitation and sexual exploitation, abandonment, separation, abduction, sale or trafficking for any purpose or in any form, pornography, alcohol and substance abuse, or any other activity that takes undue advantage of them or harms their personhood or affects their development"¹⁰

In 2012, the Indian parliament enacted POCSO before that there was no specific law dealing with the CSA. CSA was penalised under the provision of Section 375, 354, 377, 509 IPC. The ordinary laws have proved to be inadequate to garner to the needs of children who have been sexually victimised. This is because of the fact that these laws don't include common forms of CSA or their impacts on the life of a child. The restrictive interpretation of these provisions which put a

⁹ Ministry of Women and Child Development, Government of India, Five Year Strategic Plan (2011-2016)

¹⁰ Ministry of Women and Child Development, Government of India, The National Policy for Children, 2013

great emphasis on penetration has been a bane for the CSA cases. Before POSCO was enacted the provision of in camera trials was not there, there were no rules or guidelines for police personnel on how to take the victim testimony and most importantly the provisions lacked the rehabilitation of the victim. Laws in India penalising sexual offences doesn't have a provision for repeat offenders and the age of child used to vary in every other law. Even in Section 354¹¹ there is an ambiguity regarding the definition of modesty and thus it carries a weak punishment and often treated as a compoundable offence. Under Section 377¹² the term unnatural offenses is not defined and is only applied to the cases in which penetration was there and thus is not fully capable of criminalising CSA.¹³

POCSO exclusively deals with CSA and defines child as any person below the age of 18 years. Here child friendly approach has been used while formulating the statute thus minimising the revictimization of the victim. Even an attempt or abetment to commit an offence covered under the provision of POCSO law is punishable with half the imprisonment as the accused would get in case he/she had committed the crime. In cases involving more heinous crime that is aggravated penetrative sexual assault the burden of proof is laid down on the accused.

The statute allows for the child's assistance and rehabilitation if a complaint is filed with the Special Juvenile Police Unit (SJPU) or the local police. Immediate and sufficient care and protection are given (for example, admitting the kid to a shelter home or the closest hospital within 24 hours of receiving the complaint). Additionally, the Child Welfare Committee (CWC) must be contacted within 24 hours of the complaint being recorded. Furthermore, the National Commission for the Protection of Child Rights (NCPCR) and the State Commissions for the Protection of Child Rights (SCPCR) have a responsibility to supervise the Act's implementation. Disclosing the child's name in the media is a serious offense with a one-year sentence.¹⁴ Salient features of POCSO-

- Gender Neutral
- Mandatory Recording of Sexual Abuse
- Reporting of abuse mandatory
- Provides for the protection of minors during the judicial process.

In the case of *Ankush Kumar v State*, it was held by the court that there is a need for the state to

¹¹ Section 354 (3), IPC

¹² Section 377, IPC

¹³ Child sexual abuse law and lacuna, Child Line 1098

¹⁴ Rajeev Seth, Protection of Children from Abuse and Neglect in India, vol. 56 no. 5 Japan Medical Association, 292,296(2013).

protect children from sexual abuse and noted that “Child sexual abuse is one of the most pervasive social problems faced by our society. Its impact is profound because of the sheer frequency with which it occurs and because of the trauma brought to the lives of the children who have experienced this crime. Child sexual abuse is an epidemic. Children who have suffered sexual abuse at the hands of the sexual perpetrators do not only suffer from physical pain but are also subjected to mental and emotional trauma. The results of child sex abuse are severe and far reaching. As a society, it is important to recognize that the sexual exploitation of children is a very sensitive issue and must be addressed humanely. The effects of sexual abuse extend far beyond childhood. Sexual abuse robs children of their childhood and creates a loss of trust and may lead to depression and other serious emotional problems. The sexual victimization of children is ethically and morally wrong. Children who have been sexually abused face the social stigma attached to such offences and the discrimination they experience can make their difficulty worse and make it harder for them to recover. This is because the society in general has stereotyped views about sexual offences and how it affects people. The parents of such victims have even a greater role to play in helping and aiding the child in overcoming the trauma. Children are our country’s future and they need to be protected. Offences, particularly sexual offences, against them should not be neglected or taken lightly. Their proper development in every aspect is indispensable. The best interest and well-being of the children must be regarded as being of paramount importance at every stage, to ensure the healthy physical, emotional, intellectual and social development of children”.¹⁵

III. SEXUAL ABUSE FACED BY MALE CHILDREN IN CARE INSTITUTIONS

India is home to 440 million children, more than the entire population of USA, Canada and Mexico put together. Children are often abused in the care institutions these institutions can be orphanages, juvenile home, schools, places of worship, ashrams, day care centres. The abuser in all these cases can be the ones who are completely stranger or horrifically those who are in position of power and trust i.e. they are known to the children, they abuse their power of authority to take the advantage of the young ones who were under their care. These can be the custodians or supervisors such as teacher, priests, doctors or other workers.

(A) Orphanages

In the case of *State v Freddy Peats*¹⁶, Freddy Peats operated an orphanage named 'Gurukul Orphamily' in Colva, Goa. From 1980 to 1991, a total of 27 boys residing in a shelter were

¹⁵ *Ankush Kumar v. State*, Crl. M.A. Nos.14412-14413/2015 (Delhi High Court , 13/09/2015).

¹⁶ <https://www.casemine.com/judgement/in/5b684a714a932645d86edcc9>

exposed to a range of deviant sexual practices. Peats not only engaged in the abuse personally, but also facilitated the involvement of the lads and other foreigners in sexual activities. He would administer anabolic steroids into the testicles of the boys and capture explicit photographs of them. Ultimately, the issue was revealed in 1991. Child sexual exploitation in Goa was brought to light after Freddy Peats, a 76-year-old individual, was apprehended on April 3, 1991. Peats, along with his aides, operated a boys' orphanage. The children residing in the orphanage either originated from impoverished households in Goa or were acquired via purchase from Karnataka. Freddy Peats' associates took explicit images of the young males and arranged for customers from several countries to visit Goa. As the orphanage only had male children residing, the criminal activities remained undetected until Freddy Peats subjected a child from the neighboring area to abuse. The minor filed a complaint at the police station, which led to the revelation of the crime. The trial was held in camera to protect the privacy and dignity of the victim youngster. The prosecution successfully demonstrated that Peats had unlawfully confined the boys and engaged in acts that were considered unnatural. Furthermore, it was shown that he accepted payment in lieu of permitting others to mistreat the boys. The verdict was pronounced by the additional sessions judge at Margao in 1996 and was subsequently affirmed by the Bombay Court, Goa Bench in 2000.

In another case of *Childline India Foundation & Anr vs Alan John Waters & Ors*¹⁷ In 2001, an instance of institutional child sexual abuse was discovered in Colaba, Mumbai, where British citizens and former naval officers Allan Waters and Duncan Grant had established an orphanage called Anchorage Home, which served as a sex tourism hub for numerous foreigners. In March 2006, a Mumbai sessions court sentenced Grant and Waters to six years in jail for sodomizing and sexually abusing five juvenile boys. They appealed the conviction to the Bombay High Court, which exonerated them in 2008. However, in 2011, the Supreme Court reinstated the conviction and imprisonment. Grant and Waters have subsequently finished their sentences and returned to the UK, where they are listed on the Sex Offenders Register.

In another case involving a 7 year old boy who was an inmate of an orphanage was referred by the police to the hospital when it was alleged by the father of the boy that he is being sexually abused by another inmate of the orphanage who is 14 years old. According to the father who was a foreigner, he claimed that while they moved to India he lost his wife and was ill himself which led him to put the kid in the orphanage. He used to take his son home on weekends and

¹⁷ CRIMINAL APPEAL NOs. 1208-1210 OF 2008

one day while he was bathing his son he noticed abrasions on his private parts and upon questioning the child, the son told his father of this other boy who used to sexually abuse him.¹⁸

(B) Juvenile homes

Juvenile homes, often known as juvenile detention facilities, are prisons for kids where they are imprisoned or detained while awaiting trial or placement in a long-term care facility. Under Section 2(14) of the Juvenile Justice Act, "children in need of care and protection" refers to youngsters picked up from the streets or businesses. Section 2(13) of the Juvenile Justice Act defines a "child in conflict with the law" as a youngster under the age of 18 who commits a crime. The state establishes juvenile correctional institutions to rehabilitate, protect, and reintegrate children into society once they reach the age of 18. The children are reintegrated via a number of holistic techniques that attempt to develop the kid into a better citizen in society by involving them in activities such as cooking, cleaning, basic education, and moral values.

However, the harsh fact is that the children who are housed in these facilities are subjected to horrible living circumstances and are denied the necessary environment to develop into responsible individuals. It would not be an exaggeration to argue that juvenile facilities have become a breeding ground for sexual offenders, pedophiles, who exploit the kids' helplessness and vulnerability. The mental health of juveniles in these households is often harmed by traumatic family events, insecurity, abandonment issues, impoverishment, and other socio-psychological variables. Thus, the predators are mostly caregivers, wardens, and security personnel who prey on these youngsters by abusing their power and trust and preying on the child's fragile mental and physical health. Such offenses are on the rise as a result of inadequate inspection committees, a lack of registration, ineffective Child Welfare Committees, and the failure to separate convicts depending on their age, gender, or offenses.

(C) School

A 4-year-old kid was sent to the collaborative child response unit by another hospital due to symptoms of fever and irritation in the anal area. The informant was the father. He said that the child faced sexual abuse in the school restroom by two older guys, with one of them physically assaulting him by restraining him, while the other engaged in anal penetration. "The father of the victim expressed that if his son were a 4-year-old girl who was raped by two older boys, the school would fear a scandal. However, because his son is a boy, no one seems to care

¹⁸ Subramaniam, Vyjayanthi Kanugodu Srinivasa; Reddy, Praveen1; Chandra, Girish1; Rao, Chandrika2; Rao, T. S. Sathyanarayana3. Silence of male child sexual abuse in India: Qualitative analysis of barriers for seeking psychiatric help in a multidisciplinary unit in a general hospital. *Indian Journal of Psychiatry* 59(2):p 202-207, Apr–Jun 2017. | DOI: 10.4103/psychiatry.IndianJPsychiatry_195_17

or acknowledge the crime." In this case, the school system displayed apathy due to the fact that the victim was male.¹⁹

IV. SEXUAL ABUSE FACED BY MALE CHILDREN IN THEIR HOMES

There has been a rise in the number of male child victims of penetrative sexual assault. In 2018, the number of male victims increased by 25% (from 183 male child victims in 2017 to 229 in 2018). This further increased by 17% in 2019. i.e. (from 229 male child victims in 2018 to 268 in 2019).²⁰

The research conducted by KSCF on the awareness and perceptions of child sexual abuse among young adults in India reveals that 25% of men experienced sexual abuse throughout their childhood. Approximately 5.8 crore male adolescents are subjected to sexual assault each year. However, the number of recorded instances is quite small, indicating a significant discrepancy. The primary factors contributing to the underreporting of sexual offenses against male adolescents were feelings of shame and fear, which arise from the associated societal stigma.

According to the research carried out by butterflies organisation²¹, Boys experiences challenged a few widely held beliefs about childhood sexual encounters, victims, performers, and perpetrators. The majority of boys questioned had been sexually assaulted between the ages of 14 and 16, with a minority of victims aged about 10 years. The victims knew almost all of the perpetrators, and just in three cases the perpetrators were strangers. Close relatives, neighbors, elder peers, and adult acquaintances are among the people known to the victims. Boys from middle-class homes were also sexually molested, however their prevalence was not statistically significant in the sample. Three boys from middle-class families spoke of their abuse experiences. This research contradicted prevailing beliefs about the 'prevalence of sexual abuse among children from lower class' by demonstrating that sexual abuse occurs across all socioeconomic classes.

Boys' lived experiences in families and communities showed socially constructed concepts of masculinity. All of the participants said that they had the freedom to go about without being questioned by their parents. The idea that boys are 'masculine', 'courageous', and 'independent' people capable of taking care of themselves was expanded by connecting activities inside homes.²²

¹⁹ Id

²⁰ Status of POSCO Cases in India in March 2021, by Kailash Satyarthi Children's Organisation

²¹ Breaking the silence on Sexual violence against boys in India, by Butterflies; Family for every Child

²² Id

V. CONCLUSION

Sexual assault of boys is a topic that is considered socially unacceptable and not openly discussed in India. One contributing factor is our society's conservative nature, which avoids any discussion of sexual topics. Boys hesitate to discuss their experience of sexual assault with their parents due to the concern of being stigmatized as weak or even gay. Even if they disclose the incidents, no formal complaints are lodged in order to preserve the kid and family's social reputation. This silence promotes the persistence of abusers in their abusive behavior. As long as cultures continue to uphold and transmit the misconceptions surrounding the sexual abuse of boys, many boys who have experienced unwanted sexual abuse will not get the necessary acknowledgment and assistance. In order to assist victims in overcoming the consequences of abuse and attaining the life they want and deserve, it is imperative to confront societal attitudes, vocalize concerns, and implement legislative changes. The moment has arrived to break the silence.

In many instances, it is evident that parents are eager to use the victim as a means to file a lawsuit against the abuser and their family, although they fail to demonstrate sensitivity towards the psychological anguish experienced by the youngster who exhibits all the symptoms associated with posttraumatic stress disorder. Their assumption is erroneous, since they believe that being male rendered the victim resilient. India has the lowest sex ratio in the world, with 914 females for every 1000 males. It is the only country where prenatal sex determination is illegal. Surprisingly, even now, 48.4% of girls express a desire to be boys.²³ Despite India's "patriarchal social structure," it has failed to adequately protect male children, as evidenced by the equal rates of sexual abuse among boys and girls. Based on the study, these children are often exposed to physical abuse by their parents, experience corporal punishment in school, are regularly left to survive on the streets, and are forced to make a livelihood without any autonomy over their earnings. In contrast to females who often experience abuse in heterosexual relationships, guys are more likely to be victimized by other men, which might result in uncertainty about their sexual orientation. Many male victims may question if they are gay.²⁴ Patriarchy exacerbates the condemnation of homosexuals by portraying them as lacking in masculinity, therefore leading to the prolonging of disclosure. Homophobia may result in the development of hypersexual behavior in male survivors, and males often internalize more

²³ Ministry of Women and Child Development, Government of India. Study on Child Abuse: India 2007. 2007 Last accessed on 2012 Jan 28 New Delhi Ministry of Women and Child Development, Government of India Available from: <http://www.wcd.nic.in/childabuse.pdf>

²⁴ Lisak D. The psychological impact of sexual abuse: Content analysis of interviews with male survivors J Trauma Stress. 1994

self-blame than girls for their inability to prevent the abuse.²⁵

²⁵ Dube SR, Anda RF, Whitfield CL, Brown DW, Felitti VJ, Dong M, et al Long-term consequences of childhood sexual abuse by gender of victim Am J Prev Med. 2005