

CHILD SEXUAL ABUSE: EFFECTS ON VICTIM AND LEGISLATIVE MEASURE

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Abstract

The issue of child sexual abuse has not been given adequate importance in research studies in India since secrecy, denial, shame and guilt are associated with it. Further, child sexual abuse provokes strong emotions, because it raises important questions on how children are treated in matters of sexuality and power. Sexual abuse of children is the last of society's most closely guarded secrets like domestic violence, bride burning, and premarital sex. Its victims feel a deep sense of self-condemnation, waves of self-hatred, repulsion and high degree of low self-esteem. These may be coupled with feelings of being abandoned, unprotected, worthless and insecure. They are confused as to where to go to and whom to talk to, when it happens. Early identification of sexual abuse is crucial to reduce the suffering of abused child and to establish support systems for assistance in pursuing appropriate psychological development and healthy adult functioning. The response to the disclosure of sexual abuse is critical to the child's ability to resolve and heal the trauma of sexual abuse.

INTRODUCTION

The knowledge that children are occasionally subjected to sexual abuse is not new. Nor are attempts to study such abuse systematically new (Kinsey *et al.* 1953). What is new today is the widespread public awareness of child sexual abuse as a common event in the lives of children and the belief that such an experience is not only distressing at the time of its happening but also can produce long term damage

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and disturbance. The sexual abuse of children is no longer regarded merely as a vice and a product of evil act, as was in the 19th century. It has come to be viewed variously as an infringement on the rights of children, a gross manifestation of patriarchal domination and exploitation, a social challenge, a cause of mental disorders, an explanation for personal and social failings, and a challenge to the existing legal processes.

The sexual abuse of children has been discovered and rediscovered throughout history (Olafson *et al.* 1993). One of the more influential rediscoveries was that of Freud, who initially concluded that many of his patients had been molested or victimised during childhood. On the basis of this observation, Freud formulated his seduction theory, in which he identified child sexual abuse as a major etiological factor in neurosis. This hypothesis was relatively short-lived since Freud abandoned the seduction theory in favour of the oedipal theory, and accounts of child sexual abuse were relegated to being childhood fantasies rather than descriptions of reality.

During the first half of the 20th century, there was relatively little interest in the issue of child sexual abuse, despite the publication of the results of several surveys in the 1940s and 1950s (Kinsey *et al.* 1953) that indicated a substantial prevalence of child sexual abuse. It was suggested that the lack of professional interest in child sexual abuse was due to reports of it being either discounted as fantasy or reconstructed as behaviours that were not harmful to children (Olafson *et al.* 1993).

In the early 1960s, there was a fresh interest in the problem of physical abuse of children as a result of the pioneering work of Kempe and his associates on the battered child syndrome (Kempe *et al.* 1962). That research work set in motion increasing concern about the physical abuse of children. However, it was not until a decade later that attention once again focused on the issue of child sexual abuse.

CHILD SEXUAL ABUSE

Child sexual abuse has been defined as “the involvement of dependent, developmentally immature children in sexual activities they do not fully comprehend, to which they are unable to give informed consent” (Kempe 1984). It is involving any minor child that is intended for the sexual gratification of an adult. Child sexual abuse broadly

encompasses an array of sexual contacts between a child and another person, wherein the contact is designed for the gratification of the offender, generally without consideration for the reactions or choices of the child and without consideration for the effects of the behaviour upon the child. Behaviours that are sexually abusive often involve bodily contact, such as in the case of sexual kissing, touching, fondling, molestation, intercourse, rape or attempted rape. However, behaviours may be sexually abusive even if they don't involve contact, such as in the case of genital exposure ("flashing"), verbal pressure for sex, and sexual exploitation for purposes of prostitution, pornography, exposing children to adult sexual activity, pornographic movies or photographs, and making children pose in a sexual fashion or undress (Finkelhor 1987).

Sexual abuse is most commonly committed by an individual known to the child victim – parent or any other family member (intra-familial). Rarely is the abuser a stranger. Intra-familial, especially incest sexual abuse, is difficult to document and manage because the child has to be protected from additional abuse and there is pressure on the child to not reveal the name or deny the abuse, while attempts are made to preserve the family unit. Children themselves may also decide to recant their previous accusations of abuse due to fear of retaliation by the perpetrator or other family members.

Extent of Child Abuse

Child sexual abuse is a problem affecting millions of children across the world. Though it exists everywhere, more research and reports are available from the western countries. Extensive data on the prevalence of child sexual abuse in India is not available. However, some major research studies done in this field present the following results (Tulir 2006).

In a study covering 350 school girls in New Delhi in 1997, Sakshi (a non-government organisation) found that 63 per cent of the girls had experienced sexual abuse from their family members, and 25 per cent of the girls had been either raped or made to masturbate the perpetrator or perform oral sex. Another 1997 study on middle and upper class women from Chennai, Mumbai, Kolkata, Delhi and Goa, conducted by RAHI (Recovering and Healing From Incest), a support centre for woman survivors, revealed that 76 per cent of the respondents

had been sexually abused as children, of whom 71 per cent were abused by either relatives or someone they knew and trusted. Samvada's 1996 study of students in Bangalore reported that 47 per cent of the respondents had been sexually abused, of whom 62 per cent had been raped once and 38 per cent having been repeatedly violated. The study of 2211 school going children, conducted by Tulir's CPHCSA (Centre for the Prevention and Healing Child Sexual Abuse) in Chennai in 2006, indicated a child sexual abuse prevalence rate of 42 per cent. Children of all socio-economic groups were found to be equally vulnerable to sexual abuse. While 48 per cent of the boys reported to have been abused, the prevalence rate among the girls was 39 per cent. In a sample of study of high school children conducted in Ernakulam, Kerala, 48 per cent of the girls and 17 per cent of the boys reported that they had experienced sexual abuse as children in the past (Joseph 2006).

The results of the above studies show that the rate of child sexual abuse varies depending on the sample. However, what is really important to note here is that child sexual abuse is a social issue in India that merits the attention of the society as a social concern.

A number of studies have examined the social and family characteristics of children exposed to child sexual abuse. They have made an attempt to develop profiles of the social circumstances associated with the elevated risks of child sexual abuse.

Age and Social Class of Abused Children

Finkelhor (1987) reported 10-11 years as the median age at which children are abused. Child sexual abuse is more likely to occur in pre-pubertal or peri-pubertal children rather than in sexually mature young girls. It is possible that much of the apparent difference in child sexual abuse risk between the pre-school years and adolescence arises because rates of child sexual abuse in young children may be underreported.

Some studies have reported a weak or no association between the socio-economic status of family and the risk of child sexual abuse (Fergusson *et al.* 1996). This finding suggests that children from different social strata may be exposed to generally similar risks of child sexual abuse.

Family Functioning of Abused Children

Although risks of child sexual abuse appear to have little relationship to patterns of socio-economic status, there has been a growing body of research data linking child sexual abuse to the factor of family function/dysfunction. There are several studies that have looked into this aspect of child sexual abuse (Fergusson *et al.* 1996). These studies found high risks of falling a victim to sexual abuse in a child reared in a home that is characterised by multiple signs of difficulty and dysfunction spanning: marital conflict and disharmony, family change, step-parenthood, parental adjustment problems, and impaired parent child attachments. There are two possible explanations for these pervasive linkages between risks of child sexual abuse and family functioning. The first is that the family factors associated with child sexual abuse may, in fact, be markers for families likely to contain a child abuser. Given that most abusers are not immediate family members, it is more likely that the linkages reflect family environments that, in various ways, may expose children to risks of sexual abuse as a result of limited parental care, supervision, and protection of children.

The issue of the linkage between family functioning and child sexual abuse was examined in a study conducted by Fergusson and colleagues (Fergusson *et al.* 1996). The study compared the family backgrounds of children who were exposed to intra-familial sexual abuse with children who were exposed to extra-familial sexual abuse. This analysis found that children exposed to intra-familial and extra-familial abuse came from similar family backgrounds. This result indicates that family dysfunction creates a social and family-ecology that places children at risk of both extra-familial and intra-familial abuse.

Perpetrators of Child Sexual Abuse

Knowledge about the status and motivation of sexual offenders against children and of how they may be treated, deterred, and corrected is inadequate. The available research findings give some information on the sex and age of the abuser and his/her relationship to the child victim. The large majority of those who sexually exploit male and female children (probably in excess of 95 per cent) are males. Men are found to be perpetrators in most cases, regardless of whether the victim

is a boy or a girl. Women are found to be perpetrators in about 14 per cent of cases reported against boys and about 6 per cent of cases reported against girls. One-third of child sexual offenders are themselves adolescents. The motivation to use children sexually often develops in adolescence, which is also a crucial time for intervention and treatment (Bagley 1992).

At least 80 per cent of those who assault children are known to the children, although only one-fifth of males and around one-third of females have been assaulted by someone in their immediate family. Most often, sexual abusers know the child they abuse, but are not relatives. In fact, about 60 per cent of perpetrators are non-relative acquaintances, such as a friend of the family, babysitter or neighbour. About 30 per cent of those who sexually abuse children are relatives of the child, such as fathers, uncles, or cousins. Strangers are perpetrators in about 10 per cent of child sexual abuse cases (Bagley, 1992).

EFFECTS OF SEXUAL ABUSE

Sexual abuse can have short-term and long-term effects on the victims. The short-term effects are the impact it has on the life of the children in their formative period. Depending upon the short-term impact, the victims of child sexual abuse may experience various kinds of problems of adjustment and personality development as adults in later life.

Effects on Children

The effects of sexual abuse on children result from the abuse itself, from the family's response to the situation, and from the stigmatisation that accompanies abuse. The symptoms of the effects can include depression, anxiety, guilt feeling, fear, sexual dysfunction, dissociative behaviours, eating disorders, substance abuse, regressive behaviours such as a return to thumb-sucking or bed-wetting, runaway behaviour, and academic and behaviour problems.

Diminished self-esteem in victims of child sexual abuse is a commonly observed consequence of abuse, especially if abuse has continued for weeks, months, or even years (Bukowski 1992). The duration of abuse (particularly abuse beginning in latency and extending into adolescence), the degree of physical imposition on the child (usually penetration of the child's body), and the combination

of sexual abuse with attachment and bonding failures, emotional abuse and neglect, and physical abuse are all associated in combination or interaction with diminished self-esteem in the child victim (Morrow and Sorell 1989; Mannarino *et al.* 1989; Kendall-Tackett *et al.* 1993).

Stigmatisation, self-blame and chronically impaired self-esteem often occur together in abuse survivors of both the sexes. Factors that influence the outcomes in cases of childhood sexual abuse include the age of the victim, the frequency and extent of the abuse, the relationship of the victim to the abuser (incest has the worst outcomes), the use of force, the presence of severe injury, and the number of different perpetrators. The response of the victim's family has a tremendous effect on the outcome. Supportive responses from the victim's family and friends can go to lessen the impact of the abuse while negative responses (seen commonly in cases of incest where one parent tries to protect the other parent) will compound the damage done. Re-victimisation is also a common phenomenon among people abused as children.

In short, the ill effects of child sexual abuse are wide ranging. There is no one set of symptoms or outcomes that the victims experience. Some children even report little or no psychological distress from the abuse, but these children may be either afraid to express their true emotions or may be denying their feelings as a coping mechanism. Some other children may have what is called "sleeper effects." They may experience no harm in the short run, but suffer serious problems later in life.

Until recently there has been little attention given to the impact of sexual abuse on children, since most of the research was concerned on the harmful effects of child sexual abuse that manifest in later life (Kendall-Tackett *et al.* 1993). There are, however, a growing number of studies that examine the extent to which children exposed to sexual abuse are at an increased risk of a range of subsequent adjustment difficulties.

A study conducted by Mannarino *et al.* (1989) used three sampled groups of girls (those known to have been sexually abused and referred to a regional rape crisis centre, those who have been attending an outpatient psychiatric clinic but had been sexually abused, and a control group of school children). The results of this study suggested

that when compared with normal controls, sexually abused girls had consistently higher mean levels of all parent reported behavioural problems and also had lower mean levels of parent reported social competence. Sexually abused girls had significantly higher levels of sexual problem. The researchers concluded that this study and other recent investigations have demonstrated that sexually abused children manifest a wide variety of the emotional and behavioural problems.

Kendall-Tackett *et al.* (1993) reviewed a series of 26 studies that examined linkages between child sexual abuse and a wide range of adjustment difficulties. The majority of studies that have compared children, known to be sexually abused, with the non-abused control participants have found higher rates of adjustment problems among the abused children — problems spanning mental health symptoms, low self-esteem, and aggressive and delinquent behaviours.

Effects on Adult Life

Over the past decade, an increasing number of studies have examined the effect of child sexual abuse on the psychological and social adjustment in adulthood. They have consistently documented a wide range of adult problems as the consequence of child sexual abuse. These problems included depressive symptoms, anxiety disorders, substance abuse disorders, eating disorders, antisocial and self-damaging behaviours, post-traumatic stress disorders, dissociative disorders, and problems of sexual adjustment (Fergusson *et al.* 1996). These findings indicate that exposure to sexual abuse during childhood may lead to psychological, interpersonal and social difficulties in later adult life.

Guilt is universally experienced by almost all victims of child sexual abuse. Courtois and Watts described the “sexual guilt” as “guilt derived from sexual pleasure” (Tsai and Wagner 1978). Sexuality is regarded not simply as a part of the self limited to genitals, discrete behaviours, or biological aspects of reproduction, but is more properly understood as one component of the total personality that affects one’s concept of personal identity and self-esteem (Whitlock and Gillman 1989). Sexual victimisation may profoundly interfere with and alter the development of attitudes toward self, sexuality, and trusting relationships during the critical early years of development.

Clinical findings on adults, who had been victims of sexual abuse, include problems in interpersonal relationships associated with an

underlying mistrust. Generally, adult victims of incest have a severely strained relationship with their parents that is marked by feelings of mistrust, fear, ambivalence, hatred, and betrayal. These feelings may extend to all family members (Tsai and Wagner 1978).

Preventing Effects of Child Sexual Abuse

The ideal response to child sexual abuse would be primary prevention strategies aimed at eliminating, or at least reducing, the sexual abuse of children. All efforts need to be taken in this regard. While such preventive measures are pursued, it is necessary that action be taken to prevent the deleterious outcomes linked to child sexual abuse that occur in spite of preventive measures. It involves secondary and tertiary preventive strategies aimed at ameliorating the damage inflicted by sexual abuse, and reducing the subsequent reverberations of that damage. Child sexual abuse acts in concert with other developmental experiences to leave the growing child with areas of vulnerability. This is a dynamic process at every level, and one in which there are few irremediable absolutes. Abuse is not destiny. It is damaging, and that damage, if not always reparable, is open to amelioration and limitation.

Those who have been sexually abused and who subsequently have positive school experiences where they feel themselves to have succeeded academically, socially or at sport, have significantly lower rates of adult difficulties. Those whose relationship with their parents subsequent to abuse was positive and supportive fared better, and a good relationship with the father appeared to have a strong protective influence regarding subsequent psychopathology. Even aspects of the parental figures' relationship to each other seem to have some influence. Expressions of physical affection between parents were associated with better outcomes, and marked domestic disharmony, particularly if associated with violence, added to the damage. Finally, those who can establish stable and satisfactory intimate relationships as adults have significantly better outcomes (Romans *et al.* 1995; Spaccarelli and Kim 1995).

There is no reason why a well-organised and funded school system should not provide all children with a positive experience academically, socially or in sport. There is no need to identify and target abuse victims, but simply to make every effort to ensure adolescents have

the opportunity to share in the enhanced social opportunities, the increased mastery, and the pleasure of achievement that school should provide at some level to all.

The secondary preventive strategies of relevance in reducing the impact of child sexual abuse are relevant and important to reducing a wide range of adolescent and adult problems unrelated to abuse. These include improved parental relationships, reduced domestic violence and disharmony, improved school opportunities, work opportunities, better social networks, and better intimate relationships as adults. The list is so familiar as to be platitudinous, but is nonetheless of central importance.

Child sexual abuse contributes to developmental disruptions that lay the basis for interpersonal and social problems in adult life. These, in turn, increase the risks of adult psychiatric problems and disorders. Hence, focusing on improving the social and interpersonal difficulties of those with histories of child sexual abuse may be the most effective manner of reducing subsequent psychiatric disorder. This argues for tertiary prevention strategies aimed at improving self-esteem, encouraging more effective action in work and recreational pursuits, attempting to overcome sexual difficulties, and working specifically on improving the victim's social networks and capacities to trust in, and accept, intimacy. This does not imply that established affective disorders or eating disorders should not be treated in their own right, but suggests that focusing on current vulnerabilities and deficits may be more productive than extended archaeologies of past abuse in the search of an elusive retrospective mastery.

The fundamental damage inflicted by child sexual abuse is to the child's developing capacities for trust, intimacy, agency and sexuality, and that many of the mental health problems of adult life associated with histories of child sexual abuse are second-order effects. This hypothesis runs counter to the post-traumatic stress disorder model, and suggests different therapeutic strategies and strategies of secondary prevention. In practice, both models may be of value. The post-traumatic stress disorder like mechanisms may predominate in the short term, and in those who have been exposed to the grossest form of child sexual abuse. The developmental and social model may carry the weight of causality in the far commoner, but less utterly overwhelming, forms of child sexual abuse.

Disclosure of Child Sexual Abuse

Early identification of the sexual abuse victims appears to be crucial to the reduction of suffering of abused youth and to the establishment of support systems for assistance in pursuing appropriate psychological development and healthier adult functioning. As long as disclosure continues to be a problem for young victims, then fear, suffering, and psychological distress will, like the secret, remain with the victim (Bagley 1992; Whitlock and Gillman 1989).

Children often fail to report about sexual abuse because of the fear that disclosure will bring consequences even worse than being victimised again. The victim may fear consequences from the family, feel guilty for consequences to the perpetrator, and may fear subsequent retaliatory actions from the perpetrator. Victims may be embarrassed or reluctant to answer questions about the sexual activity (Berlinger and Barbieri 1984). They may also have a feeling that "something is wrong with me," and that the abuse is their fault. In addition to "sexual guilt," there are several other types of guilt associated with the abuse, which include feeling different from peers, harbouring vengeful and angry feelings toward parents, feeling responsible for the abuse, feeling guilty about reporting the abuse, and bringing disloyalty and disruption to the family. Any of these feelings of guilt could outweigh the decision of the victim to report, the result of which is that the secret may remain intact and undisclosed (Tsai and Wagner 1978).

Detection of Child Sexual Abuse

There are often no obvious signs to show that a child has been sexually abused. There is not a "child sexual abuse syndrome," or any symptom that a majority of sexually abused children exhibit. Because sexual abuse often occurs in private and because it often does not result in physical evidence, child sexual abuse can be difficult to detect.

However, some children may show symptoms of PTSD (post traumatic stress disorder), including agitated behaviour, frightening dreams and repetitive play in which aspects of the abuse are expressed. It is also possible that sexually abused children may exhibit sexual behaviour or seductiveness that is inappropriate to their age. As a result of abuse, children, especially boys, tend to "act out" with behaviour problems, such as cruelty to others and running away. Other children "act in" by becoming depressed or by withdrawing from friends or

family. Sometimes children may try to injure themselves or attempt suicide.

Role of Parents

Every child is vulnerable to sexual abuse. Parents must realise that there is a possibility that someone might hurt or take advantage of their child. Act of child sexual abuse can also involve frightening, bribing or coercing a child into giving in to sexual activity or any kind of sexual pleasure. There may or may not be physical intimidation involved. Generally, children are very vulnerable, especially where adults are involved.

Parents should take adequate precautions against the possible occurrence of sexual abuse of their children. Talk to the children about the difference between good and bad touch. The child must be told that if someone tries to touch his/her body and do things that make the child feel uncomfortable, he/she should say NO to the person and inform the parents about it right away. Let children know that they have the right to forbid others to touch their bodies in a bad way. Let them know that respect to elders and those in authority does not always mean doing whatever they tell them to do. Let them not do everything that the babysitter or group leader tells them to do.

Parents must alert their children about perpetrators who may reach them through the Internet, and monitor their children's access to online websites. Most importantly, parents should provide a safe, caring environment within the family so that the children are able to talk freely about sexual abuse.

If a child says he/she has been abused, try to remain calm. Reassure the child that what has happened is not his/her fault. Seek a medical examination and psychological consultation immediately. Know that children can recover from sexual abuse, particularly if they have the support of a caring, available parent.

It is often very painful to acknowledge that one's child has been sexually exploited. Parents can harm children further if they inappropriately minimise the abuse or if they harbour irrational fears related to the abuse. Therapy can help parents and caretakers deal with their own feelings about the abuse so that they are able to provide support to their children.

LAWS RELATED TO CHILD SEXUAL ABUSE

There is no specific direct provision to deal with cases of child sexual abuse in the Indian Penal Code, 1860. Under the Indian Penal Code child sexual abuse is treated as falling under "rape." Thus, if rape cannot be proved, the child is unable to get justice. By Indian law, it is necessary to prove penetration, if one is alleging that rape has occurred. In cases of child sexual abuse, penetration may not always have taken place. This loophole allows the accused to plead that the case be treated as molestation and the punishment substantially reduced. The law does not take any notice of the innocence of the child and the indelible harm that his/her fragile psyche has been subjected to, although under the Indian Penal Code punishment is stricter for commission of rape on a girl child under twelve years of age and for custodial rape.

Another loophole in the existing laws is that the Code always talks of rape victims as female and the offender as a male. The rape of a boy child or homosexual rape is not even considered by the Code. Under the Indian law, the rape of a boy child or adult male amounts to an "unnatural offence" and the perpetrator of the act is directed to be adequately punished. Unfortunately, this provision is misused. While adult consenting homosexuals are penalised, paedophiles, who prey upon hapless children, manage to get away scot-free. A serious difficulty in the prosecution of paedophiles has been the absence of laws that comprehensively deal with the specific problem of paedophilia.

We need clear and direct laws to protect the rights of the child. However, it is not enough that laws relating to child rights are enacted with good intentions. They have to be taken seriously and effectively enforced. This requires that the child's rights are given prime consideration. Offenders, even repeat offenders, take advantage of the loopholes in the law, leading to the exploitation of the child. The child ends up being brutalised twice over, once by the perpetrator of the abuse and the second time by the upholder of the law.

What is needed in order to remedy the situation is enactment of appropriate child oriented laws and above all their enforcement. We have to ensure that the Indian law abides by the spirit in which the UN Convention for the Rights of the Child was enacted.

UN Convention

In November 1992, the government of India ratified the UN Convention on the Rights of the Child. In doing so, India sought to re-affirm its commitment to children. The UN Convention endeavoured to protect and promote the welfare of the child and to empower him/her to attain his/her full potential. Article 19 of the Convention made it obligatory for state parties to take comprehensive measures to protect the child from maltreatment, physical and mental abuse, and exploitation.

Following are the details of Article 19 of the Convention: (1) The state parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation (including sexual abuse while in the care of parents, legal guardian(s) or any other person who has the care of the child). (2) Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate for judicial involvement (United Nations High Commissioner for Human Rights 1989).

Under Article 34 of the UN Convention, the state parties have undertaken to protect children from all forms of sexual exploitation and sexual abuse. It states: "For these purposes, state parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: (a) the inducement of coercion on a child to engage in any unlawful sexual activity, (b) the exploitative use of children in prostitution or other unlawful sexual practices and (c) the exploitative use of children in pornographic performances and materials" (United Nations High Commissioner for Human Rights 1989).

The state parties are obliged to take measures for the rehabilitation of victim children and for their reintegration into society under Article 39 of the UN Convention. It states that state parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of

any form of neglect, exploitation, or abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment, or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child (United Nations High Commissioner for Human Rights 1989).

While the UN Convention on the Rights of the Child is motivated by good intentions, it is up to the member states to ratify them and implement its provisions in their true spirit. Although India has ratified the UN Convention, specific legislation incorporating it is yet to be enacted. Currently, the Indian law relating to children comes under the ambit of general law. However, if the laws are to mean anything significant, they have to be brought into greater conformity with the UN Convention.

The Constitution of India also contains provisions that seek to ensure the protection of children's rights. Article 15 (3) of the Constitution permits the state to make special legal provisions for women and children. The intention behind this Article is to provide facilities for the benefit and betterment of women and children. Under Article 39 of the Constitution, it is the duty of the state to ensure that children of tender age are not abused and forced by economic necessity to enter vocations unsuited to their age and strength, and to ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity. The Constitution also holds the state responsible for framing laws and policies for "protecting children and youth against exploitation and moral and material abandonment." As one step towards this aim, the Juvenile Justice Act, 1986 was enacted "to provide for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters relating to, and disposition of, delinquent juveniles."

The best feature of the Juvenile Justice Act is that before it was enacted, each state had a separate Children's Act with differing contents. The Juvenile Justice Act helped ensure a uniform juvenile justice system throughout India. However, the act still has its demerits. It does not deal with child sexual abuse and makes no provision for safe custody and treatment for a child who is a victim of sexual abuse.

With regard to the existing laws relating to children in India, the main problem is failure in strictly enforcing them. There are laws that deal with subjects like guardianship, adoption, maintenance and custody of children, and child labour. The laws are repeatedly violated. Mistreated and abused children do not know where to go for support. A concerted effort should be made to ensure that the rights of children are respected and protected, and those in power do not look upon children as a section of the population that may be taken for granted.

Fortunately, certain vigilant voices in the society have been seriously taking up the issue of children. The rights of the child are now being recognised. For any individual to grow to his/her full potential, it is essential that he/she be assured of an environment conducive to such positive enhancement. Sadly, in a situation where a large number of our children are homeless and deprived of a decent meal for days, saving children from the abuses that they are exposed to is easily neglected.

There are a number of laws related to children, but there is no single comprehensive law that discusses the issue of child sexual abuse. In the case of children staying in their family in a protective environment, the perpetrator is, more often than not, a member of the family, somebody who enjoys a position of trust and honour in the family. The law, as it stands currently, is unable to take any concrete steps to hold these people in check. Apart from them, there are thousands of children, like street children and urchins, who are forced into the sex trade because of their poverty. For them, the much-used term 'vicious circle' is a fact of life. They are frequently sold into prostitution by their parents. The very people who should have protected them are the perpetrators of the crime. In this case, the poor children become victims of both emotional and sexual abuse. Parents then live off the earnings of these young boys and girls. When the brothels are raided, these children find themselves "rescued" under the Juvenile Justice Act, 1986 and held in state-run juvenile rehabilitation centres, where they are unwittingly brought into closer proximity with other criminals. The brothel-keepers, the ones who should have been prosecuted, generally get away by bribing their way through the system.

Goa Children's Act

The Goa Children's Act, 2003 (Government of Goa 2003) contains certain provisions that address the sexual abuse of children in general and tourism related paedophilia in particular. In Section 2 of the Act, which deals with definitions, sexual offences are classified into 'grave sexual assault', 'sexual assault' and incest. Grave sexual assault covers all form of sexual intercourse including oral sex and anal sex, as well as offences such as making children pose for pornographic films, making children have sex with each other and deliberately causing injury to the sexual organs of a child. Sexual assault includes showing children pornographic pictures and exhibitionism. By including a wide range of possible actions that an offender may engage in, the focus will shift from the present one-point-programme of establishing rape of the child to investigating cases of child sexual abuse.

The punishment prescribed for grave sexual assault under Section 8(2) of the Goa Act is 7-10 years imprisonment and a fine of Rs.2,00,000. The punishment for sexual assault is a sentence of up to three years and a fine of Rs.1,00,000. The punishment for incest is imprisonment for a period of one year and a fine of Rs.1,00,000. This is in addition to the sentence for the sexual assault or grave sexual assault that is committed by the offender.

The Goa Act further stipulates that any adult staying with an unrelated child is required to register it with the director, Women and Child Development. If the director deems necessary, he/she will authorise the district inspection team to inspect the case and submit a report with recommendations. Failure to inform the director can attract a fine of Rs.1,00,000 and imprisonment of one year [Section 8 (4-9)].

Hotels and other establishments that provide boarding, lodging or any similar facility have the responsibility of ensuring the safety of children in their premises. Significantly, no child shall be allowed to enter any room of any hotel or establishment with an unrelated adult, with exceptions being made for 'reasonable areas' such as a teacher with students or children staying with friends. The owner and the manager will be held responsible for violation of this provision [Section 8 (10a-b)]. All hotels and establishments are expected to see that children do not have access to Internet facilities that are not fitted with filters and that they have no access to any 'objectionable material' through any other medium such as videos and cable [Section 8 (10c)].

According to the Goa Act, it is the duty of all photo studios and developers of films to report to a police officer not below the rank of Deputy Superintendent of Police in case they find that photos/films developed by them contain sexual/obscene depictions of children. Failure to report will result in a minimum sentence of one year and/or a minimum penalty of Rs.50,000. This law can serve to apprehend paedophiles like Freddy Peats who was found in possession of 2,305 pornographic photographs, many of which must have been taken over the 10 years that he operated his racket.

Anyone who facilitates the abuse of a child by soliciting, publicising or making children available for their commercial exploitation will be viewed as engaging in unlawful activity. This includes hosting websites, taking suggestive or obscene photographs, soliciting customers, guiding tourists or any other form, which may lead to the abuse of a child [Section 8 (12)].

Children below the age of 14 years cannot enter a cyber cafe or any other facility providing computer services unless accompanied by an adult. Such establishments shall also ensure that child-friendly safeguards are installed and that children below the age of 14 years can only access the Internet in the presence of an adult from the establishment [Section 13(16-18)].

The Goa Act has provisions to safeguard children from trafficking. The law authorises airport authorities, and border, railway and traffic police to report any case of adults travelling with a child/children in suspicious circumstances or any suspected case of trafficking. Such adults may be detained for questioning at the nearest police station [Section 8 (15)]. Anyone who exploits a child for commercial sex shall be liable to pay a penalty of up to Rs.1,00,000 and simple imprisonment of one year, in addition to any other penalty that is attracted by any other act in force [Section 9 (4)].

There are several child pro-active provisions in the Goa Act. They include setting up of units for assisting the victims of child abuse. The units will consist of social workers/counsellors to help the child deal with the trauma of abuse and to prepare him/her for court procedures [Section 8 (19)]. Another provision is for training in sensitisation of all those involved in the healing, rehabilitation and other assistance programmes for child victims. As part of the training,

police officers will be familiarised with the rights of children and the relevant laws [Section 8 (20-21)]. Another directive is to evolve a child friendly tourism code. The tourism department in collaboration with the Travel and Tourism Trade of Goa is to formulate such a code. This will facilitate the detailing of 'good practices' to be adopted by all members of the tourism industry in the best interests of children [Section 8 (22)].

Another important provision of the Goa Act is for a children's court. The setting up of a children's court to try all offences against children is a bold step prescribed by this law. A child friendly court will help to minimise the double trauma that abused children are subject to in courts, which even adults find awesome and terrifying [Section 8 (27)].

The Goa Children's Act is unusual because it does not merely recommend punitive measures against offenders. Instead, in dealing with child sexual abuse it attempts to place responsibility on different sections of society to play a role in protecting all children and preventing the abuse of any child. The hotel owners, the photo studios, cyber cafe operators, the police, the tourism department and all those involved in the travel and tourism trade are expected to keep their eyes open and fulfil their duties, and be sensitive to the situation of any child they may come across in the performance of their duties. Moreover, it also seeks to establish child friendly court procedures, which will help to ensure that children are able to give evidence without being exposed to the presence of the perpetrators of the crime.

CONCLUSION

Child sexual abuse should be fully made known as a social issue within families and educational institutions so that children are aware of it and are able to speak about it. Preventing sexual abuse should start as early as at the age of 3-4 years in a language, which the young children can understand. Young children should be trained to defend themselves from unnatural approaches from family members, relatives, neighbours and strangers. The public including children should be made to realise that one's body is one's own right and no one can violate that right of the child in any form of abuse. The advocates for spreading this message should be parents, teachers of kindergarten and primary school, counselling centres, self-help groups in the community,

representatives of local self-governments and health workers. The counselling services in the matter of sexual abuse should be made available to the children in the schools. Lawyers, judges, psychologists, doctors, social workers, police and other professionals who provide assistance to victims of child sexual abuse may be given specialised training in preventing sexual abuse of children and in dealing with victims of abuse.

Schools and teachers have an important role to play in the fight against child sexual abuse and helping the child victims of abuse. Teachers may be empathetic toward abused children. But they should have adequate knowledge and the skills to make children aware of sexual abuse and to instil in them confidence and courage in reporting cases of abuse. Although teachers are required to report suspected child abuse, they often lack the ability to detect cases of sexual abuse or recognise them, since most victims manifest no obvious external signs. A teacher's emotional response to the issue of child sexual abuse also can affect his/her tendency to report. Because many people find it difficult to comprehend that anyone would sexually victimise children, there is a tendency to deny that the problem exists. Abused children sometimes present information in a piecemeal fashion to test an adult's response to what they share. Therefore, it is vital for teachers and other school personnel to be provided with training not only in detecting cases of child sexual abuse but also in responding to intentional and accidental disclosure by children.

Educating children about how to protect themselves from being sexually abused through school-based prevention programmes would be an effective tool to fight against child sexual abuse. In order to protect children, educators and parents need to know what works. Equally important, they need to know how to accomplish this end without compromising the children's emotional well-being.

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