

HISTORICAL EVOLUTION OF CHILD SEXUAL ABUSE LEGISLATIONS IN INDIA AND THEIR RELEVANCE IN THE MODERN EDUCATION SYSTEM

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Abstract

In the presented study, the researchers analyzed and summarized child sexual abuse legislation from the conservative Indian period to the modern Indian period. The Indian Penal Code, 1860, was the first written and pioneering legislation in pre-independent India. Sexual offenses always have been considered punishable criminal offenses, but the IPC, 1860, provides the primary legal framework to handle such incidents, although it did not recognize child sexual abuse as a distinct section. It worked as a foundational stone for more future-oriented acts such as the Prevention of Children from Sexual Offences (POCSO) Act, 2012. After independence in India, the Goa Children's Act was the first child-sensitive and progressive law to explain the child sexual abuse offenses. The concept of non-contact sexual abuse was introduced, and various institutions of Goa were considered accountable for sexual harassment within their respective premises. The Commission for Protection of Child's Rights Act, 2005, mandated the establishment of the National Commission for Protection of Child's Rights (NCPCR) and the State Commission for Protection of Child's Rights (SCPCR). The mentioned commissions are responsible for incorporating the child protection laws. The Prohibition of Child Marriage Act, 2006, was introduced to eliminate the evil of child marriage and protect children. The legal marriage age was set by the mentioned act, and child marriage was criminalized and considered void. The Prevention of Children from Sexual Offences (POCSO) Act is landmark legislation in independent India, as it consists of a comprehensive landscape regarding sexual offenses. It was introduced to provide more child-friendly environments and fast trial courts for sexual offenses. It empowered the government institutions, private institutions, and citizens of the country. It also encourages in-camera trials in the presence of survivor-supported persons.

Keywords: historical evolution, child sexual abuse, legislations, and modern education system.

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Introduction

Child Sexual Abuse is the crime done by perpetrators to intentionally impair the minor sexually, psychologically, and physically. Child Maltreatment is an umbrella term given by the World Health Organization to cover any kind of negligence or ill-treatment done to an individual younger than 18. This also includes physical, social, psychological, and sexual ill-treatment and commercial exploitation (WHO, 2024). Child Sexual Abuse is a silent pandemic where an individual gets involved in any kind of physical or non-physical sexual activities with a minor (0-18 years) with or without their proper consent, as the minor cannot give consent for any kind of sexual activity (WHO, 2004 & Rain, 2025). Earlier the prevalence of child sexual abuse was limited to physical presence, but in the modern technological era, Digital Child Sexual Abuse (DCSA) is also a modern and more cruel form of sexual harassment. Technology has enhanced online communication and easy interaction and collaboration strategies without guiding the youngsters in a wise use of technology. A large number of children are being exposed to sexually explicit and offensive materials and harassed and exploited on digital platforms. Child Sexual Abuse is done by perpetrators by chance, but it is their psychological and deliberate criminal offense. Online Sexual Extortion is also a sub part of DCSA, where the perpetrators start asking or recording about private pictures and videos of minors and later on blackmailing and sextorting them (Ali et al., 2023). In India, the CSA cases are unreported and mishandled, and victims are blamed and forced to stay quiet to protect pseudo family honour. In traditional and rural settings, discussing sexual health, abuse, and exploitation is often considered taboo (Shafe, 2014, and Prabhu, 2023). The National Crime Report Bureau (NCRB), 2022, reveals a surge of 1.1% in the rape cases in India, and Uttar Pradesh has a 7.4% (highest) per capita crime rate (Study IQ, 2024). An analysis done by the Child Rights and You (CRY) organization reported a surge of 96% in sexual abuse cases from 2016 to 2022. The governments across the globe implemented several legal laws and policies to reduce the evil effect of child sexual abuse, but after several years, many cases of child sexual abuse go unreported, showing the true greater extent of the problem (Fox Mandal, n.d.). Mathews et al. (2017) defines the key concepts of child sexual abuse, where the term “abuse” stands for extreme wrongfulness, which could be

caused because of power imbalance and lack of true consent. Countries across the globe introduced several legislative policies to address CSA to mandate a child-friendly environment during investigation and case trials.

NCFs Guidelines regarding Child Sexual Abuse and Harassment

The National Council of Educational Research and Training introduced the National Curriculum Framework for Foundational Stage (NCF-FS), 2022, and the National Curriculum Framework for School Education (NCF-FS), 2023, to provide a deep-down broader structure and guidelines for learners of foundational and middle stage learners. These frameworks were introduced for better implementation of the National Educational Policy (NEP), 2020. Point Number 8.2.3 of the 8.2 section of the 8th chapter of NCF-FS, 2022, explores zero tolerance regarding child sexual abuse. Teachers and other educational stakeholders should have proper knowledge and indicators of sexual abuse. The teachers should introduce the learners to various sexual abuse prevention and awareness through different interactive methods to ensure the safety and protection of children.

The NCF-SE, 2023, also provides several guidelines for securing middle stage students against sexual harassment and abuse. The NCF-SE suggests teachers have a better understanding regarding child sexual abuse to prevent students from sexual harassment and abuse. The educational stakeholders should ensure a safe environment for adequate holistic development of students. The educational stakeholders should be aware of the guidelines of the Prevention of Sexual Harassment (POSH) and Prevention of Children from Sexual Offences (POCSO) Acts to ensure the protection of adults and children against sexual harassment.

National Crime Record Bureau 2022

The National Crime Record Bureau (NCRB) works under the Indian Government's Ministry of Home Affairs to officially publish about the detailed statistics on crime in our country. It records and analyses the crime across country to provide statistical data for the researchers to improve crime prevention.

The latest report was published on 29th September, 2025 titled as Crime in India 2023. There is a surge of 9.2% in crime against children over previous year as a total of 1,77,335 cases has been registered in the year 2023 in which

38.2% of the cases have been registered under POCSO Act. There is also a surge of 9.5% missing children cases over following year. The child marriage cases have also increased from 0.2% to 1.2% in 2023. There is a drastic increase of 31.2% in cyber-crime from previous year. The records indicate a substantial increase in the crime against children over the past year and a study providing key legislation for the protection of most vulnerable population of country is needed to provide comprehensive knowledge and awareness regarding the child maltreatment (NCRB, 2023, VOL- I & II).

Review of Related Literature

The child sexual abuse is most cruel form of child maltreatment and requires a multidisciplinary response system of the society, healthcare professionals, educators, parents & guardians, school management & administration with other stakeholders to psychological support the survivors (Tyagi & Karande, 2021). The study also reveals a need of a study exploring the current legislations related to child protection. The child harassment and sexual abuse have very widespread yet discrete symptoms and every citizen of the state especially educators and parents, should be aware about the child protection legislations without exception. A study is urgently required to provide a consolidated nevertheless comprehensive knowledge about child protection legislations of India (Methews et al., 2016).

Research Questions

1. How historical development and evolution of Child Sexual Abuse laws and policies in India over the century?
2. What are the key provisions of the Protection of Children from Sexual Offences (POCSO) Act, 2012?

Objectives

1. To explore and document the historical development and evolution of Child Sexual Abuse laws and policies in India.
2. To analyze the current legal framework addressing Child Sexual Abuse, with special reference to the Protection of Children from Sexual Offences (POCSO) Act, 2012.

Research Methodology

The presented study employed the Qualitative Research Approach to explore about the pre- and post-independence child protection legislations and relevant studies. The content analysis research design was used for systematic analysis, review and comprehend key legislations such as Indian Penal Code 1860, Goa Children's Act 2003, and POCSO Act 2012. Purposive Sampling technique of Non-Probability Sampling method was used for the selection of child protection legislations and researches.

Sample/Source of Data

In this study, primary data included official government (Legislations) documents of the British Parliament (pre-independence) and the Parliament of India (post-independence). It also included reports of several law commissions and policy documents from ministries of states and unions of India. The secondary data consists of several studies done in relevant fields to develop a comprehensive understanding of the research problem.

Data Collection and Analysis

Several governmental and non-governmental documents related to Child Sexual Abuse and harassment were collected using web-based government archives, websites of ministries, and the internet. The collected documents were read thoroughly to identify key concepts and patterns after chronological organization. Thematic coding method was employed to study the content and generate key insights about each policy.

1. Identification of Relevant Pre- and Post-Independence Documents
2. Chronological arrangement
3. Initial thorough reading
4. Generation of major themes and key concepts using thematic coding
5. Disaggregation of themes into subthemes
6. Insight generation as per subthemes
7. Comprehensive writing based on the objectives of the research

Findings

In India, the concept of child sexual abuse evolved from pre-independence to post-independence India. After independence, the Constitution of India

guaranteed to safeguard the rights of children and passed several bills to protect children. Here major child sexual abuse and child protection legislations have been analysed and summarized.

Indian Penal Code 1860

The Indian Penal Code was the first official criminal code enacted by the British Parliament in 1860 and came into force on 1st January, 1862. The code included the recommendations of the First Law Commission of India in 1834. This commission was chaired by Sir Thomas Babington Macaulay. IPC was replaced by the Indian Parliament's *Bhartiya Nyaya Sanhita* in 2023. Section 354 of the IPC stated assaulting a woman by physical or non-physical contact, demanding or requesting sexual favours, and showing pornography to a woman are punishable offenses, and the offender shall be imprisoned for two to seven years with a fine. Section 366A stated that the forceful or seductive intercourse of a minor girl is a criminal offense, and the offender shall be imprisoned for up to ten years with a fine. Section 370A stated that the sexual exploitation of a minor, knowingly or unknowingly, is a criminal offense, and the offender shall be imprisoned for five to seven years with a fine. Sections 372 and 373 stated that selling, buying, and hiring minors for prostitution and illicit sexual intercourse is a punishable criminal offense, and the offender shall be imprisoned for up to ten years with a fine. Section 375 stated that sexual offenses against a woman or a girl are punishable criminal offenses, and the offender shall be imprisoned for ten years to life imprisonment with a fine. Sections 376DA and 376DB stated that gang-raping a minor (under the age of 16) is a punishable criminal offense, and each of the offenders shall be punished with life imprisonment and a fine. Section 377 stated that unnatural sexual intercourse with a man, woman, or animal is a punishable criminal offense, and the offender shall be imprisoned for ten years to life imprisonment with a fine. Sections 509, 509A, and 509B stated that the sexual harassment of a woman by relatives or anyone and by direct or electronic mode to outrage her modesty is a punishable criminal offense, and the offender shall be imprisoned for one to three years with a fine (Legislative Department, n.d.).

The Goa Children's Act, 2003

The Goa Children's Act was enacted by Goa's State Legislative Assembly in 2003 to outline the responsibilities of the state toward minors. The act came

into force on the 8th of July, 2003. The 8th chapter of this bill includes provisions related to child trafficking and abuse. Child trafficking is a punishable offense, and the offender shall be imprisoned for up to seven years with a maximum fine of 1 lac INR.

Child's physical or sexual assault is also a punishable offense, and the offender shall be imprisoned for three years to life imprisonment with a maximum fine of 2,00,000 INR. The survivors of child abuse will also be treated as per survivors of Section 375 of the IPC. The 14th point of the same chapter prohibits the development of child pornographic materials showing child sexual depictions. The offenders shall be imprisoned for one to three years with a minimum fine of 50 thousand rupees. Chapter 9 of this bill constitutes commercial child sexual exploitation-related provisions. It states the state should rescue all the survivors of sexual assault, and the exploiters shall be imprisoned for up to seven years with a penalty of 1 lac INR (Government of Goa, 2003).

The Commission for Protection of Child Rights (CPCR) Act, 2005

The Commission for Protection of Child Rights Act was introduced by the Parliament of India in December 2005 and came into force on the 5th of February, 2007.

This bill advocated the establishment of the National Commission for Protection of Child Rights (NCPCR), State Commissions for Protection of Child Rights (SCPCRs), and Children's Courts for speedy trials of child abuse and exploitation incidents (Government of India, 2003).

The Prohibition of Child Marriage Act, 2006

The Prohibition of Child Marriage Act was enacted by the Parliament of India on 19th December, 2006, and came into force on 1st November, 2007, to protect children and eliminate child marriage. The males should be 21 years old and the females after 18 years of age to have legal marriage. When a minor is trafficked or forced to marry, the marriage will be automatically considered void. Any adult male who marries a child, or anyone who performs, conducts, or promotes it, shall be imprisoned for two years with a penalty of 1 lac INR. The bill also appoints Child Marriage Prohibition Officers (CMPOs) to prevent child marriages (The Prohibition of Child Marriage Act, 2006).

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

The POCSO Act is gender-neutral legislation introduced by the Parliament of India to protect children against sexual abuse and harassment. It also mandates the reporting of CSA incidents by survivors and anyone who knows about the incidents. POCSO is the first legislation that comprehensively defines and categorizes sexual offenses based on the severity of the offense and the perpetrators or offenders. The investigation and trial of such incidents must follow a child-friendly environment and procedure. The recording of survivors' statements, the medical examination, and the legal proceedings must be done in the presence of supportive adults or parents.

The second objective of the study was to analyze the current legal framework addressing Child Sexual Abuse, with special reference to the Protection of Children from Sexual Offences (POCSO) Act, 2012. The Protection of Children from Sexual Offences Bill, 2012, is a landmark bill in eradicating the evil of child sexual abuse and exploitation. The bill was passed by the Parliament of India on 22nd May, 2012, and received presidential assent on 19th June, 2012. The bill came into force on the occasion of Children's Day in 2012. The bill was enacted to prevent abuse and exploitation of minors. The major 3rd and 4th points of Part A of Chapter II define penetrative sexual assault of a minor by a person or forcing or making someone to perform penetrative (vaginal, urethral, oral, or anal) sexual assault with a minor as a punishable offense, and the offender shall be imprisoned for ten years to life imprisonment with a penalty. If the survivor is below the age of 16 years, then the minimum imprisonment will not be less than 20 years. Part B of the same chapter defines aggravated penetrative sexual assault, where a person in authority or power sexually assaulted the minor by misusing their power or taking advantage of the disability of the minor. The offenders shall be imprisoned for 20 years to life imprisonment or receive the death penalty with a fine.

Part C of the same chapter defines non-contact sexual assault of a minor by touching their private parts with intent to sexually assault him/her as a punishable offense, and the offenders shall be imprisoned for three to five years with a fine. Part D defines aggravated sexual assault of a minor by a person in authority or power by misusing their power or taking advantage of the physical or mental incapacities of the minor as a punishable offense, and the offenders

shall be imprisoned for five to seven years with a fine. Part E defines sexual harassment of a minor as showing pornographic materials, uttering any words, sounds, and/or gestures, and constantly following directly or electronically with a sexual intent. The offender shall be imprisoned for up to three years with a fine. The III chapter of the bill includes use of minor for pornographic purposes, where the minor is made to get engaged in real or simulated sexual activities, development and distribution of child pornographic materials, and exhibition of sexually explicit materials to a minor is punishable offence and the offender shall be imprisoned for seven years with a fine, where possession of the child pornographic materials without reporting and with an intention to share shall be fined for 5 thousand to 10 thousand INR, possession of the child pornographic materials with intention to transmission and distribution shall be imprisoned for 3 years with or without a fine, and possession of child pornographic materials for commercial purposes shall be imprisoned for 3 to 5 years with a fine at first offence but if the same offender is committing subsequent offences then they shall be imprisoned for 5 to 7 years with or without fine (Ministry of Law and Justice, 2012).

The POCSO Act mandates the creation of a child-friendly legal proceeding system to mitigate the survivor's physical and psychological distress. The police must include females (if needed) and wear civil dresses, and survivors' statements could be recorded at their homes or any comfortable premises other than the police station. The vulnerability of survivor must be protected using counselling sessions, and such incidents must be legally proceeded in special fast-trial courts within one year.

In 2019, the Parliament of India introduced the Prevention of Children from Sexual Offences (POCSO) Amendment Act to empower the existing POSCO Act. It introduced the death penalty in brutal sexual abuse cases. The earlier minimum imprisonment was increased by 7 years to 10 years, while repeated offenses may also result in the death penalty.

Educational Implications

The findings of the presented study will be beneficial for several educational stakeholders, such as teachers, parents and guardians, students, school administration and management, and policymakers.

For Teachers: The teachers should be aware of verbal and non-verbal signs of sexual harassment and bullying to prevent sexual offenses in schools (NCF-SE, 2023, Chapter 2, Point 2.3.4.5 (e)). The findings of the presented research study can provide a summarized knowledge about sexual offense laws in India, which can help them to develop a zero-tolerance policy towards sexual abuse.

For School Administration: The school administrations should be aware of the guidelines of POSH, 2013, and POSCO, 2023, to protect and prevent the adults and students from sexual violation and transgressions (NCF-SE, 2023, Chapter 2, Point 2.3.4.5). These findings of the presented study can be helpful for school administration to create a sexual-offense-free environment.

For Parents: The parents could also be aware of child maltreatment reporting-related provisions to ensure better handling of CSA cases, as the survivors are very vulnerable after maltreatment. The majority of sexual abuse cases remain unreported as the survivors are not aware of forms of sexual offenses. They are not able to recognize the seriousness of sexual offenses and laws related to CSA. The findings of the presented study could be helpful in identifying the types of sexual offenses and reporting them to authorities.

For Policymakers: The schools should have a zero-tolerance policy towards sexual harassment of adults and children (NCF-FS, 2022, and NCF-SE, 2023). There is a vital need for a sexual abuse awareness and prevention programme to spread awareness regarding CSA among students. The findings of the presented study could play a significant role in the development of such a programme.

For Students: School Going Children are the most vulnerable members of society, and by studying this research work, they will be aware of various aspects of child sexual abuse. They can differentiate between the love and affection of family and any kind of maltreatment. They will be aware of various legislations regarding child sexual abuse and harassment, which is helpful in preventing child sexual abuse and harassment.

Conclusion

The study reveals that the children are most vulnerable part of the population and they are not well aware about their rights. The government has been introduced several legislations for the protection of their rights but their implementation is still an undertaking of high complexity. Child Sexual

Abuse is not only a punishable criminal offense but also a societal crisis. The crisis not only needs progressions but also needs transformative awareness regarding child sexual abuse. The holistic progression of sexual harassment and exploitation laws provides a comprehensive understanding of modern CSA prevention activities. The time when child sexual abuse and harassment was a kinship denial matter, pre-independent India acknowledged it and provided the comprehensive Indian Penal Code, 1860. Until the 21st century, societal discomfort started to vanish, and there was a significant evolution in CSA prevention legislation as the Goa Children Act, 2003; NCPCR, 2005; and the Prohibition of Child Marriage Act, 2006 were introduced in the country. When our country was shaken by the Delhi Nirbhaya Case, the POCSO Act, 2012, was introduced before that. The act shifted the paradigm of sexual harassment and abuse. The latest NCRB report (2023) also underscores an increase in the rate of crime against children even after the introduction of such extensive child protection legislations because the legislative policies can not eradicate sexual harassment alone, but it also requires an open family environment and awareness about sexual harassment, abuse, and exploitation. The NCF-FS, 2022, and NCF-SE, 2023, also mandate a zero-tolerance policy for sexual harassment and abuse. There should be regular sexual abuse awareness and training programmes to recognize various possible indicators of sexual abuse. The curriculum should also include sex education to foster resilience among learners and develop a sexual abuse-free environment. The current child protection legislations include modern forms of child exploitations such as cyber-harassment, cyberbullying, and use of children for pornographic purposes to strengthen the rights of children and teacher education training programs also includes several sensitization programmes to reduce such cases. The education institutions can also organize child protection workshops and seminars followed by robust monitoring and policy enforcement to safeguard the child's rights.

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