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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

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PROTECTION OF CHILDREN FROM SEXUAL OFFENCES IN INDIA: A LEGAL STUDY

AUTHORED BY - DR. KARAN JAWANDA & USHA DHILLON

Abstract

In the Antiquity, nobody thought to give special protection to children. In the Middle-Age, children were considered as “small adults”. In the middle of the 19th century, the idea appeared in France to give children special protection, enabling the progressive development of “minors’ rights”. Since 1919, the international community, following the creation of The League of Nations (later to become the UN), started to give some kind of importance to that concept and to elaborate a committee for child protection. Children are vulnerable, they need to be cared for and protected from ‘the harshness of the world outside’ and around. The problems relating to children are basically an outcome of poverty and illiteracy but there are certain other causative dimensions of the problem, including, at some places, the social structure. This paper mainly focuses upon the different laws for the protection of children in India.

“Childhood should be carefree, playing in sun; not living a nightmare in the darkness of the soul.”

Dave Pelzer¹

Introduction

In the Antiquity, no one idea to give extraordinary insurance to kids. In the Middle-Age, youngsters were considered as "little grown-ups". In the nineteenth century, the thought showed up in France to give youngsters unique security, empowering the dynamic advancement of "minors' freedoms". Beginning around 1841, law began to secure kids in their working environment. Beginning around 1881, French laws incorporated the ideal for the youngsters to be taught. Toward the start of the twentieth century, youngsters' security began to be set up, remembering assurance for the clinical,

¹ David James "Dave" Pelzer (born December 29, 1960 in San Francisco, California) is an American author, of several autobiographical and self-help books. He is best known for his 1995 memoir of childhood abuse, *A Child Called "It"*.

social and legal fields. This sort of security began first in France and spreads across Europe².

Beginning around 1919, the global local area, following the making of The League of Nations (later to turn into the UN), began to give some sort of significance to that idea and to expand a council for youngster assurance³.

Childhood across the world, have comprehensively been interpreted as far as a 'brilliant age' that is inseparable from honesty, opportunity, bliss, play and such. It is when, saved the afflictions of grown-up life, one scarcely bears any sort of liability or commitments. However, at that point, it is likewise a fact that children are powerless, particularly when exceptionally youthful. The way that children are defenseless, they should be really focused on and shielded from 'the brutality of the world outside' and around⁴. This being along these lines, the grown-up children connection, guardians specifically, is said to give 'care and insurance' – serving consequently the 'wellbeing of the kid' and meeting their everyday 'needs of endurance and advancement'. The grown-up is ventured to be the gatekeeper and, in that regard, expected to assume the liability of youngster's government assistance and advancement. Regardless of whether, the reason fundamental this is right or not, the children 'reality' overall is problematic, requesting basic assessment⁵. Appropriately, hopeful thoughts and portrayals related with kids and adolescence have been tested, particularly comparable to destitution, sickness, double-dealing and misuse overflowing across the globe. Many additionally accept that adolescence is that period during which kids are dependent upon a bunch of rules and guidelines exceptional to them, and one that doesn't make a difference to individuals from other social classes⁶. It is to be sure a period in an individual's life during which she/he is neither expected nor permitted to completely take part in different spaces of public activity. It is subsequently not a universe of opportunity and opportunity but rather one of constringent and restriction in which youngsters are 'completely docile and subordinate'. This being thus, youth is out and out a universe of segregation, misery, double-dealing, persecution, mercilessness and misuse⁷.

² Tom O'Neill and Dawn Zinga, *Children's Rights*, (University of Toronto Press Incorporated,2008).

³ Dr. Savita Bhakhry, *Children in India and their rights*, (National Human Rights Commission) (Faridkot House, Copernicus Marg, New Delhi,2006).

⁴ Trevor Buck, *International Child Law*, (Routledge Taylor& Francis Group,2014).

⁵ Asha Bajpai, *Child Rights in India*, (Oxford University Press,2nd Edition 2006).

⁶ R. D. Bhagat, *Crime Against Women and Child*, (Centrum press, New Delhi,2014).

⁷ Dr. Savita Bhakhry, *Children in India and their rights*, (National Human Rights Commission) (Faridkot House, Copernicus Marg, New Delhi,2006).

The issues identifying with kids are fundamentally a result of neediness and lack of education however there are sure other causative elements of the issue, including, at certain spots, the social construction.

Children are the weakest part of society. They become the survivors of double-dealing and abuse effectively and can be coordinated into unfortunate channels by hostile to social components. The Constitution creators mirroring their tension to secure and protect the premium and government assistance of the kids consolidated in Article 15(3) of the Indian Constitution, which gives that the State will not be kept from making any extraordinary arrangement for ladies and kids. This is concerning arrangements which are for their potential benefit and which give them the additional assurance that they required.

History and Origin of Child Rights

Child rights have evolved over the years within the international community, and all developments related to child issues were codified in a comprehensive universal documents-the Convention on the Rights of the Child⁸, and it is to be implemented at national, regional and global levels thereby providing protection of the rights of children.

The Geneva Declaration laid down a number of basic principles on the Rights of the Children which provided them with special protection. This was to form the basis of the ten-point Declaration on the Rights of Child adopted by the United Nations General Assembly on November 20, 1959. The UN Declaration, which formed the basis of the drafting of the Convention on the Rights of the Child, restated the 1924 League of Nations Declaration while adding new provisions including the right to be brought up in a family setting in an atmosphere of happiness, love, understanding as well as protecting children against all forms of exploitation⁹.

It was because of these widespread plights of children that in December 1976, the United Nations

⁸ The United Nations Convention on the Rights of the Child (commonly abbreviated as the **CRC** or **UNCRC**) is a human rights treaty which sets out the civil, political, economic, social, health and cultural rights of children. The Convention defines a child as any human being under the age of eighteen, unless the age of majority is attained earlier under national legislation.

⁹ Subhash Chandra Singh, *Rights of Child*, (Serials Publications, New Delhi,2007).

adopted a resolution which proclaimed 1979 as International Year of the Child. The resolution declared that this was to provide a framework for advocacy on behalf of children. It also declared that there was need to promote children's programmes to form an integral part of economic and social development plans with a view to achieving sustained activities for the benefit of children at national and international levels.

The adoption of Convention on the Rights of the Child was not only a great step forward in the long struggle for the promotion of child rights, but also constitutes a legally binding instrument to defend children's rights. The rights of the child should thus become an important part of international law. These rights enshrined as they are in the Convention apply equally to all children irrespective of race, colour, sex, language, religion, political or other opinion, etc. The provisions of Convention apply for four main areas of children rights, namely, survival, development, protection and participation¹⁰.

What is Child Sexual Abuse

Child sexual offences includes a wide range of sexual behaviors that take place between a child and an older person. These behaviors are meant to arouse the older person in a sexual way. Child sexual abuse often involves body contact. This could include sexual kissing, touching, and oral, anal, or vaginal sex. Not all sexual abuse involves body contact, though. Showing private parts ("flashing"), forcing children to watch pornography, verbal pressure for sex, and exploiting children as prostitutes or for pornography can be sexual offence as well¹¹.

Child sexual maltreatment is the inclusion of a kid in sexual action that the person in question doesn't completely appreciate, can't give informed agree to, or for which the kid isn't formatively ready and can't give agree to, or that abuses the laws or social restrictions of society. Youngster sexual offense is proven by this action between a kid and a grown-up or another kid who by age or advancement is seeing someone obligation, trust a force, the movement being planned to delight or fulfill the requirements of the other individual. This may include but is not limited to:

- The inducement or coercion of a child to engage in any unlawful sexual activity;

¹⁰ Dolly Singh, *Child Rights and Social Wrongs* (Kanishka Publishers, Distributors, New Delhi, 2001)

¹¹ Defining Child Sexual Abuse Touching and Non-Touching Behaviors, *available at*: <http://www.stopitnow.org/ohc-content/defining-child-sexual-abuse>, (visited on June 1, 2017).

- The exploitative use of a child in prostitution or other unlawful sexual practices;
- The exploitative use of children in pornographic performances and materials.¹²

Laws Relating to Protection of Children from Sexual Offences

Indian Penal Code, 1860

- **Outraging the Modesty of a Woman-** Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both¹³.
- **Kidnapping from Lawful Guardianship-** Whoever takes or entices any minor under (sixteen) years of age if a male, or under (eighteen) year of age if a female or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship¹⁴.
- **Procuration of Minor Girls-** Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to 10 years, and shall also be liable to fine¹⁵.
- **Importation of Girl from Foreign Country-** Whoever imports into India from any country outside India or from the State of Jammu and Kashmir any girl under the age of 21 years with intent that that she will be, forced or seduced to illicit intercourse with another person, shall be punishable with imprisonment which may extend to ten years and also be liable to fine¹⁶.

¹² Child sexual abuse, *available at*: www.who.int/violenceinjuryprevention/resouces/publication, (visited on May 24,2017).

¹³Section 354 of Indian Penal Code 1860.

¹⁴ Section 361 of Indian Penal Code 1860.

¹⁵ Section 366A of Indian Penal Code 1860.

¹⁶ Section 366B of Indian Penal Code 1860.

- **Kidnapping or Abducting Child Under Ten Years with Intent to Steal from its Person-** Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any movable property from the person of such child, shall be punished with imprisonment of either description for a term which may be extended to seven years to shall also be liable to fine¹⁷.

- **Selling Minor for Purposes of Prostitution, etc** -Whoever sells, lets to hire, or otherwise disposes of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be employed or used for any such purposes, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall be liable to fine¹⁸.

- **Rape**-A man is said to commit "rape" if he—
 - a) penetrates his penis, to any extent, into the vagina, mouth urethra or anus of a woman or makes her to do so with him or any other person; or
 - b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or
 - c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or
 - d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions:
 - (First) — Against her will.
 - (Secondly) —Without her consent.
 - (Thirdly) — With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.
 - (Fourthly) —With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself

¹⁷ Section 369 of Indian Penal Code 1860.

¹⁸ Section 372 of Indian Penal Code 1860.

to be lawfully married.

(Fifthly) — With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

(Sixthly) — With or without her consent, when she is under sixteen years of age. Explanation. —Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

(Seventhly)- When she is unable to communicate consent¹⁹.

- **Unnatural offences** -Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Explanation. —Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section²⁰ .

However, the IPC could not effectively protect the child due to various loopholes like:

IPC Section 375 doesn't protect male victims or anyone from sexual acts of penetration other than "traditional" peno-vaginal intercourse.

IPC Section 354 lacks a statutory definition of "modesty". It carries a weak penalty and is a compoundable offence. Further, it does not protect the "modesty" of a male child.

In IPC Section 377, the term "unnatural offences" is not defined. It only applies to victims penetrated by their attacker's sex act, and is not designed to criminalize sexual abuse of children²¹.

The Constitution of India

The Constitution of India recognizes the vulnerable position of the children and their rights to protection. The rights of children and their aspirations are of paramount importance in our march towards an inclusive and equitable society. The Constitution of India contains provisions for survival,

¹⁹ Section-375 of Indian Penal Code 1860.

²⁰ Section-377 of Indian Penal Code 1860.

²¹ Rape and sexual offences: Crime & punishment in India, *available at*: <http://indiatoday.intoday.in/story/rape-and-sexual-offences-crime-and-punishment-in-india/1/238406.html>

development and protection of children. The doctrine of protective discrimination guarantees necessary and special laws and policies that safeguards their rights.

- (i) The Constitution of India empowers the state Government to make special provisions for the advancement of the children²².
- (ii) The Constitution of India provides that those children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment²³.
- (iii) The Constitution prohibits employment of young children in factories. It lays down that, no child below the age of fourteen years shall be employed to work in any factory or mine or engaged in other hazardous employment²⁴.
- (iv) The Constitution imposes a duty on the state to provide free and compulsory education for all children till they complete the age of fourteen years²⁵.

Immoral Traffic (Prevention) Act, 1956

The Immoral Traffic (Prevention) Act, 1956 is an Act which provides in pursuance of the International Convention signed at New York on the 9th day of May, 1950²⁶, for the prevention of immoral traffic. The Act intends to combat trafficking and sexual exploitation for commercial purposes. While prostitution is not an offence, practicing it in a brothel or within 200m of any public place is illegal. The Act protects women and children from forceful flesh trade. Through this Act, children can be further protected and offenders who force children can be punished for the same.

The Act regularized prostitution and provides assistance to all women and children who have been forced into the same. The provisions of the Act clearly state that it is an offence to force any child for flesh trade or trafficking of a child for various other purposes.

The State Government may in its discretion establish as many protective homes and corrective

²² Article 15(3) of The Constitution of India.

²³ Article-39 of The Constitution of India.

²⁴ Article-24 of The Constitution of India.

²⁵ Article-21A of The Constitution of India.

²⁶ The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others is a resolution of the UN General Assembly.

institutions under this Act as it thinks fit and such homes and institutions, when established, shall be maintained in such manner as may be prescribed²⁷.

The Information Technology Act, 2000

New communication systems and digital technology have made dramatic changes in the way we live and the means to transact our daily business. Businessmen are increasingly using computers to create, transmit and store information in electronic form instead of traditional paper documents. Electronic commerce eliminates need for paper-based transactions.

The Government of India realized the need for introducing a new law and for making suitable amendments to the existing laws to facilitate e-commerce and give legal recognition to electronic records and digital signatures. Cyber laws are contained in the Information Technology Act, 2000²⁸. The Information Technology Act, 2000 also aims to provide the legal framework under which legal sanctity is accorded to all electronic records and other activities carried out by electronic means.

There are various provisions in the new amendment relating to data protection and privacy as well a provision to curb terrorism using the electronic and digital medium²⁹. The Amendment incorporated Sections 67 A to 67 C to the parent Act. The sections are regarding publishing or transmitting material in electronic form containing sexually explicit act, Child pornography and obligation of intermediary to preserve and retain such information as may be specified by central government.

The old Act is amended to increase the term of imprisonment for publishing or transmitting obscene material in electronic form to three years from five years and increase the fine thereof from Indian Rupees 100,000 to 500,000³⁰. A host of new sections have been inserted as Sections 67 A to 67C. While Sections 67 A and B insert penal provisions in respect of offenses of publishing or transmitting

²⁷ The Immoral Traffic (Prevention) Act, 1956, available at: <http://www.hrln.org/hrln/child-rights/laws-in-place/1715-the-immoral-traffic-prevention-act-1956.html#ixzz4r6orZNnB>.

²⁸ The Information Technology Act, 2000 is an Act of the Indian Parliament notified on 17 October 2000. It is the primary law in India dealing with cybercrime and electronic commerce. It is based on the United Nations Model Law on Electronic Commerce 1996 (UNCITRAL Model) recommended by the General Assembly of United Nations by a resolution dated 30 January 1997.

²⁹ The Information Technology Bill, 2008 has been passed both the houses of Parliament in December, 2008 and was signed by the President of India on February 5, 2009 and became the Amendment Act.

³⁰ Section 67 of Information Technology Act 2008.

of material containing sexually explicit act and child pornography in electronic form, Section 67C deals with the obligation of an intermediary to preserve and retain such information as may be specified for such duration and in such manner and format as the central government may prescribe.

The Act adds an offence of publishing material containing sexually explicit conduct punishable with imprisonment for a term that may extend to 5 years with fine up to ten lakhs. This provision was essential to curb MMS attacks and video voyeurism³¹.

Child Pornography has been exclusively dealt with under of the Information Technology Act, 2008. Depicting children engaged in sexually explicit act, creating text or digital images or advertising or promoting such material depicting children in obscene or indecent manner etc. or facilitating abusing children online or inducing children to online relationship with one or more children etc. come under this Section. 'Children' means persons who have not completed 18 years of age, for the purpose of this Section. Punishment for the first conviction is imprisonment for a maximum of five years and fine of ten lakh rupees and in the event of subsequent conviction with Imprisonment of seven years and fine of ten lakh rupees³².

The Act fixes the responsibility to intermediaries that they shall preserve and retain such information as may be specified for such duration and in such manner as the Central Government may prescribe. Non-compliance is an offence with imprisonment up to three years or fine³³.

Prohibition of Child Marriage Act, 2006

The Prohibition of Child Marriage Act,2006 (PCMA) defines child marriage as marriage in which either the girl or the boy is underage, i.e., the girl is under 18 years of age or the boy is younger than 21 years³⁴. The harmful consequences of child marriage are serious health risks, early pregnancy, and various STDs especially HIV/ AIDS. Child marriage also makes girls more vulnerable to sexual abuse³⁵.

³¹ Section 67A of Information Technology Act 2000.

³²Section-67B of Information Technology Act 2008.

³³ Section-67C of Information Technology Act 2000.

³⁴ Section-2(a) of The Prohibition of Child Marriage Act 2006.

³⁵The Prohibition of Child Marriage Act 2006, *available at*: <http://childlineindia.org.in/child-marriage-india.htm>.

The Prohibition of Child Marriages Act was introduced in 2006 to address the weaknesses inherent in the former legislations. It came into effect from 1 November 2007, replacing the Child Marriage Restraint Act (CMRA) of 1929 or Sharda Act. This law was amended in 1978, wherein the legal age of marriage of girls was raised from 15 to 18 years and of boys from 18 to 21 years. The amended law was known as the Child Marriage Restraint Act, 1929.

According to the act a child is a male who has not completed twenty-one years of age and a female who has not completed eighteen years of age. Child marriage is a contract between any two people of which either one or both parties is a child. Child marriage that took place before or after this act can be made void by the person who was a child at the time of marriage. But the marriage must be voided before the person who was a child complete their second year of maturity.

The act calls for the instatement of a Child Marriage Prohibition officer, who is responsible for ensuring no child marriage take place in their jurisdiction by approaching the courts for an injunction, collecting evidence against people, creating awareness about the negative effects of child marriage, etc. A child marriage prohibition officer is deemed a public servant in this act³⁶.

Protection of Children from Sexual Offences Act, 2012

The Protection of Children from Sexual Offences Act (POCSO Act), 2012 formulated in order to effectively address sexual abuse and sexual exploitation of children. The Protection of Children from Sexual Offences Act, 2012 received the President's assent on 19th June 2012 and was notified in the Gazette of India on 20th June, 2012.

The Act defines a child as any person below eighteen years of age³⁷. It defines different forms of sexual abuse, including penetrative and non-penetrative assault³⁸, as well as sexual harassment³⁹ and

³⁶ The Prohibition of Child Marriage Act 2006, *available at*: <http://childlineindia.org.in/Prohibition-of-Child-Marriage-Act-2006.htm>

³⁷ Section-2(d) of Protection of Children from Sexual Offences Act 2012.

³⁸ Section- 3 of Protection of Children from Sexual Offences Act 2012- The Act clearly defines sexual assault, sexual harassment and pornography as distinct offences. When an offence is committed by a public servant, police officer, member of armed forces, security personnel, jailor or any person in the management of any medical or educational institution or a guardian who is responsible for the protection and care of the child, it is considered as an aggravated form of penetrative sexual assault under the Act.

³⁹ Section- 11 of Protection of Children from Sexual Offences Act 2012- A person is said to commit sexual harassment upon a child when such person with sexual intent-

pornography⁴⁰ . It deems a sexual assault to be “aggravated” under certain circumstances, such as when the abused child is mentally ill or when the abuse is committed by a person in a position of trust or authority like a family member, police officer, teacher, or doctor. The Act also casts the police in the role of child protectors during the investigative process. Thus, the police personnel receiving a report of sexual abuse of a child are given the responsibility of making urgent arrangements for the care and protection of the child, such as obtaining emergency medical treatment for the child and placing the child in a shelter home, and bringing the matter in front of the CWC, should the need arise.

The Act further makes provisions for avoiding the re-victimization of the child at the hands of the judicial system. It provides for special courts that conduct the trial in-camera and without revealing the identity of the child, in a manner that is as child-friendly as possible⁴¹ . Hence, the child may have a parent or other trusted person present at the time of testifying and can call for assistance from an interpreter, special educator, or other professional while giving evidence. Above all, the Act stipulates that a case of child sexual abuse must be disposed of within one year from the date the offence is reported⁴² . The Act also provides for mandatory reporting of sexual offences. This casts a legal duty upon a person who has knowledge that a child has been sexually abused to report the offence; if he fails to do so, he may be punished with six months’ imprisonment and/or a fine⁴³ .

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- (i) utters any word or makes any sound, or makes any gesture or exhibits any object or part of body with the intention that such word or sound shall be heard, or such gesture or object or part of body shall be seen by the child; or
 - (ii) makes a child exhibit his body or any part of his body so as it is seen by such person or any other person; or
 - (iii) shows any object to a child in any form or media for pornographic purposes; or
 - (iv) repeatedly or constantly follows or watches or contacts a child either directly or through electronic, digital or any other means; or
 - (v) threatens to use, in any form of media, a real or fabricated depiction through electronic, film or digital or any other mode, of any part of the body of the child or the involvement of the child in a sexual act; or
 - (vi) entices a child for pornographic purposes or gives gratification therefor

⁴⁰ Section- 13 of Protection of Children from Sexual Offences Act 2012-Using a child in any form of media (including programmes or advertisement telecast by television channels or internet or any other electronic form or printed form, whether or not such programmes or advertisement is intended for personal use or for distribution), for the purposes of sexual gratification, amounts to an offence under this Act.

⁴¹Section-37 of Protection of Children from Sexual Offences Act 2012.

⁴²Section-35(2) of Protection of Children from Sexual Offences Act 2012.

⁴³ Section- 19 of Protection of Children from Sexual Offences Act 2012.

Conclusion

Special rights for protection of children are a necessity by virtue of the fact that children are physically and mentally immature. We have various legal provisions under various laws. The Constitution of India conveys a powerful mandate for equality and rights of children in its Preamble, Fundamental Rights, Fundamental Duties. The Protection of Children from Sexual Offences Act, 2012 was enacted with an aim to provide specific law for protection of children from sexual offences.

However, there are plenty of situations that are likely to pose special problems. Though the Parliament has enacted the Protection of Children from Sexual Offences Act, 2012 but it is not implemented properly. There is lack of knowledge about its provision among the majority of the people to whom it is applicable. Child marriage and consummation of child marriage are considered illegal under the Protection of Children from Sexual Offences Act, 2012, though it enjoys social sanction under certain personal laws thus complicating the matter. It also criminalizes all consensual sexual activities below the age of 18 years which opens a Pandora box of litigation and the need is to correct such behavior and not to punish innocent children. Lack of knowledge for mandatory reporting of child sexual abuse under section 21 of Protection of Children from Sexual Offences Act, 2012 is another area of concern. People are generally unaware that any person having the apprehension of commission of offences can report the matter to Special Juvenile Police Unit or Local Police. Another problem with the implementation of Protection of Children from Sexual Offences Act, 2012 is that there is lack of sensitivity while handling the issues by Special Juvenile Police Unit or Local Police. Special courts have been designated with the present infrastructure. However, there are no separate court complexes with specialized facilities as envisioned under the Act. There are certain provisions of the Act which are in conflict with the provisions of other Penal laws. The POCSO Act is silent upon the issue of consent of child/ adolescent for medical examination.

Despite the enforcement of Protection of Children from Sexual Offences Act, 2012, the sexual offences against children are still rampant.