

SEXUAL ABUSE OF STREET CHILDREN: A STUDY

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ABSTRACT

A child is at risk when concerns for the safety. Children are broadly the assets of the society and neglecting the children somehow will be a loss to the society. Street children are quite vulnerable to abuse and exploitation. Their unsafe conditions on the street, increases the instances of paedophilia. Physical and Psychological damage inflicted by exploitation makes it one of the most hazardous forms of child labour. Hence the study explores the experience of sexual abuse among street children. A semi-structured interview schedule was used for data collection. The analysis was done to interpret 'sexual abuse' in the extent of the Protection of Children from Sexual Offences Act, 2012. The study found that the street children witnessed different types of sexual abuses ranging from touching of private parts of such children to displaying of pornography. Though there is a specific legislation to protect children from the offense of sexual abuse but street children are not being able to avail such protection owing to their vulnerable living condition. Any kind of sexual abuse, physical or emotional abuse of children jeopardize their educational, social and psychological growth. Therefore, it is the duty of the society to develop and provide a safety net to the upbringing of these street children along with the other vulnerable children. The study suggests that the general public are required to be aware about the POCSO Act. Civil society should be strengthened to help street children to protect themselves from sexual abuse and to get justice in case of such abuse. In this regard the Street Children (Protection of Rights) Bill, 2001 is also required to be passed. The role of National Commission for Protection of Child Rights is quite significant to protect street children from abuses.

Keywords: Street Children; Sexual Abuse; Exploitation; POCSO Act

INTRODUCTION

Children are the basis of a strong, vibrant and dynamic nation. The Actual wealth of a nation is not dependent on its economic viability but on the quality of its children and youth. According to Hon'ble Justice Subba Rao, "Social Justice must start with children unless the tender plant is properly tended and nourished, it has little chances of growing into a strong and useful tree. So, the priority in the scale of social justice should be given to the welfare of the children."ⁱIn India, even though the economic growth continues to rise but the benefit is not reaching to the grass root level as a result of which wide-scale poverty is affecting millions. India has currently become a home to many impoverished children including the street children and many of them are illiterate, sick, and malnourished and hence they belong to the vulnerable section of the society.

UNICEF has identified street children as children living in tough situations and the rights and welfare of such children continue to remain a concern to both national and international institutions. The exact statistics of these street children are not known due to absence of any national/international survey or study dealing with the same. Nonetheless, UNICEF assessed in 2003 that there were almost 100 million street children worldwide.ⁱⁱ India is a home to approximately 11 million street children.ⁱⁱⁱ In cities like New Delhi, Kolkata and Mumbai there are more than one million street children.^{iv} The "problem of street children in urban areas, thus, is a very complex and acute, and therefore calls for immediate, suitable, and reasonable policy action to bring these kids back into the regular system."^v Street children face wide-ranging problems like deprivation of their basic needs such as shelter, nutrition, medical care, education, recreation, and immunization, and they have no access to water, bathing facilities or toilets. Nearly all these children suffer from scabies, chronic dysentery, lung, ear, nose and throat infections. A large number of them are anaemic and are malnourished.^{vi} There is a major difficulty to identify the key challenges that the street children face since the population of these street children are not sufficiently covered by national census, educational and health data.^{vii}

Currently, there is no fixed definition of street children. In general, the term 'street children' refers to the children who do not possess a stable home or shelter. According to the definition given by a group of non-governmental organizations at an Inter-NGO programme on street children and youth, 1983 the term 'street children' includes "any boy or girl who has not

reached adulthood, for whom the street (in the widest sense of the word, including unoccupied dwellings wasteland, etc.) has become his or her habitual abode and/or source of livelihood, and who is inadequately protected, directed, and supervised by responsible adults.”^{viii} UNICEF defines the “street children” as children who reside on the streets alone or with their families, or children who live on streets alone or with their families, or children who spend most of their time on the streets to fend for themselves.^{ix} These street children live with poor families who fail to take care of them and as a result, many of them are forced to do intensive labour activities regardless of their tender age. Many of these children live in the streets due to loss of their loved ones, family breakdown, or abuses that they cannot tolerate which are inflicted upon them by parents, relatives and other people.

Sexual abuse of a child can be defined as “the involvement of a child in a sexual activity that he or she does not fully comprehend, is unable to give informed consent to or that violate the laws or social taboos of society”.^x Street children are quite vulnerable to sexual abuse and exploitation. Their unsafe conditions on the street, increases the instances of paedophilia, and the growing sex market appears to be one of the principal causes of sexual abuse and exploitation of street children.^{xi} Physical and Psychological damage inflicted by commercial sexual exploitation makes it one of the most hazardous forms of child labour. Such children are exposed to the risks of HIV/AIDS, sexually transmitted diseases, unwanted pregnancies, and drug addiction.

It is pertinent to note here that in 2012 The Protection of Children from Sexual Offences Act (hereafter, POCSO Act) came into force which was specific legislation framed to deal with child sexual abuse. POCSO Act recognizes the fact that boys and girls both can be victims of sexual violence previously in Indian Penal Code (hereafter, IPC) boys were not considered as victims of sexual abuse. Before the enactment of POCSO Act child sexual abuses were dealt under IPC but the penal code could not sufficiently protect the children and criminalize non-conventional crimes like child trafficking, pornography, sale of children. The sections under the POCSO Act may be added by police officials in the First Information Report (hereafter, FIR) whenever a sexual offence is committed against a child. Even though it is a fact that special laws override the IPC but sections of both the laws are mentioned in the FIR. For example, an accused can be booked under Section 376 IPC as well as relevant sections of the

POCSO Act. It is noteworthy here to mention that punishments under the POCSO Act are more stringent than that of IPC.

Additionally, the role of the National Commission for protection of Child Rights (hereafter, NCPCR) is crucial when it comes to safeguarding the rights of child. The commission's mandate is to safeguard that all the laws, policies, programmes, and administrative mechanisms are in consonance with the child rights perspective as mentioned under the Indian Constitution and United Nations Convention on the Rights of Child. The commission also monitors the implementation of POCSO Act, Right of Children to Free and Compulsory Education Act, 2009 (hereafter, RTE Act), Juvenile Justice Act, 2015 (hereafter, JJ Act) and other legislations concerning the interests of children. In 2020 during the covid period NCPCR has released Standard Operating Procedure 2.0 (hereafter, SOP 2.0) which focuses on identifying the issues faced by street children and thereby redressing the same by providing proper guidelines to the various concerned stakeholders.

OBJECTIVES OF THE STUDY

The objectives of the study are:

- To identify the sexual abuse among street children
- To analyse the POCSO Act, 2012 in the reference to the sexual abuse of street children

METHODOLOGY

Location

The study concentrates mainly on different slum areas, shopping malls and railway station of Bathinda city, Punjab, India. Data collected from different areas of Bhatinda city are reflected in Table 2.

Sample

Total sample size consists of the 50 respondents, from which 33 were females and 17 were males. The respondents belong to the age group between 5 to 18 years. A convenient sampling method was used for the purpose of data collection.

Tools

A semi-structured interview schedule was used for data collection.

ANALYSIS AND INTERPRETATION

The following part of the present paper includes the primary data of the street children of Bhatinda city. Detailed interpretation and data analysis of primary survey is as following:

Table-1: Age-wise Sample Distribution

Groups	Age Group	Sample
1st group	5 to 12 years	22
2nd group	12 to 18 years	28
Total		50

Source: Primary survey data

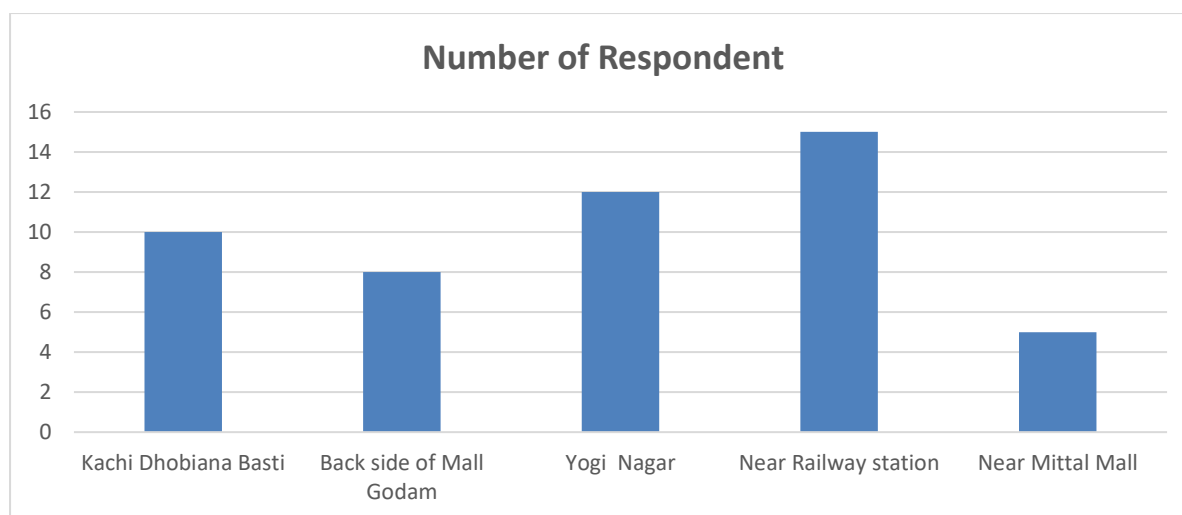
Table 1 explains the age wise distribution of the respondents. The respondents are being divided into groups. The first group belonging to the age group of 5 to 12 years consists of 22 respondents. This particular group has been identified to be more vulnerable owing to their tender age. The second group belonging to the age group of 12 to 18 years consists of 28 respondents. The respondents of this group are being identified to be both mentally and physically strong. A total of 50 respondents were interviewed for the present study.

Table-2: Sample Size Area Wise

S. No.	Area	Sample Number
1.	Kachi Dhobiana Basti	10
2.	Back side of Mall Godam	8
3.	Yogi Nagar	12
4.	Near Railway station	15
5.	Near Mittal Mall	5
Total		50

Source: Primary survey data

Figure-1: Area-wise Distribution of Respondents



Source: Figure based on primary survey data

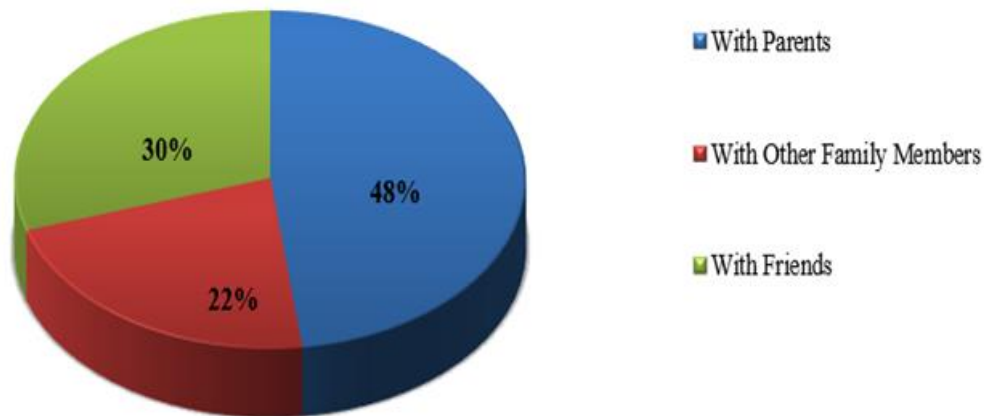
Table 2 and Figure 1 reflects the collection of data mainly from slum areas of Bathinda city, viz, Kachi Dhobiana Basti, Yogi Nagar, Back Side of Mall Godam- near Railway Station and area near Mittal Mall Bathinda. These all areas were near to the places of commercial activities and it would be easy for street children to earn their livelihood.

Table-3: Staying Arrangement of Street Children

Source: Primary survey data

S. No.	Stay of Children	No. of Observations	Percent
1.	Parents	24	48
2.	Other Family Members	11	22
3.	Friends	15	30
	Total	50	100

Figure-2: Staying Arrangement of Street Children



Source: Figure based on primary survey data

Table 3 divides the street children as per their staying arrangement namely children living with their parents, with other family members, and with their friends. Out of 50 respondents, 24 street children are living with their parents, 11 with their other family members and 15 street children are living with their friends in groups and supports each other. Figure 2 reflects the arrangement of street children about their stay in percentage share. It explains majority of Street children that is 48 percent are staying with their parents, 22 percent with their other family members and 30 percent with their friends on street. It is found that 70 percent of the respondents living either with their parents or relatives.

SEXUAL ABUSE AMONGST STREET CHILDREN

On examining the data given in Table 4 and Figure 3 it is found that almost all street children have faced the sexual abuse even though almost 70 percent of such children are living with their parents and other family members.

Table-4: Sexual Abuse amongst Street Children

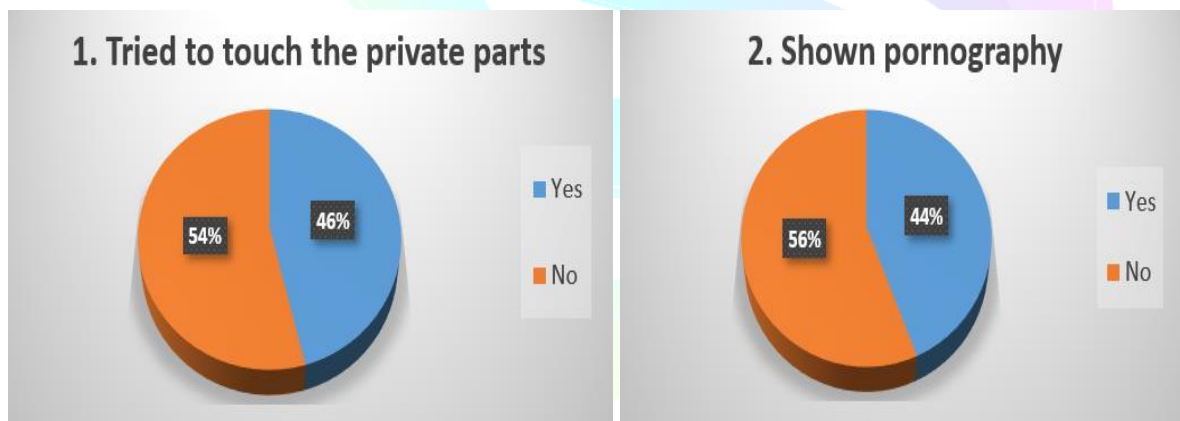
S. No.	Kinds of Sexual Abuse	Yes	No
1.	Tried to touch the private parts	23	27
2.	Shown pornography	22	28
3.	Tried to take nude pictures	11	39
4.	Tried to kiss forcefully	19	31

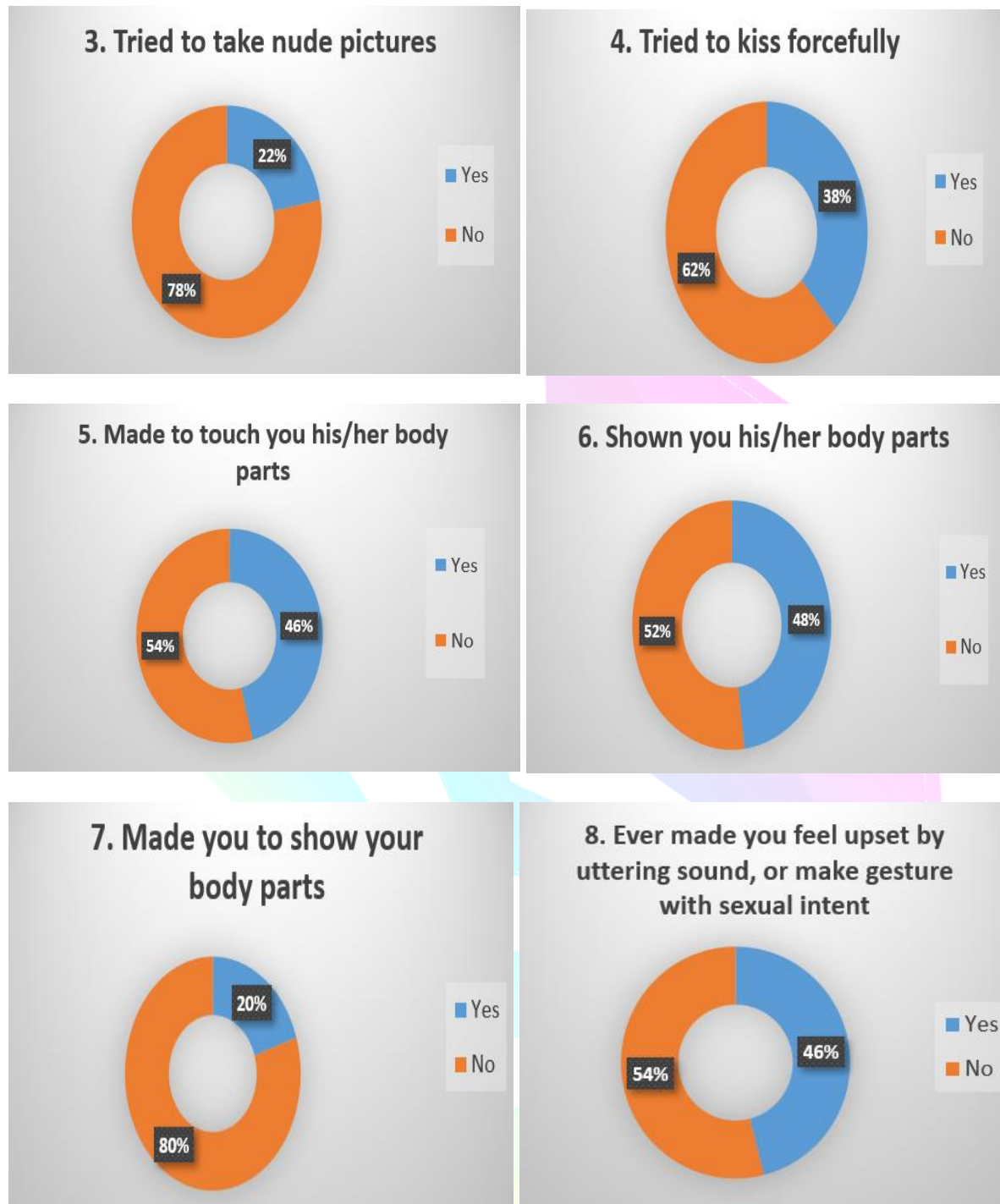
5.	Made to touch you his/her body parts	23	27
6.	Shown you his/her body parts	24	26
7.	Made you to show your body parts	10	40
8.	Ever made you feel upset by uttering sound, or make gesture with sexual intent	23	27

Source: Primary survey data

The different type of sexual abuse is covered by the various offenses as mentioned under the POCSO Act, 2012. 46 percent of street children said that someone tried to touch their private parts. 44 percent of respondents said that they have been shown the pornographic material. It was observed during data collection that such pornographic material was shown to children against their wish. 22 percent of the children said that the abuser tried to take their nude pictures. 38 percent of the children reported that the abuser tried to kiss the children forcibly. 46 percent of the abusers made to touch the children their body parts. 48 percent of the abusers showed their body parts to the children. 20 percent of the children reported that abusers made them show the body parts of the children. 46 percent of the children felt upset due to sound and gesture made with sexual intent by the abuser.

Figure-3: Sexual Abuses amongst Street Children





Source: Figure based on primary survey data

On the basis of above data, it is concluded that the condition of street children is really horrible and most of these children are deprived of their basic human rights and are the victims of physical and sexual abuse.

RESULT AND DISCUSSION

The above-mentioned study provides an opportunity to look into the natural life experiences of the street children. The result in case of sexual abuse against street children along with examination of the POCSO Act, it is found that most of the street children are victims of sexual abuse. During the interview with the street children, it was observed that in majority of cases of sexual abuse victim has done nothing against the culprit and stayed mum and in cases when they went to the police station the officials tried to make an arrangement of compromise between the victim and culprit. It can be said here that children living in the street with or without parents are vulnerable to sexual abuse.^{xii} The perpetrator of such sexual abuse could be another street child in conflict with law or other adult person.^{xiii} Similarly, most of the street children are vulnerable to sexual abuse due to the lack of secure shelter and adult care.^{xiv} The POCSO Act recognises sexual harassment of a child which particularly involves touch, and the ones which doesn't fall under sections 11^{xv} and 12^{xvi}, such as stalking, making a child expose themselves or exposing themselves to a child, and so on. The Act also categorically lays down stringent punishment for exposing the children to, or using the children to create child sexual abuse material which generally is referred to as child pornography and dealt under sections of 13^{xvii}, 14^{xviii} and 15^{xix}.

Furthermore, under the POCSO Act there is mandatory reporting of sexual crimes against children even including the circumstances where there is an apprehension that an offence under the Act has been committed. The POCSO Act also introduced child friendly procedures to make the criminal justice system child friendly. Accordingly, a child is entitled to the following:

1. Statement of child should be recorded in their residence or any place of their convenience by a woman police official or any official of the rank of sub-inspector in civilian attire and it has to be ensured by the police official that the child should not come in contact with the accused during the investigation process.
2. It should also be ensured that a child is not by any reason detained at the police station at night and the child's identity should be protected from both the public and media unless the same is directed by a special court.
3. It is also to be ensured that if by any reason the survivor is a girl, the medical examination of such girl child primarily should be done by a woman doctor in the presence of either her

parent or any person on whom the child has trust and, in any case, if both of them are missing then the medical examination should be conducted in presence of a woman and such woman should be nominated by the head of the medical institution.

Special courts that are designated under the POCSO Act has also introduced child friendly procedures to make the child at ease during trial such as having a family member, a guardian, a friend or a relative, in whom the child has trust to be present during the trial. Frequent breaks to be allowed to such children during the trial so as to put them at comfort. It is also to be ensured by the Special Court that the child does not have to face the accused during the evidence collection or cross examination.

The Amendment of 2019 under the POCSO Act is a welcome move for the offenses relating to sexual abuse of children. The objective is to safeguard children who are in a particularly vulnerable position, to relieve them of the distress they are experiencing, and to secure their safety and well-being while retaining their dignity. The amendment enhances the punishment for different kinds of sexual abuses of children and also defines offenses such as “child pornography”. The new offense of “aggravated penetrative sexual assault” has been also brought through 2019 Amendment Act which includes gruesome penetrative sexual acts done by police officer, a member of armed forces of India or any public servant of government body against a child. Due to the inculcation of very strong legal measures against the perpetrator of sexual abuse as indicated by the Amendment, it is likely to curb the tendency of sexual abuse against children by acting as a deterrent. The most significant aspect of this Amendment is that it is gender-neutral.

It is of utmost importance to talk about the SOP 2.0^{xx} released by NCPCR in the year 2020 which caters specifically to the needs and issues of children living in street situations. The commission identifies the fact that children living on the street is a socio-economic and legal issue which is deteriorating due to the lack of any social interventions and effective legal measures. SOP 2.0 creates a conjunction between the functionaries, institutions, government schemes and policies to develop an environment of care and protection to rehabilitate the street children. The SOP 2.0 will act as a step-by-step guideline for all stakeholders and the child welfare committees (hereafter, CWC) for the care, protection, treatment, rehabilitation of street children who are in need of care and protection. Similarly, with reference to the guidelines the District Child Protection Unit (hereafter, DCPU) and CWC will be the initial point of contact

for cases related to street children and DCPUs are required to identify and provide counselling to the children in need.

It is also necessary to note here that a bill in 2001 relating to street children entitled 'The Street Children (Protection of Rights) Bill, 2001' was put before the Indian Parliament. It was admitted in the statement, objects and reasons of the bill that in spite of the presence of various policies, programs, and legislations for the protection of children, children including the street, abused, and neglected children remains the most exploited and abused section of the society. The bill sought to enjoin upon the government to lay down policies to benefit the street children.

CONCLUSION

Children being the epitome of innocence and purity should be taken care by the humanity at large. During the timespan of childhood to adolescent children require more care and protection otherwise they can be subjected to various kind of abuses one of them being the sexual abuse. Sexual abuse in children can be co-related with high level of depression, guilt, self-blame, anxiety and many other effects so it is very important to shield these children from such abuses. Notwithstanding the fact that we have stringent laws at place in the society to curb sexual abuses against children but implementation of such laws in the present society in context of the street children is quite difficult due to the vulnerable condition that street children mostly live in, lack of empowerment and neglect from the societal structure.

Children are broadly the assets of the society and neglecting the street children somehow will be a loss to the society at large as they can equally contribute to the society if properly nurtured. Therefore, it is the duty of the society to develop and provide a safety net to the upbringing of these street children along with the other vulnerable children.

Government should start proper awareness program through hoardings near the street displaying the helpline numbers in order to protect street children. Even messages to general public should be broadcasted by radio and television to spread awareness regarding POCSO Act. Periodical reviews must be conducted to keep under check the effectiveness and implementation of the POCSO Act. The Street Children (Protection of Rights) Bill, 2001 needs to be passed in India to ensure a safe environment for such street children. NCPCR has the

potential to act as a catalyst in the prevention of child sexual abuse. NCPCR needs to take a more proactive approach in this area.

IMPLICATIONS OF THE STUDY

According to the findings of the study, a specific statute is required to protect street children from various forms of abuse. In this regard, the study will be useful for policymakers in developing policies to protect street children. There is an urgent need for social interventions and specific legal measures for street children. As a result, the current study will serve as the foundation for future research in this field.

ENDNOTES

ⁱSUBBA KOKA RAO, *SOCIAL JUSTICE AND LAW* (1974).

ⁱⁱSTREET CHILDREN AND HOMELESSNESS, <https://cyc-net.org/cyc-online/cyc01-0904-homelessness.html> (last visited Jul 4, 2021).

ⁱⁱⁱFight for street children, RAILWAY CHILDREN FIGHTING FOR STREET CHILDREN, <https://www.railwaychildren.org.uk/what-we-do/fight-for-street-children/#:~:text=in%20your%20browser.-,Over%2011%20million%20children%20live%20on%20the%20streets%20of%20India,to%20find%20a%20better%20life.> (last visited Jul 4, 2021).

^{iv}Reshmi Bhaskaran & Balwant Mehta, *SURVIVING THE STREETS. A CENSUS OF STREET CHILDREN IN DELHI BY THE INSTITUTE FOR HUMAN DEVELOPMENT AND SAVE THE CHILDREN SAVE THE CHILDREN*, <https://resourcecentre.savethechildren.net/node/5332/pdf/5332.pdf> (last visited Jul 4, 2021).

^vIrene Rizzini et al., *CHILDHOOD AND URBAN POVERTY IN BRAZIL: STREET AND WORKING CHILDREN AND THEIR FAMILIES* UNICEF OFFICE OF RESEARCH- INNOCENTI (1992), https://www.unicef-irc.org/publications/pdf/ucs3_low.pdf (last visited Jul 4, 2021).

^{vi}N. REDDY, *STREET CHILDREN OF BANGALORE: A SITUATIONAL ANALYSIS* (1992).

^{vii}Sibnath Deb & Kathakali Mitra, *Deviance among disadvantaged children in Kolkata and reasons thereof*, 22 INDIAN JOURNAL OF CRIMINOLOGY AND CRIMINALISTICS 41–59 (2002).

^{viii}*Id.*

^{ix}Street Children, ASHRAYA INITIATIVE FOR CHILDREN, <https://www.ashrayainitiative.org/what-we-do/context/street-children/> (last visited Jul 4, 2021).

^xREPORT OF THE CONSULTATION ON CHILD ABUSE PREVENTION, 29-31 MARCH 1999, WHO, GENEVA (1999), <https://apps.who.int/iris/handle/10665/65900> (last visited Jul 5, 2021).

^{xi}Naresh Newar, *Pedophilia the Silent Sufferers: Molested Children*, VOICE OF CHILD WORKERS (1999).

^{xii}STANDARD OPERATING PROCEDURE FOR CARE AND PROTECTION OF CHILDREN IN STREET SITUATIONS (2020), <https://ncpcr.gov.in/showfile.php?lang=1&level=0&linkid=116&lid=2002> (last visited Jul 5, 2021).

^{xiii}*Id.* at 5.

^{xiv}*Id.* at 6.

^{xv}Section 11 - Sexual harassment

A person is said to commit sexual harassment upon a child when such person with sexual intent, --

- (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 therefore.

Explanation, --Any question which involves "sexual intent" shall be a question of fact.

^{xvi}Section 12 - Punishment for sexual harassment

Whoever, commits sexual harassment upon a child shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

^{xvii}Section 13 - Use of child for pornographic purposes

Whoever, uses a child in any form of media (including programme or advertisement telecast by television channels or internet or any other electronic form or printed form, whether or not such programme or advertisement is intended for personal use or for distribution), for the purposes of sexual gratification, which includes--

- (a) representation of the sexual organs of a child;
- (b) usage of a child engaged in real or simulated sexual acts (with or without penetration);
- (c) the indecent or obscene representation of a child,

shall be guilty of the offence of using a child for pornographic purposes.

Explanation. --For the purposes of this section, the expression "use a child" shall include involving a child through any medium like print, electronic, computer or any other technology for preparation, production, offering, transmitting, publishing, facilitation and distribution of the pornographic material.

^{xviii}Section 14 - Punishment for using child for pornographic purposes

(1) Whoever uses a child or children for pornographic purposes shall be punished with imprisonment for a term which shall not be less than five years and shall also be liable to fine and in the event of second or subsequent conviction with imprisonment for a term which shall not be less than seven years and also be liable to fine.

(2) Whoever using a child or children for pornographic purposes under sub-section (1), commits an offence referred to in section 3 or section 5 or section 7 or section 9 by directly participating in such pornographic acts, shall be punished for the said offences also under section 4, section 6, section 8 and section 10, respectively, in

addition to the punishment provided in sub-section (1).

^{xix}Section 15 - Punishment for storage of pornographic material involving child

(1) Any person, who stores or possesses pornographic material in any form involving a child, but fails to delete or destroy or report the same to the designated authority, as may be prescribed, with an intention to share or transmit child pornography, shall be liable to fine not less than five thousand rupees and in the event of second or subsequent offence, with fine which shall not be less than ten thousand rupees.

(2) Any person, who stores or possesses pornographic material in any form involving a child for transmitting or propagating or displaying or distributing in any manner at any time except for the purpose of reporting, as may be prescribed, or for use as evidence in court, shall be punished with imprisonment of either description which

may extend to three years, or with fine, or with both.

(3) Any person, who stores or possesses pornographic material in any form involving a child for commercial purpose shall be punished on the first conviction with imprisonment of either description which shall not be less than three years which may extend to five years, or with fine, or with both and in the event of second or subsequent conviction, with imprisonment of either description which shall not be less than five years which may extend to seven years and shall also be liable to fine.

^{xx}STANDARD OPERATING PROCEDURE, *supra* note 12.