

# Legal and Institutional Perspectives on Criminal Justice in India: Integrating Constitutional, Juvenile, Prison, Forensic, and Child Protection Laws for Addressing Sexual and Child Abuse

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## ABSTRACT:

The issues of sexual abuse and child abuse still continue to be a huge problem in India in the criminal justice arena in terms of violation of dignity, violation of rights pertaining to sexual autonomy, violation of equality, violation of childhood safety and violation of social protection. The legal response is distributed among the constitutional guarantees, the substantive criminal law, the procedural safeguards, the laws on child protection, the juvenile justice mechanisms, the administration of the prison, the forensic investigation, and the provision of assistance to institutions. This review explores the interaction of these frameworks in tackling the issues of abuse, safeguarding victims, prosecution and rehabilitation. It emphasises on the significance of the Constitution, Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, Bharatiya Sakshya Adhinyam, POCSO Act, Juvenile Justice Act, standards of prisons, forensic procedures and child welfare institutions. The discussion highlights the importance of the involvement of agencies such as the police, courts, prosecutors, hospitals,

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| <p><b>COPYRIGHT STATEMENT:</b></p> <p>Copyright: © 2026 Authors.</p> <p>Open access publication under the terms and conditions of the Creative Commons Attribution (CC BY) license (<a href="http://creativecommons.org/licenses/by/4.0/">http://creativecommons.org/licenses/by/4.0/</a>).</p> | <p>forensic laboratories, Child Welfare Committees and Juvenile Justice Boards, legal aid authorities, counsellors, shelter homes, prisons and NGOs to ensure legal protection is effective. Underreporting, stigma, delayed investigation, low forensic capacity, lack of victim support, institutional fragmentation and lack of rehabilitation are the major challenges. Criminal justice model needs to be victim-centred, child sensitive, evidence based, trauma informed, rehabilitative and constitution based.</p> <p><b>Keywords:</b> Sexual Abuse, Child Abuse, Criminal Justice, POCSO Act, Juvenile Justice</p> |
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## 1. Introduction

Sexual abuse and child abuse are serious offences of human dignity, bodily autonomy, personal liberty and social justice, and continue to pose problems to the effectiveness of criminal justice systems all over the world. In India, these acts of violence are not only individual crimes, but are also symptoms of more fundamental legal, institutional, social and cultural issues. There are multiple stages in the criminal justice system response to this abuse, which are interconnected and include the actions of the victim, police investigation, medical examination, collection of forensic evidence, prosecution, trial, victim protection, offender punishment, offender rehabilitation, and institutional monitoring. Thus, a legal approach is not sufficient without having the necessary institutions to effectively implement the law in a victim-sensitive and rights-based way.

Violence against children is a public health and human rights issue, and there is clear evidence across the world that many children are exposed to some form of violence within a year of their birth, highlighting the necessity to put in place better systems for prevention and justice. (Hillis et al., 2016). Sexual and children abuse cases need special attention where the victims are vulnerable, pressure on the victims and their families, social stigma, delayed reporting, fear of retaliation and difficulty in getting reliable evidence are some of the factors that make it more difficult to address the cases in India. The issues are more complicated when the victim is a child: the justice process should not inflict any additional trauma on the child, and should ensure that he or she is fairly investigated and prosecuted. The definition of

child abuse is very wide and can encompass physical, emotional, sexual, neglect, exploitation, trafficking and institutional abuse; child sexual abuse is defined as sexual contact, sexual assault, sexual harassment, exploitation or the use of a child for sexual purposes.

The impacts of childhood sexual abuse can last long after the initial trauma and can range from mental health issues and behavioural problems to interpersonal issues and addiction to drugs and alcohol, self-harm and lower social functioning later in life. (Hailes et al., 2019). This is significant not only for punishment but for protection, recovery and rehabilitation, too. To implement a victim-centred justice process, it is essential to acknowledge the survivors as rights-holders who need to be supported in terms of their safety, healthcare, psychological needs, privacy, compensation, legal protection and social reintegration. For cases involving children, the system needs to also have child friendly procedures to ensure that the child is not required to repeatedly recount traumatic events in an environment that is hostile and intimidating to him or her.

India has a robust legal framework to tackle sexual and child abuse, such as constitutional protection, criminal law provisions, juvenile justice, child protection laws, prison laws, forensic laws, and institutional safeguards. The Protection of Children from Sexual Offences Act is of special significance since the evidence from the states reveals that child sexual abuse in India is influenced by a number of social and regional factors and hence this law needs to be better implemented and institutionalized. (Maity & Chakraborty, 2023). But

only laws can be effective when police, medical officers and forensic experts, prosecutors, courts, child welfare committees, prison officials, legal services institutions and rehabilitation agencies collaborate. The lack of unity within these institutions can lead to a less effective justice process, delayed trials, less quality of conviction and more victim suffering.

The values of equality, dignity, life, liberty, non-discrimination, protection from exploitation and special care for children are the constitutional pillars of the Indian criminal justice response. The State must establish a judicial system that is punitive, preventive, protective, rehabilitative and vulnerable-sensitive, in keeping with these constitutional values. Criminal sanctions will not be the only way to respond to sexual abuse and child abuse, as victims may require emergency medical and/or counselling care, safe shelter, education, witness protection and/or long-term rehabilitation. Likewise, offenders in the prison system can be in need of correctional interventions, psychological evaluation and reintegration planning, especially juvenile offenders.

The broader issue of gender based violence is still a significant concern and cross country evidence from the national surveys conducted in India indicates the persisting trends of intimate partner violence among ever-married women, thereby establishing a link between social inequalities and victimisation. (Garg et al., 2021). This is important in the context as sexual abuse and child abuse frequently take place in unequal social relationships, such as family, marriage, caste, class, gender, age and power within institutions. A criminal justice review, therefore, needs to address both the law and social factors that impact on the reporting, evidence, prosecution and recovery of survivors.

Spatial variation is also significant, with evidence from India demonstrating that there are spatial variations in IPV at the district level, and suggesting that criminal justice and protection interventions may need to be sensitive to the local context. (Srivastava et al., 2023). This review is therefore an attempt to explore the legal and

institutional aspects of criminal justice in India incorporating the constitutional law, juvenile, prison, forensic procedures and child protection laws in tackling the issue of sexual and child abuse. This article aims at examining the current system's strengths and weaknesses, as well as the coordination problems existing within it, and to suggest an integrated model, which is victim-centred, child-sensitive, evidence-based and institutionally accountable. The review is organized in three steps: first, the methodology is explained, second, conceptual and constitutional aspects are discussed, third, criminal and child protection laws, juvenile justice, criminal justice in prisons, forensic investigation, institutional mechanisms, implementation challenges are discussed, and, finally, recommendations are put forward for a more coordinated criminal justice response.

## 2. Review Methodology

The present article takes a doctrinal and narrative approach to discuss the legal and institutional approach towards sexual and child abuse in Indian criminal justice. It is a review, based on the analysis of primary legal materials and some selected secondary sources in the field of constitutional law, criminal law, juvenile justice, prison administration, forensic investigation and child protection. Primary sources are constituted by the provisions of the Constitution, the statutes, the procedural rules, judicial decisions, policy documents and official guidelines of the institutions. Peer-reviewed journal articles, legal commentaries, government publications, institutional publications, and academic research on victim protection, child-friendly justice, forensic evidence, rehabilitation, and criminal justice reform are a few examples of secondary sources.

Literature was searched using legal databases, academic search engines, government websites, journal databases and official government legislation. The keywords used were criminal justice in India, sexual abuse, child abuse, child sexual abuse, POCSO, juvenile justice, forensic evidence, prison law, victim rights, child protection, institutional accountability. Materials were chosen to be relevant, legally authorized, of

good publication value, and directly related to the theme of the review. The analysis was done in a thematic way by categorizing the sources into: constitutional protections, criminal law, child protection, juvenile justice, prison law, forensic procedures and institutional mechanisms. The review will comprise documentary and legal review and is not based on field and empirical interviews.

### **3. Conceptual Framework: Sexual Abuse, Child Abuse, and Criminal Justice**

#### **3.1 Defining Sexual Abuse and Child Abuse**

The terms sexual abuse and child abuse are general terms which need sensitivity in both legal and social interpretation. Sexual abuse is usually defined as any unwanted, forced, non-consensual, exploitative sexual act, contact, exposure or behaviour that is inflicted on a person. If the victim is a child, the situation becomes more complicated as a child cannot be legally or developmentally competent to consent to sexual activity. Child abuse is broader than sexual abuse and can encompass physical abuse, emotional abuse, neglect, abandonment, exploitation, trafficking and institutional mistreatment. The definitions are significant in criminal justice because they decide if the behavior is punishable, how the victim is safeguarded and what steps are required when investigating and prosecuting the crime and when it goes to trial. Because child sexual abuse is different from other types of child maltreatment, a clear conceptual definition is needed to differentiate it from other forms and to facilitate consistency of legal and institutional response. (Mathews & Collin-Vézina, 2019).

#### **3.2 Distinction between Sexual Abuse, Child Sexual Abuse, Exploitation, Neglect, Trafficking, and Institutional Abuse**

These terms are closely related, but not synonyms. Sexual abuse is any sexual violation, coercion, assault, harassment or exploitation. Child sexual abuse is defined as sexual contacts or acts with a child, including acts of grooming, exposure, pornography or online exploitation. Exploitation is when someone is used for sexual, economic, labour or commercial gain by taking advantage of their vulnerability. Neglect is the lack of care, protection, supervision, education, nutrition and

medical attention. Trafficking is the recruitment, transportation, harbouring or transfer of persons for exploitation. Institutional abuse happens when harm happens in either schools, shelter homes, prisons, care institutions, religious institutions, workplaces or justice institutions. The distinctions are important because they will lead to different legal responses, institutional interventions, evidentiary methods, and rehabilitation plans. The current research on child sexual abuse emphasizes an understanding of the victim and the perpetrator, in order to make prevention, intervention, and justice responses more effective. (Laajasalo et al., 2022).

#### **3.3 Criminal Justice as Protection, Punishment, Prevention, Rehabilitation, and Reintegration**

Criminal justice is not simply a system of sanctions. It serves a number of interrelated functions in the case of sexual abuse and child abuse. It safeguards victims by ensuring their safety, medical attention, legal assistance, confidentiality and being free from intimidation. Second, it punishes the offender by investigating, prosecuting, trial, conviction, and sentencing. Third, it helps to avoid future harm by establishing deterrence, enhancing reporting mechanisms, tracking high-risk situations and increasing institutional accountability. Fourthly, it facilitates rehabilitation by addressing the physical, psychological, educational and social needs of the victims. Fifth, it supports reintegration, and assists in the rehabilitation of survivors in their families, school, community and normal social life without stigma. Reintegration is also a concern for juvenile offenders, as the law should not only hold them accountable, but also help them to change. The evidence to date on risk factors for child sexual abuse victimisation suggests that prevention strategies need to target the individual, family, social and environmental vulnerabilities of children, not just punish them after the crime. (Assink et al., 2019).

#### **3.4 Victim-Centred and Child-Friendly Justice Approaches**

A victim-centred justice approach puts the dignity, safety, voice and recovery of the survivor at the heart of the justice process. In sexual abuse

situations, victims may be subjected to a barrage of emotional upsets, repeated questioning, and social pressure as well as fear and shame. Hence, the justice system should not be a place of secondary victimisation and respectful treatment should be accorded throughout. In particular, it is important to be child-friendly if the victim is a minor. It necessitates reporting, which is child-friendly; trained police officers; supportive medical examination; safe recording of statements; privacy in court; limited contact with the accused; counselling and appropriate communication with the child. It is not to undermine criminal procedure, but to humanise, ensure the reliability of, and make it accessible to vulnerable victims. A multi-disciplinary approach (police, doctors, counsellors, prosecutors, child welfare authorities, and social workers) is helpful as physical and sexual child abuse cases frequently require coordinated legal, medical, psychological, and protective intervention. (Herbert & Bromfield, 2019).

### **3.5 Relationship between Legal Protection and Institutional Implementation**

The meaning of legal protection only comes to fruition when institutions can implement the law in practice. While a law can define crimes, establish sentences and offer protection, it is the job of the police, hospitals, forensic labs, courts, child welfare committees, shelter homes, prison officers and legal assistance organizations to actually protect victims. Poor coordination between these institutions can result in delayed reporting, poor evidence collection, insensitive questioning, delayed trials, inadequate counselling, and poor rehabilitation. The conceptual approach of this review thus considers criminal justice to be a legal and institutional process. Laws give the normative basis and institutions give the practical basis. This relationship is particularly crucial in instances of sexual abuse and child abuse, where victims require immediate safety, emotional support, medical assistance, legal protection, and social reintegration. The integrated criminal justice system should, therefore, be legal clarity, institutional accountability, professional training, victim assistance, forensic reliability, and ongoing supervision.

## **4. Constitutional Foundations of Protection against Abuse**

### **4.1 Right to Life and Dignity under Article 21**

India's Constitution, under Article 21, guarantees the right to life and personal liberty to all citizens, which must be done in accordance with procedure laid down by law. When referring to sexual abuse or child abuse, this provision is given a broad interpretation as life is not only physical survival. It covers dignity, respect for the body, privacy, security, mental health and freedom from fear and exploitation. Sexual violence and abuse are contrary to these values as they assault the body, mind, autonomy and social identity of the victim. However, for children the effects are much greater as it has an impact on their development, emotional security, education and future involvement in society. Thus, Article 21 provides a constitutional foundation for victimization sensitive investigation, fair trial, medical and counselling services, rehabilitation and protection from secondary victimisation. In the criminal justice system, there is a need for the protection of life and dignity throughout the legal process (Government of India, 1950).

### **4.2 Equality and Non-Discrimination under Articles 14 and 15**

The principles of equality before the law, equal protection of law and non-discrimination are laid down in articles 14 and 15 of the Constitution. These provisions are at the heart of the issue of sexual and child abuse as victims are frequently in socially marginalized roles as a result of gender, age, caste, class, disability, poverty and dependency. Equality in criminal justice does not imply the same treatment in all circumstances but also means that special measures for protection should be taken when some groups are at a greater risk of violence or when there are greater obstacles to justice. Special legal, protection and institutional mechanisms and procedures might be needed to ensure meaningful access to justice for women and children. Article 15 also provides for protective measures for women and children, thus enabling special laws and child-sensitive processes. In this context, equality is a negative protection for those who are vulnerable, and a positive obligation to

provide safe legal circumstances for those who are vulnerable (Government of India, 1950).

#### **4.3 Protection against Exploitation under Articles 23 and 24**

Individuals, particularly vulnerable persons are protected from exploitation under Article 23 and 24 of the Constitution. Articles 23 and 24 are against trafficking, forced labour, and other forms of exploitation, and it protects children from employment in hazardous conditions. These provisions are of particular importance to sexual abuse and child abuse as exploitation can manifest itself in a variety of ways, such as sexual trafficking, forced sexual activity, child labour, commercial sexual exploitation and institutional neglect. Abuse is often embedded in a pattern of control, dependence, poverty, coercion and social power. The constitutional principle of prevention of exploitation is thus in harmony with the criminalisation, rescue, rehabilitation and institutional monitoring. It also empowers the State to prevent abuse before it becomes a case for prosecution. Bharatiya Nyaya Sanhita, 2023, also upholds this constitutional obligation by establishing and penalizing crimes related to bodily harm, sexual offences, offences against women and children (India Code, 2023a).

#### **4.4 Directive Principles Relating to Children, Health, Education, and Social Justice**

The Directive Principles of State Policy give significant direction for creating a welfare oriented and social responsible Justice system. However, they are not enforceable as fundamental rights, but are used to inform the State of its role in the creation of laws and policies for children, health, education, social justice and protection from exploitation. The principles are not intended to be used in a punitive way in the context of sexual and child abuse, but rather in a preventive and rehabilitative way. They want the State to provide those children with opportunities to develop in dignity, safety, education, nutrition, moral and material security. They also support the establishment of child welfare institutions, rehabilitation programs, legal assistance, compensation for victims and protective homes. It is therefore essential that a justice system based on

the directive principles take social factors and effects of abuse into consideration. The Bharatiya Nagarik Suraksha Sanhita, 2023, is relevant as it lays out the practical implementation of investigation, trial, victim participation, and victim protection (India Code, 2023b).

#### **4.5 Constitutional Morality, Gender Justice, and Child Rights**

The values of dignity, equality, liberty, fairness and justice are the values that should guide operation of law and institutions in constitutional morality. In the context of sexual abuse and child abuse, constitutional morality requires that the victim is not blamed, silenced, shamed or treated as an object of evidence. Gender justice demands that the criminal justice system be aware of the underlying social inequalities which can lead to sexual violence. All decisions made for a child should take into account their safety, development, participation, privacy and best interests. These principles combined make up a system where punishment of the person is critical but not enough. This must also safeguard the dignity of the survivor, include the prevention of further trauma and access to care and rehabilitation. Importance of Bharatiya Sakshya Adhiniyam, 2023: Evidential rules have a significant impact on how evidence is considered in abuse proceedings, including testimony, documents, electronic evidence, medical evidence, forensic evidence, credibility, and evidence generally (India Code, 2023c).

#### **4.6 Role of Courts in Expanding Victim Protection and Child-Sensitive Justice**

Courts are of fundamental importance as a mechanism for implementing constitutional values into real protections for victims of sexual and child abuse. Interpretation can give meaning to the rights to dignity, privacy, fair procedure, the right for the child's voice to be heard, compensation, protection of witnesses and child-friendly justice. Judicial intervention is particularly needed in cases where statutory provisions are absent or ambiguous or fail to be implemented. When abuse cases come before the courts, it is necessary to consider the rights of the accused, the safety, dignity and emotional health of the victim. The following are some of the principles of child-

sensitive justice that should be taken into account when handling evidence, protecting children from intimidation, avoiding unnecessary delay and respecting the child's psychological state. Courts also instruct police, prosecutors, medical officers and trial courts in proper procedure. The constitutional framework, criminal law, procedural law and evidentiary law should, therefore, dovetail each other so that justice is not only achieved in the form of conviction, but also in the form of protection, fairness and recovery for the victim (Government of India, 1950; India Code, 2023a; India Code, 2023b; India Code, 2023c).

## **5. Criminal Law Framework for Sexual Offences and Child Abuse**

### **5.1 Evolution from IPC-Based Criminal Law to the Bharatiya Nyaya Sanhita Framework**

The Indian criminal law regime on sexual offences and child abuse has shifted from an 'offence-centred' approach to a 'rights-sensitive' and 'victim-centred' approach. In the past, the Indian Penal Code was the root of the definition of sexual offences and in the recent years, there was an increase in the number of people who were concerned about sexual violence and a corresponding expansion of the definition for what constituted as a punishable offence. The Criminal Law (Amendment) Act, 2013 was an important development, as it broadened the scope of the definition of sexual offences and enhanced the investigation, evidence and punishment provisions of the criminal law. India has tried to restructure the criminal law in a modern format with the Bharatiya Nyaya Sanhita law, but it has included certain elements to protect against sexual violence, crimes against children and bodily harm. The transition recognises the evolving nature of abuse, such as through domestic violence, child sexual abuse, trafficking and technology-driven exploitation, and the need to adapt and respond to these new forms of abuse. The approach of the criminal justice system to GBV needs to be both clear and sensitive, fair and responsible (United Nations Office on Drugs and Crime, 2020).

### **5.2 Sexual Offences against Women and Children under the BNS**

Sexual offences against women and children have a special position in the criminal laws as they impact on dignity, body, privacy, liberty and personal security of women and children. The Bharatiya Nyaya Sanhita is a continuation of the criminal law pledge to penalise sexual violence, and acknowledges certain crimes against women and children. These offences need to be considered not only as a violation of the autonomy of individuals but also as social harms that are gendered, rooted in the dynamics of power and inequality in the family, economic dependency, and social silence. Violence against women is usually a domestic and intimate violence which requires criminal law to be able to tackle both public and private violence. The national evidence reveals that domestic violence is a serious issue prevailing in India among women and is linked to the social, demographic and household level factors (Mishra et al., 2024). Hence, reporting, survivor protection, medical care, counselling and effective prosecution are essential prerequisites to a criminal law response to sexual offences.

### **5.3 Rape, Aggravated Sexual Assault, Sexual Harassment, Stalking, Voyeurism, and Offences against Children**

A broad spectrum of sexual offences are recognised within the criminal law, such as rape, aggravated sexual assault, sexual harassment, stalking, voyeurism and offences involving children. It is a broad term as sexual abuse comes in many different forms. Can include physical assault, coercion, intimidation, unwanted sexual behaviour, surveillance, online harassment and abuse of authority, or grooming. The age, vulnerability, dependency and psychological state of the victim must be taken into special consideration in child abuse cases. Children need to be treated with greater protection, as they are not adults who are able to be in on sexual activity. Early marriage and forced marriage also contributes to the potential for harm to girls' sexual, reproductive, educational and social development. The Indian evidence reveals that education is closely associated with trends in girl

child marriage, suggesting that there is a need to explore the linkages between criminal justice and social prevention and educational empowerment (Raj et al., 2022). Therefore, the law against sexual offenses should be both reactive and proactive in terms of addressing the causes of sexual abuse.

#### **5.4 Procedural Safeguards under BNSS, Including FIR, Investigation, Trial, and Victim Participation**

Procedural safeguards are necessary because without a safe and fair access to the justice process, substantive criminal law will become a futile endeavor. For sexual abuse and child abuse cases the process should include the early registration of complaints, sensitive recording of statements, early medical examination, evidence collection, protection of victim privacy and from intimidation. The Bharatiya Nagarik Suraksha Sanhita framework is significant in that it regulates the nuts and bolts of criminal justice, such as FIR, investigation, arrest, trial, evidence production and the involvement of the victim. If a victim of sexual offense case is discouraged from pursuing a claim due to insensitive behavior at the initial stage, then it can weaken the case. Courts and investigators should refrain, therefore, from humiliating the victim or placing blame on the victim. It is also important for criminal justice actors to acknowledge that survivors may be traumatised, fearful, and may be dependent upon the accused and feel social pressure. The treatment of GBV cases in court should also be survivor-sensitive and fair towards the accused and the integrity of the court process (United Nations Office on Drugs and Crime, 2020).

#### **5.5 Evidentiary Challenges in Sexual Abuse Cases**

Sexual abuse cases can present significant evidentiary challenges due to the fact that the abuse can take place in private settings, without witnesses and in a context of fear and/or coercion. Victimization may go unreported due to stigma, family pressure, threats, emotional trauma, and/or reliance on the perpetrator. Time of examination may also compromise medical and forensic evidence, as may be the case if samples are not collected and preserved appropriately. Forensic

procedures in rape/sexual assault should be scientific and humanistic. Medical procedures that are out-of-date or irrelevant can cause injury to the victim and divert attention from the pertinent medical issues that matter to the law. Potency testing of accused persons of rape in India has sparked controversy regarding its scientific merit, human rights and the appropriate limits of medical examination in the investigation of sexual offences (Raheel et al., 2016). Evidenced practice should be about the facts that are relevant to the law, about the testimony of the survivors, about the medical findings, about the forensic samples, about the digital evidence and about the proper chain of custody, not about embarrassing or flawed assumptions.

#### **5.6 Gaps in Implementation, Reporting, Delay, and Conviction**

While there are some positive changes in the laws relating to the criminal justice response to sexual offences and child abuse in India, significant gaps remain. Lack of trust in institutions, social stigma, financial dependency, family pressure, fear, and shame are among the reasons why many victims do not come forward to report abuse. Complaints can be made, but cases can still be poorly investigated, delayed in getting them medically examined, not well collected forensically, not well protected for witnesses, witnesses may give bad evidence, and trials may be protracted. These issues can undermine the strength of convictions, and escalate secondary victimisation. There are particular concerns for children, women from marginalised communities, rural victims, persons with disabilities and victims who rely on the accused for support, regarding implementation gaps. The only way these issues can be resolved is if police, prosecutors, courts, hospitals, forensic labs, child welfare and rehabilitation services work together, or if criminal law is supplemented with other measures. The Indian domestic violence evidence indicates that there are complex social predictors of domestic violence that requires a legal response to be accompanied by domestic violence prevention, domestic violence support, and institutional accountability (Mishra et al., 2024).



Figure 1. Criminal Law Framework for Sexual Offences and Child Abuse in India

## 6. Child Protection under the POCSO Act

### 6.1 Purpose and Scope of the POCSO Act, 2012

Protection of Children from Sexual Offences Act, 2012 was passed to provide a special law to protect children from sexual abuse, sexual assault, sexual harassment and exploitation in the context of pornography. It primarily aims to acknowledge children as a vulnerable group that needs special procedural and substantive protection in the criminal justice system. According to the Act, a child is a person under the age of eighteen and that it is applicable to all children regardless of their gender. This is a gender neutral approach as sexual abuse can impact girls, boys and children with a variety of vulnerabilities. The Act also extends the

definition of sexual offences beyond the traditional rape based definition, to cover non-contact sexual offences as well as contact sexual offences. It establishes specific offences, sentences, and sets out protocols for reporting, investigation, medical examination and trial of children. The scope of the Act thus goes beyond punishment and covers the child victim's dignity, privacy and psychological well-being as well as safety.

### 6.2 Classification of Sexual Offences under POCSO

The POCSO Act categorises sexual offences against children in various categories to enable a response to the Act in accordance with the nature and severity of the offence. Penetrative sexual

assault relates to sexual penetration of a child, and aggravated penetrative sexual assault relates to sexual penetration of a child in more serious circumstances, such as where the person in authority, public servant, police officer, family member or person in a position of trust is a perpetrator. Sexual assault is defined as physical sexual contact without penetration, aggravated sexual assault is defined as aggravated sexual sexual contact without penetration. Words, gestures, exposure, or behaviour on the lines of stalking or behaviour which is sexually coloured towards a child are classified as sexual harassment. The Act also makes it a criminal offence to use children in the production, distribution, storage or transmission of sexually explicit material of children. This classification assists the court, investigator, and prosecutor in more accurately determining the nature of the offense, and provides for appropriate punishment based on the seriousness, vulnerability, and circumstances of the abuse.

### **6.3 Child-Friendly Procedure during Reporting, Investigation, Medical Examination, and Trial**

One outstanding feature of POCSO Act is the focus on a child friendly procedure. The Act acknowledges that a child victim may feel fear, confusion, shame, trauma and pressure from family and/or community members. Thus, care must be taken in the reporting and investigation process. The statements need to be in the language and style the child can understand, and should be made at the child's home or a safe location for the child. Police officers should avoid intimidating the child and exposing him/her to the accused unless there is a legitimate need to do so. Medical exam should be done sensitively, consented and with respect for privacy. The child should not be interrogated repeatedly in an antagonistic manner at trial or be required to confront the accused head-on if this is likely to cause distress. The purpose of these protections is to minimise further victimisation and to lessen the fear of the justice system. A child-friendly process also ensures more reliable testimony as the child can testify in a safe and supportive environment.

### **6.4 Special Courts and Speedy Trial Mandate**

The POCSO Act introduces the concept of Special Courts, which will have dedicated jurisdiction over sexual offences committed against children, to address these issues in a sensitive, efficient and expert manner. Special Courts are not only to establish a separate trial forum, but also to provide a more child-friendly and responsive judicial process. Speedy trial is an important feature because delay can have a negative impact on the child emotionally, affect the evidence, add pressure to the family and decrease trust in the justice system. A lengthy trial can also be detrimental as the child is forced to recall and recount traumatic experiences over and over. Special Courts are expected to proceed in a manner which will safeguard the dignity and privacy of the child and at the same time be fair to the accused. They might permit supportive options like in-camera proceedings, controlled questioning, and actions to avoid direct confrontation with the accused. The success of Special Courts however would rely on proper infrastructure, well-trained judges, and timely investigation and sensitive prosecutors.

### **6.5 Mandatory Reporting and Its Challenges**

One of the crucial provisions of the POCSO Act is the mandatory reporting. It obliges any person with knowledge or reasonable suspicion of a sexual offence against a child to report the incident to the appropriate authority. The aim is to avoid the concealment of abuse and early intervention. This is valuable as it covers a large proportion of child sexual abuse that takes place within the family or within the neighbourhood, schools, institutions or trusted settings where the abuser is likely to be protected by silence and pressure. There are practical issues, however, with the mandatory reporting. If children think that if they report something it will straight away be a police matter then they may be reluctant to report abuse. Some families will not report due to stigma, fear of retribution or reliance on the accused. Doctors, teachers, counsellors, social workers and other professionals might also have ethical issues when a child asks for confidential assistance. Thus, sensitive counselling and protection of survivors, institutional training and procedures must support

mandatory reporting.

### **6.6 Protection of Child Victims during Testimony**

In many cases of POCSO, the testimony of the child victim plays a crucial role, particularly where the crime takes place out of the public eye and no independent witnesses are available. But, providing evidence in court may be stressful for a child. The child might be feeling fear, embarrassment, confusion, or pressure from the accused, family members, or community. Hence, protective measures are highlighted in the Act as they relate to testimony. The evidence should be taken from the child in a secure, private and dignifying environment. Important safeguards in in-camera proceedings include absence of aggressive questioning, barring of character-based attacks and prevention of direct exposure to the accused. The court shall make sure that questions are not humiliating, age appropriate and clear. Where the child has emotional, language or disability needs a support person, interpreter, special educator or counsellor may be required. The child should be protected during his or her testimony, which is not contrary to a fair trial, but will lead to better and more reliable evidence and will minimize the risk of secondary trauma.

### **6.7 Compensation, Rehabilitation, and Psychosocial Support**

Conviction and punishment is not the end of justice under the POCSO. The physical, emotional, educational and social impacts of child abuse may require long-term intervention on the part of a child victim. Compensation is relevant because of the legal process, the family may incur medical costs, they may need to relocate, they may have to miss out on school years, they may require counselling or they may lose their livelihood. The psychological counselling and safe shelter (where required), educational support, family counselling, social reintegration and protection from further

harm should also be part of rehabilitation. Child sexual abuse can have a significant impact on a child's trust, self-esteem, behaviour, relationships and mental health and psychosocial support is particularly important. The child could also be subjected to stigma, blame or isolation in the family and community. Thus, the cooperation between courts, child welfare committees, legal services authorities, hospitals, counsellors and protection officers is required. A rehabilitation approach acknowledges that the child is a witness in a criminal case but also a rights-bearing individual whose recovery and development needs are ongoing and require a sustained institutional approach.

### **6.8 Practical Issues in POCSO Implementation**

The POCSO Act lays a strong legal framework but has practical challenges in implementation. The ineffectiveness of the law can be caused by delayed reporting, weak investigation, lack of trained police personnel, insensitive questioning, poor forensic collection, lack of counsellors, and slow trials. Often the accused is a family member, neighbour, teacher, employer or trusted person and disclosure and prosecution is difficult for the child emotionally. Testimony can be influenced by social stigma and pressure to conform. Special Courts may be overstretched and child friendly infrastructure may not be in place. In rural areas there might be further challenges like the lack of legal aid, medical facilities, forensic labs and psychological services. Mandatory reporting can also cause conflict if the adolescent is in a consensual romantic relationship, but still considered a child under the law. These issues highlight that there is a need to ensure that there is institutional capacity, professional training, inter-agency co-ordination, support for survivors and ongoing monitoring of POCSO implementation to complement statutory protection.

**Table 1. Major legal, medical, and institutional issues under the POCSO framework in India**

| S. No. | Issue area               | Key concern                                                                                            | Legal/institutional relevance                                                                   | Medical/psychosocial relevance                                         | Implementation challenge                                            | Suggested response                                                       | Reference                  |
|--------|--------------------------|--------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|---------------------------------------------------------------------|--------------------------------------------------------------------------|----------------------------|
| 1      | Legal framework          | Protection of children from sexual offences requires a special law beyond general criminal provisions. | Defines child sexual offences, Special Courts, reporting duties, and child-friendly procedures. | Supports dignity, privacy, and protection during legal proceedings.    | Uneven awareness and procedural application across institutions.    | Strengthen uniform implementation of POCSO procedures.                   | India Code (2012)          |
| 2      | Clinical management      | Child sexual abuse requires early identification, medical care, counselling, and prevention.           | Links legal duties with clinical reporting and child protection action.                         | Emphasises examination, treatment, psychological care, and prevention. | Healthcare workers may lack training in legal-medical duties.       | Train doctors and paediatric teams in POCSO-based care.                  | Seth and Srivastava (2017) |
| 3      | Hospital-based reporting | Reported cases show important sociodemographic and clinical patterns among child victims.              | Helps institutions understand risk profiles and reporting patterns.                             | Highlights need for sensitive examination and documentation.           | Urban hospital data may not fully represent hidden community cases. | Use hospital data to improve screening and referral systems.             | Kumaravel et al. (2023)    |
| 4      | Informed refusal         | Survivors may refuse examination, evidence collection, or legal procedures.                            | Raises issues of consent, autonomy, documentation, and legal compliance.                        | Requires trauma-informed counselling and respect for survivor dignity. | Refusal may weaken evidence if not properly documented.             | Develop clear protocols for counselling, consent, and refusal recording. | Goswami et al. (2025)      |
| 5      | Professional             | Healthcare professional                                                                                | Medical personnel                                                                               | Knowledge of POCSO                                                     | Limited awareness                                                   | Conduct regular                                                          | Patra et al.               |

|   |                           |                                                                                        |                                                                           |                                                                         |                                                                         |                                                                              |                           |
|---|---------------------------|----------------------------------------------------------------------------------------|---------------------------------------------------------------------------|-------------------------------------------------------------------------|-------------------------------------------------------------------------|------------------------------------------------------------------------------|---------------------------|
|   | awareness                 | Is play a major role in identifying and managing abuse.                                | are important links between victim care and justice.                      | improves examination, reporting, and support.                           | may cause delay, poor documentation, or missed cases.                   | POCSO awareness and medico-legal training.                                   | (2025)                    |
| 6 | Multispeciality care      | POCSO cases often require legal, medical, psychiatric, paediatric, and social support. | Encourages coordinated institutional response instead of isolated action. | Supports mental health care, assessment, rehabilitation, and follow-up. | Lack of coordination among departments can affect child protection.     | Establish multispeciality child protection teams.                            | Manral et al. (2023)      |
| 7 | Child protection concerns | Child sexual abuse creates legal, psychological, family, and social challenges.        | Shows why legal response must be combined with child welfare measures.    | Highlights trauma, stigma, disclosure barriers, and recovery needs.     | Victims may face silence, family pressure, and secondary victimisation. | Integrate legal action with counselling and family/community support.        | Moirangthem et al. (2015) |
| 8 | Institutional guidance    | Effective implementation requires practical guidance for officials and institutions.   | Supports standardised child protection procedures under POCSO.            | Promotes coordinated care, referral, safety, and monitoring.            | Guidelines may remain ineffective without training and accountability.  | Use official handbooks for capacity building and procedural standardisation. | NCPCR (2026)              |

## 7. Juvenile Justice Framework

### 7.1 Juvenile Justice Act, 2015: Purpose and Philosophy

The Juvenile Justice (Care and Protection of Children) Act, 2015 provides the main legal framework for dealing with children in conflict with law and children in need of care and protection in India. Its philosophy is based on care, protection, development, rehabilitation, and social reintegration rather than punishment alone. The

Act recognises that children require a separate justice system because of their age, maturity, vulnerability, and capacity for reform. It seeks to create a child-friendly process in which legal intervention is balanced with welfare-based support. In the context of sexual and child abuse, the Act becomes important because a child may appear before the system either as a victim needing protection or as a juvenile accused of an offence. The law therefore links criminal justice with child

welfare institutions, rehabilitation services, and community-based care. Its purpose is to ensure that every child receives protection, dignity, and an opportunity for correction and reintegration (India Code, 2015).

## 7.2 Children in Need of Care and Protection

Children in need of care and protection include those who are abandoned, abused, neglected, exploited, trafficked, homeless, orphaned, missing, working in unsafe conditions, or living in circumstances that threaten their safety and development. In sexual and child abuse cases, this category is especially important because many victims may require immediate rescue, safe shelter, medical care, counselling, legal assistance, and long-term rehabilitation. The juvenile justice framework treats such children not as passive victims but as rights-bearing individuals who need institutional and social support. A child may be unsafe within the family, school, workplace, neighbourhood, or care institution, making State intervention necessary. The goal is not only to remove the child from danger but also to restore dignity, stability, education, and emotional security. Welfare services must therefore work with police, courts, hospitals, counsellors, and child protection authorities. Vulnerable youth often move between child protection, welfare, and justice systems, which makes coordinated support essential (Jahnukainen & Helander, 2021).

## 7.3 Children in Conflict with Law

Children in conflict with law are those alleged or found to have committed an offence before reaching eighteen years of age. The juvenile justice framework recognises that children should not be treated in the same manner as adult offenders because their behaviour may be shaped by immaturity, neglect, poverty, abuse, peer pressure, lack of guidance, or exposure to violence. In cases involving sexual offences, this issue becomes complex because the law must protect the victim while also recognising the developmental status of the juvenile accused. The response should include assessment, counselling, supervision, education, behavioural correction, family involvement, and reintegration planning. A purely punitive approach may fail to address the causes of offending and may

increase future harm. The child-first approach argues that young persons should be treated primarily as children with developmental needs rather than being permanently defined by offending behaviour (Case & Haines, 2021).

## 7.4 Role of Juvenile Justice Boards

Juvenile Justice Boards play a central role in dealing with children in conflict with law. Their function is to conduct inquiry, determine age, assess circumstances, ensure legal representation, protect procedural rights, and decide appropriate rehabilitative measures. In sexual abuse cases involving juvenile offenders, the Board must balance accountability with the child's potential for reform. It must examine the nature of the offence, the mental and physical capacity of the child, family background, social environment, and need for counselling or supervision. The Board should avoid treating the child as an adult unless the law specifically permits a special assessment in serious cases. Its approach must remain child-sensitive, fair, and reform-oriented. The Board also has responsibility to ensure that proceedings are not intimidating and that the child understands the process. Juvenile court data and child protection trends show that youth justice systems must remain responsive to changing patterns of juvenile cases and welfare needs (Puzzanchera et al., 2022).

## 7.5 Role of Child Welfare Committees

Child Welfare Committees are responsible for children in need of care and protection. Their role is highly relevant in cases of sexual abuse, trafficking, neglect, abandonment, and unsafe family environments. The Committee may order temporary shelter, medical care, counselling, family tracing, restoration, foster care, sponsorship, or institutional placement according to the best interests of the child. It functions as a protective authority rather than a criminal court. In abuse cases, the Committee must coordinate with police, hospitals, Special Courts, counsellors, schools, and child care institutions to ensure that the child receives continuous support. Its decisions should be based on safety, emotional needs, educational continuity, and long-term rehabilitation. The Committee must also prevent secondary victimisation by ensuring that the child is not

repeatedly exposed to harmful environments or hostile questioning. The Juvenile Justice Act gives this institutional mechanism legal authority to protect children whose care, safety, and development are at risk (India Code, 2015).

### **7.6 Rehabilitation, Social Reintegration, Foster Care, Adoption, and Institutional Care**

Rehabilitation and social reintegration are central objectives of juvenile justice. For child victims of abuse, rehabilitation may include counselling, medical support, safe housing, educational assistance, family counselling, compensation, and protection from further harm. For children in conflict with law, rehabilitation may involve education, vocational training, behavioural support, probation, community service, and supervised reintegration. Foster care, adoption, sponsorship, aftercare, and institutional care are different mechanisms used according to the child's circumstances. Institutional care should be used carefully because children need emotional stability, family-like support, and community connection wherever possible. Reintegration is successful only when the child is not stigmatised or abandoned after legal intervention. The juvenile justice system must therefore connect legal decisions with welfare services, mental health support, schooling, and family or community preparation. Research on vulnerable youth shows that transitions to adulthood can be shaped by the quality of support received from child protection, welfare, and juvenile justice systems (Jahnukainen & Helander, 2021).

### **7.7 Juvenile Offenders in Sexual Abuse Cases**

Juvenile offenders in sexual abuse cases create a difficult legal and ethical challenge. The justice system must recognise the seriousness of the harm caused to the victim, while also acknowledging that the accused is still a child. Some cases may involve coercive abuse, aggression, or exploitation, while others may involve adolescent relationships that become criminal because of age-based consent rules. Therefore, each case requires careful assessment of age, maturity, intention, power imbalance, coercion, circumstances, and risk of reoffending. The response should protect the victim and also provide the juvenile offender with

counselling, behavioural correction, education, and supervision. The aim is not to ignore responsibility but to prevent the child from being pushed permanently into criminal identity. A child-first youth justice model supports responses that address behaviour without reducing the young person only to the offence committed (Case & Haines, 2021).

### **7.8 Balancing Accountability, Reform, and Child Rights**

The juvenile justice framework must balance three important concerns: accountability, reform, and child rights. Accountability is necessary because harmful conduct, including sexual abuse, cannot be ignored. Reform is equally necessary because children are still developing and may respond positively to guidance, counselling, education, and structured supervision. Child rights require that every decision respects dignity, privacy, safety, participation, and the best interests of the child. This balance is especially important when one child is the victim and another child is the accused. A rigid punitive approach may fail to reform the juvenile offender, while an overly lenient approach may deny justice to the victim. Therefore, the system must use individualised assessment, child-sensitive procedure, victim protection, rehabilitation planning, and institutional monitoring. Juvenile justice statistics and child protection trends highlight the continuing need for systems that combine legal accountability with welfare-oriented intervention and long-term support for children (Puzzanchera et al., 2022).

## **8. Prison Law, Custodial Justice, and Abuse Prevention**

### **8.1 Relevance of Prison Law in Sexual and Child Abuse Cases**

Prison law is important in sexual and child abuse cases because the criminal justice process does not end with arrest, trial, or conviction. Once an accused or convicted person enters custody, the prison system becomes responsible for lawful detention, discipline, safety, welfare, rehabilitation, and protection of basic rights. In cases involving sexual offences and child abuse, prisons must also manage offenders in a way that protects society while supporting lawful correctional treatment.

Prison administration should include proper classification of prisoners, medical screening, psychological assessment, access to legal aid, and supervision to prevent violence or exploitation inside custody. Prison law is also relevant where undertrial prisoners remain in detention during long trials. A humane prison system must ensure that punishment does not become neglect, cruelty, or institutional abuse. The Model Prison Manual 2016 provides guidance on prisoner classification, welfare, discipline, legal aid, health services, and rehabilitation in Indian prison administration (Ministry of Home Affairs, 2016).

## **8.2 Rights of Prisoners and Undertrial Prisoners**

Prisoners and undertrial prisoners retain their basic human dignity even when their liberty is restricted by law. They are entitled to humane treatment, access to healthcare, legal assistance, protection from violence, communication with family and lawyers, and fair institutional procedures. Undertrial prisoners require special protection because they have not yet been convicted and must not be treated as guilty before trial. In sexual and child abuse cases, the period of custody may become prolonged due to investigation, forensic delay, witness examination, and trial backlog. This makes access to courts and legal aid especially important. Rights-based prison administration strengthens the legitimacy of the criminal justice system because custody must remain lawful, accountable, and humane. Custodial institutions should be understood as part of the wider justice and public health system, since unsafe prison conditions can affect prisoners, prison staff, families, and the community beyond prison walls (Kinner et al., 2020).

## **8.3 Protection of Women Prisoners, Child Inmates, and Children Living with Incarcerated Mothers**

Women prisoners, child inmates, and children living with incarcerated mothers need special protection because ordinary prison arrangements may not meet their physical, emotional, and developmental needs. Women in custody may have histories of poverty, violence, trauma, sexual abuse, mental distress, pregnancy, or childcare

responsibility. Children living with mothers in prison require nutrition, healthcare, education, recreation, emotional security, and protection from the harmful effects of custodial surroundings. Child inmates and young persons in custodial care also need age-appropriate education, counselling, supervision, and safeguards from exploitation. In abuse-related cases, prison authorities must ensure that vulnerable persons are not exposed to further harm inside institutions. A gender-sensitive and child-sensitive prison system should provide medical care, counselling, safe accommodation, welfare support, and regular monitoring. The Model Prison Manual 2016 gives specific administrative guidance on the treatment, welfare, health, and protection of women prisoners and children in prison settings (Ministry of Home Affairs, 2016).

## **8.4 Custodial Sexual Violence and Institutional Accountability**

Custodial sexual violence is a serious form of institutional abuse because it occurs when a person is under the control of the State or a State-regulated authority. It may include sexual assault, harassment, coercion, intimidation, exploitation, or abuse of power by officials, staff members, inmates, or other persons in authority. Such violence violates dignity, bodily integrity, equality, and the duty of safe custody. In the context of sexual and child abuse, institutional accountability is especially important because police stations, prisons, shelter homes, observation homes, and correctional institutions can themselves become sites of vulnerability. Prevention requires trained staff, independent inspection, confidential complaint mechanisms, medical documentation, victim protection, surveillance, and strict action against offenders. Overcrowding and high turnover can weaken supervision and increase the risk of violence, self-harm, and neglect in custodial settings. Research on pre-trial prison conditions shows that overcrowding and prisoner turnover may be associated with increased self-harm risks (Baggio et al., 2018).

### **8.5 Rehabilitation of Offenders Convicted of Sexual and Child Abuse**

Rehabilitation of offenders convicted of sexual and child abuse is a difficult but necessary part of criminal justice. Punishment is required for accountability, deterrence, and recognition of victim harm, but imprisonment alone may not reduce future offending unless it is supported by correctional intervention. Rehabilitation may include psychological assessment, behavioural therapy, education, vocational training, substance-use treatment, anger management, social skills training, moral reasoning, and supervised reintegration planning. Offenders convicted of sexual or child abuse may require specialised programmes that address responsibility, distorted beliefs, impulse control, empathy, risk factors, and future behaviour. At the same time, rehabilitation must not minimise the seriousness of the offence or compromise victim safety. Correctional programmes should be evidence-informed, professionally supervised, and connected with post-release monitoring. Mental health is highly relevant in prison populations, and effective intervention is necessary to reduce adverse outcomes within custody and after release (Fazel et al., 2016).

### **8.6 Need for Psychological Assessment, Correctional Treatment, and Reintegration Programmes**

Psychological assessment is important in cases involving sexual and child abuse offenders because it helps identify risk level, behavioural patterns, mental health needs, substance-use problems, trauma history, impulse control issues, and treatment requirements. Such assessment should not be used to excuse the offence, but to guide correctional planning and future risk management. Correctional treatment must be structured, monitored, and delivered by trained professionals.

Reintegration programmes are also important because many offenders eventually return to society after completing their sentence or receiving bail, parole, or remission. Without preparation, supervision, livelihood support, and behavioural intervention, release may create further risks for victims and communities. Reintegration must therefore balance offender reform with public safety, victim protection, and legal accountability. Global prison reform discussions show that overcrowding, weak healthcare, limited rehabilitation, and poor reintegration planning reduce the ability of prisons to function as correctional institutions (Penal Reform International, 2022).

### **8.7 Prison Overcrowding, Trial Delay, and Access to Legal Aid**

Prison overcrowding, trial delay, and weak access to legal aid are major concerns in custodial justice. When prisons hold more people than their capacity allows, living conditions decline, medical care becomes difficult, violence is harder to prevent, and rehabilitation programmes become limited. Undertrial prisoners are especially affected because many remain in custody without conviction while awaiting investigation or trial. In sexual and child abuse cases, trial delay affects not only the accused but also victims, witnesses, and the quality of evidence. Legal aid is therefore essential to prevent unlawful detention, procedural unfairness, and unnecessary prolongation of custody. Overcrowding also weakens the correctional purpose of imprisonment because staff and institutional resources are diverted toward basic management rather than rehabilitation. Safe and accountable custodial systems require health services, legal access, classification, monitoring, and crisis response. Prisons and custodial settings must be included within comprehensive justice and public health planning rather than treated as isolated institutions (Kinner et al., 2020).

**Figure. Prison Law, Custodial Justice, and Abuse Prevention****Figure 2. Prison Law, Custodial Justice, and Abuse Prevention Framework**

## 9. Forensic Law and Scientific Investigation

### 9.1 Importance of Forensic Evidence in Sexual Abuse and Child Abuse Cases

The role of forensic evidence in sexual abuse and child abuse cases is significant as it aids in linking legal action with the scientific facts. Many of such crimes are committed in a place of privacy, in the absence of independent witnesses and/or victim may experience fear, pressure, trauma and/or delayed disclosure. In such cases, forensic science can help in the investigation process by locating the injuries, body fluids, electronic communications, places, and other physical connections that tie the victim, accused and scene together. Forensic evidence shouldn't be a sole

basis for justice, however. The fact that no physical injury or biological matter is found does not necessarily mean that there was no abuse. When interpreting forensic results, the courts and investigators need to carefully consider the results and the circumstances surrounding the incident. There is a need to use a balanced approach if the testimony of the survivors is looked at alongside the medical evidence, forensic reports, digital evidence and the context.

### 9.2 Medical Examination of Survivors

Examining survivors in sexual abuse and child abuse cases is a sensitive and critical step in the investigation process and a necessary part of the legal investigation. It is not only intended to gather

evidence, but to also deliver immediate care, treatment, counselling and reassurance. The examination should be carried out with the consent, privacy, dignity and respect of the survivor's physical and emotional condition. In the case of children, the process should be age appropriate and should include a parent/guardian or support person or child welfare representative, as appropriate. Medical officers are required to make records of injuries, symptoms, history, treatment administered, samples taken and referrals made. They should refrain from judging, or making assumptions that are based on old ideas about sexuality. Care for pregnancy risk, sexually transmitted infections, pain, mental distress and safety concerns should be included in the examination. A humane medical process enhances recovery for victims and the quality of the legal record.

### **9.3 DNA Evidence, Biological Samples, Digital Evidence, and Chain of Custody**

Where semen, blood, saliva, hair, skin cells or other trace material are recovered from the victim, this type of evidence and samples of the victim's DNA can be of great relevance to a sexual abuse investigation. But it is important that this evidence is collected, packaged, labelled, preserved, transported and tested in the lab appropriately. Chain of custody is necessary because it will track each and every transaction of the evidence and ensure that it has not been changed, contaminated, substituted or mis-handled. Today, digital evidence is a significant factor in many cases as well. Messages, calls, photos, videos, social media records, location data, and online grooming material can be used to establish contact, coercion, threat, and/or exploitation. The collection of digital evidence is also subject to proper and lawful procedures and the evidence must be handled carefully. Lack of procedural discipline in the process of evidence collection from the moment it is first gathered up to presentation to court makes it unreliable.

### **9.4 Role of Forensic Science Laboratories**

Forensic science laboratories play an important role in criminal justice, through the scientific analysis of materials gathered during

investigations. DNA samples, body fluids, clothing, toxicology samples, electronic devices, photographs, videos and other trace evidence can be collected and analysed in sexual abuse and child abuse cases. Reports from their may be used to identify, contact, recreate or eliminate false leads. The function of the laboratory is not to find the guilt and only to give scientific information to help the court and investigators. The forensic laboratories should, therefore, be accurate, neutral, documented and quality controlled. Reporting is also timely as it has the potential to impact investigation, bail, trial processes and victim confidence. Laboratories require personnel trained in protocols, up-to-date equipment, validated protocols and safe storage of evidence. Good forensic system will enhance the credibility of criminal justice but poor laboratory capacity will limit the usefulness of even good evidence.

### **9.5 Challenges of Delay, Contamination, Inadequate Infrastructure, and Poor Coordination**

The investigation of sexual and child abuse is often hindered by practical difficulties that compromise the response to child and sexual abuse. One of the biggest issues is delay as the biological evidence can change, injuries can heal, digital can be deleted and witness memory can fade. Contamination may happen due to the use of the wrong tools to collect the samples, mixing with other material, inadequate packing, or inadequate handling by untrained staff. The process can still be delayed by insufficient infrastructure, a lack of forensic laboratories, insufficiently trained personnel and a lack of special equipment. Lack of coordination between the police, hospital, forensic experts, prosecutors and courts can lead to a lack of documentation and transfer of evidence. The issues involved can be for both the accused and the victim, as the evidence may be unreliable and result in a weak case or false accusation. So, there needs to be clear procedures, training, accountability and communication between institutions in forensic systems.

### **9.6 Forensic Interviewing of Child Victims**

Special care must be taken when conducting a forensic interview of a child victim as children may

not be able to describe abuse the same way as an adult. They are able to explain an event based on their age, language and memory, fear and trauma, relationship with the accused and level of support. Interview should be conducted in a safe and calm setting with trained professionals that use simple, non-leading, and age appropriate questions. The interviewer should be careful not to put pressure on the child, blame the child, repeat questions or ask leading questions as this may cause confusion and influence the child's statement. This is to facilitate the child to tell the event as clearly as possible without redoing the harm. Properly recording the interview can minimize the need for multiple questioning. A child sensitive forensic interview serves the child's best interests in maintaining the emotional health and also enhances the statement's value.

### 9.7 Need for Trauma-Informed and Child-Sensitive Forensic Procedures

Trauma-informed forensic procedures acknowledge the ways in which the survivors of

sexual and child abuse can experience fear, silence, confusion, withdrawal, anger, delayed disclosure and/or fragmented memory. These reactions are not to be taken as being dishonest. Trauma can impact how victims interact, communicate and remember, so it is important for investigators, doctors, forensic experts, prosecutors, and courts to be aware of this. Equally, child sensitive procedures are also required as children need to be protected, communicate simply, have privacy and emotional support. The forensic process should never be another source of humiliation and fear. All of this, from the examination to the collection of the sample, to the interviews and documentation, to the presentation in court, must be done with consent, respect, dignity and safety. A trauma-informed and child-sensitive approach not only helps to keep the survivor safe, but also is more likely to yield reliable evidence, enhancing the justice system. These processes help to ensure that forensic investigations are scientifically valuable and ethically responsible.

**Table 2. Forensic evidence requirements and institutional challenges in sexual and child abuse investigations**

| S. N o. | Forensic area              | Evidence requirement                                                         | Legal relevance                                                   | Institutional challenge                   | Risk if mishandled                                     | Suggested response                                                  | Reference               |
|---------|----------------------------|------------------------------------------------------------------------------|-------------------------------------------------------------------|-------------------------------------------|--------------------------------------------------------|---------------------------------------------------------------------|-------------------------|
| 1       | Low-resource investigation | Standard protocols for examination, documentation, and sample collection     | Supports fair and reliable investigation in sexual violence cases | Limited equipment, staffing, and training | Weak evidence and inconsistent investigation quality   | Use simplified, validated, context-appropriate forensic protocols   | Smith et al. (2019)     |
| 2       | Biological evidence        | Proper collection, drying, packaging, labelling, and preservation of samples | Helps support DNA analysis and link victim, accused, and scene    | Poor storage and delayed transfer         | Contamination, degradation, or loss of probative value | Maintain strict biological evidence management and chain of custody | Magalhães et al. (2015) |

|   |                             |                                                                      |                                                                  |                                                              |                                                              |                                                                        |                             |
|---|-----------------------------|----------------------------------------------------------------------|------------------------------------------------------------------|--------------------------------------------------------------|--------------------------------------------------------------|------------------------------------------------------------------------|-----------------------------|
| 3 | Survivor testimony with DNA | DNA evidence should be integrated with survivor testimony            | Strengthens prosecution while respecting victim experience       | Survivors may face repeated questioning and courtroom stress | Secondary victimisation and reduced trust in justice process | Combine forensic evidence with trauma-sensitive testimony handling     | Campbell et al. (2024)      |
| 4 | DNA mixture analysis        | Scientific interpretation of mixed STR DNA profiles                  | Assists cases involving multiple contributors or complex samples | Requires technical expertise and validated tools             | Misinterpretation of mixed DNA profiles                      | Use validated statistical software and trained forensic analysts       | Bleka et al. (2016)         |
| 5 | Low-template DNA            | Careful interpretation of weak, partial, or degraded DNA profiles    | Helps courts understand limits of DNA evidence                   | Greater risk of artefacts and uncertain results              | Overstatement or wrongful evidentiary conclusions            | Report limitations clearly and apply cautious interpretation standards | Gill et al. (2015)          |
| 6 | Advanced forensic genetics  | Use of next-generation sequencing where appropriate                  | Can improve analysis of difficult or degraded samples            | Cost, infrastructure, and expertise limitations              | Unequal access and inconsistent laboratory capacity          | Introduce advanced methods gradually with quality assurance            | Børsting and Morling (2015) |
| 7 | Forensic anthropology       | Examination of skeletal, injury, age, or identity-related evidence   | Useful in severe abuse, neglect, death, or unidentified remains  | Limited specialist availability                              | Incomplete reconstruction of abuse-related harm              | Strengthen multidisciplinary forensic teams                            | Cattaneo (2018)             |
| 8 | Sexual assault DNA analysis | DNA profiling, interpretation, and reporting in sexual assault cases | Provides scientific support for investigation and trial          | Delays, contamination, and interpretation challenges         | Reduced evidentiary reliability and trial delay              | Improve laboratory capacity, training, and evidence-transfer systems   | Jakubowska et al. (2023)    |

## **10. Institutional Mechanisms in Criminal Justice**

### **10.1 Police and Special Juvenile Police Units**

Police are typically the first institution to be notified of sexual abuse and child abuse. Their reaction has a significant impact on the safety of the victim, evidence and their desire to proceed with the legal process. Children's cases are particularly important to the special juvenile police units as they are sensitive to handling, easy to communicate with, need privacy and are protected from intimidation. The actions of police officers should be to make an immediate note of the complaint, not question based on blame, provide a medical referral, take care to keep the child away from the accused, and to coordinate with child welfare agencies. The fear, pressures on family, trauma and dependency on the offender should also be taken into account when responding to a child friendly police. Child Advocacy Centers (CACs) are models that demonstrate that coordinated investigation and service delivery can enhance responses to physical and sexual child abuse (Herbert & Bromfield, 2020).

### **10.2 Public Prosecutors and Victim-Sensitive Prosecution**

Public prosecutors have a pivotal role in turning investigation into effective action through the courts. The prosecution of sexual abuse and child abuse cases should be robust and victim-centred. Before trial, the prosecutor will review the case record, medical records, forensic examination reports, child statements, witness statements and procedural adherence. They should try to not repeat details of the traumatic event and should not ask aggressive, humiliating or irrelevant questions. For children, the prosecutor should ensure the child is not just a source of evidence, and that he or she is informed of the proceedings. Co-ordination with police, counsellors, medical experts and support persons are also necessary for victim sensitive prosecution. Multidisciplinary approaches are necessary as child sexual abuse cases involve a need to integrate justice and protection with therapeutic care (Martone & Cooper, 2021).

### **10.3 Trial Courts, Special Courts, and Fast-Track Courts**

The task of adjudicating in a fair, timely and sensitive manner lies with the trial court, Special court and fast-track courts. The delay can diminish evidence, cause more trauma in sexual abuse and child abuse cases, and lessen public trust in the justice system. Special Courts under the child protection legislation are expected to be child friendly, privacy respecting, confrontation avoiding and irrelevant question limiting. Fast-track courts are important if there are large case backlogs which cause delay in delivering justice to victims and accused persons. But it cannot be at the expense of fairness, the evaluation of evidence, or procedural safeguards. There is a need to strike a balance between the rights of the accused and the dignity and safety of the victims in court. The Barnahus model demonstrates how a child-centred justice can be better implemented by adapting the judicial, welfare, medical and therapeutic services locally and institutionalizing them (Johansson et al., 2017).

### **10.4 Child Welfare Committees and Juvenile Justice Boards**

The basic child-based institutions in the justice system are the Child Welfare Committees and Juvenile Justice Boards. Children who are in need of care and protection, and victims of sexual abuse, abandonment, neglect and trafficking and unsafe family conditions, are handled by Child Welfare Committees. They can provide accommodation, counseling, treatment, schooling, counseling, rehabilitation or foster care. Juvenile Justice Boards are tasked with handling kids in trouble with the law and finding a balance between holding them accountable and helping them to change. If a juvenile is accused of sexual abuse, the age, maturity, circumstances, risk and rehabilitation needs of the juvenile must be considered. Both institutions require to collaborate with police, courts, hospital, counsellors and social workers. Child Advocate Centers models provide evidence of the benefit of coordinated child protection systems that integrate child investigation, child welfare, and child support services (Herbert &

Bromfield, 2020).

### **10.5 National and State Commissions for Protection of Child Rights**

Commissions for Protection of Child Rights, at the National and State levels, are significant watchdogs in the child protection system. They are involved in the monitoring of child rights, the review of institutional practices, the provision of advice to governments, the examination of complaints, the promotion of awareness and the promotion of the implementation of child protection laws. In the cases of sexual abuse and child abuse, these commissions may be able to uncover problems with the reporting, investigating, rehabilitation, institutional care, and access to justice. They can also assist in improving schools' coordination with police, hospitals, child welfare agencies and government departments. Their monitoring function is crucial as many child victims may be silenced, stigmatized, subjected to family pressure or institutional neglect. Oversight of child protection needs to go beyond the formal process and look at whether children are getting safe, cared for and just. Multidisciplinary responses to child abuse demonstrate the increased effectiveness of a legal response when justice, welfare and therapeutic services are integrated (Martone & Cooper, 2021).

### **10.6 Legal Services Authorities**

Access to justice for victims, children, women, undertrial prisoners and economically or socially vulnerable persons is facilitated by Legal Services Authorities. Legal aid is crucial in sexual abuse and child abuse cases, as victims and families might not know how to proceed, what they are entitled to, how to protect themselves as a witness, or what assistance is available. Legal services institutions are able to offer free legal representation, counselling referrals, victim compensation assistance, support while in trial, and approach of the appropriate authorities. They are also critical to the accused who may be unable to hire a lawyer and to the right to a fair trial guaranteed under the constitution. Legal aid needs to be protecting, simple and not technical or intimidating in cases involving children. Integrated child protection models demonstrate that a child protection

response is more effective when legal assistance is combined with medical, counselling, welfare and protective services (Johansson et al., 2017).

### **10.7 Hospitals, Forensic Laboratories, Counsellors, Shelter Homes, and NGOs**

The practical support provided by hospitals, forensic laboratories, counsellors, shelter homes and NGOs makes legal protection meaningful. Emergency treatment, medical examination, documentation and referral are provided at the hospital. Biological, physical and digital evidence will be analysed by forensic laboratories. Counsellors assist victims to deal with fear, trauma, shame, confusion and family pressure. If the child/survivor cannot return home, the shelter may be able to provide safe housing. NGOs may provide support in the areas of rescue, legal advice, counseling, rehabilitation and follow-up. The institutions need to work together as the legal, medical, psychological and social needs are all occurring simultaneously with sexual abuse and child abuse. One institution failing can have an impact on the rest of the justice process. Research on multi-disciplinary responses to child sexual abuse shows that there is support for an integrated response to child sexual abuse that is combined and includes justice, protection and therapeutic care (Martone & Cooper, 2021).

### **10.8 Inter-Agency Coordination and Accountability**

Inter-agency co-ordination is vital as most cases of sexual and child abuse involve more than one agency. There should be a collaborative effort between the police, prosecutor, courts, hospitals, forensic labs, child welfare agencies, legal aid providers, shelter homes, counsellors, commissions and NGOs, without compromising confidentiality and legal process. Delayed medical treatment, poor evidence collection, repeated questioning, trial delay, inadequate rehabilitation, and secondary victimisation are possible consequences of poor coordination. Accountability is also significant as it is important that institutions are held accountable for negligence, insensitive treatment, violation of procedures or failure to protect victims. Standard operating procedures, trained staff, referral

systems, case tracking, supervision, and periodic review are some of the key components of a coordinated framework. Multidisciplinary institutional models have been shown to enhance service coordination and fragmentation in responses to child abuse, through the evidence of a Child Advocacy Center (Herbert & Bromfield, 2020).

## **11. Victim Rights, Support, and Rehabilitation**

### **11.1 Victim as a Rights-Bearing Participant in Criminal Justice**

Treatment of a sexual abuse or child abuse victim as a "witness for prosecution" is unacceptable. The victim is a rights-bearing participant and their dignity, safety, privacy, voice and recovery are to be respected during the justice process. This approach must involve the criminal justice system in listening to the victim's needs for information, being treated with dignity and respect, legal advice and assistance, protection from intimidation and involvement in the stages of the case. Participation should be age-appropriate and based on the best interests of the child, in cases of child abuse. A rights-based approach also helps to minimize the likelihood of social pressure, family control, fear or institutional neglect silencing victims.

### **11.2 Medical Care, Counselling, Shelter, Education, and Social Reintegration**

There has to be more to victim support than a criminal case being registered. The survivors might need emergency medical assistance, autopsy, obstetric and gynecological treatment, STI prevention, psychological counselling and emotional support. Child victims may also require safe shelter, continuity of school, education support, family counselling and protection from additional exposure to accused. Social reintegration is important because often survivors are subjected to stigma, blame, isolation or disruption of normal life. Rehabilitation should thus enable the victim to resume life with dignity and security in the family, school, work and community. There needs to be a coordinated system that includes co-ordinated hospital, counsellors, child welfare, schools, legal aid and social worker services.

### **11.3 Witness Protection and Protection from Intimidation**

In case of sexual abuse and child abuse, the role of witness protection is very important, as the victim and witness may be subjected to threats, pressure, inducement, emotional manipulation or social boycott. In many instances the accused will be a member of the family, neighbour, teacher, employer, local authority or trusted person, making intimidation a risk. Protection can be provided including confidentiality, safe accommodation, police support, limiting contact with the accused, safe court attendance, and protection from further harassment. Witnesses under 18 years of age may need particular care and attention due to fear that can impact their capacity to tell the truth and be confident. Witness protection is an important measure that not only protects the safety of the witnesses but also enhances the credibility of the criminal justice system.

### **11.4 Compensation Schemes and Restorative Support**

Compensation is a crucial aspect of victim justice as it can be a victim's financial, medical, educational, psychological and social harm that is caused by abuse. Survivors could require treatment and/or counselling as well as relocation, schooling, livelihood disruption and/or long term rehabilitation. Not punishment, but a sensible recognition of harm and need for recovery, should be thought of as compensation. The types of restorative support can be counselling, family support, educational support, community reintegration and institutional follow-up. In cases involving child abuse, compensation needs to be handled in a delicate manner to ensure that it fosters the child's well-being and growth. A meaningful compensation system should be timely, accessible, sensitive and linked to other rehabilitation services.

### **11.5 Role of Family, School, Community, and Social Workers**

Family, school, community and social workers are important in supporting victims and helping to prevent them from suffering further harm and or harming themselves. Families can offer emotional support and security, medical assistance, legal

assistance and prevention of additional harm, and in some cases, family pressure may prevent the victim from speaking up. Schools can recognise behaviour changes, provide continuity of education and provide safe reporting areas. Stigma can either be decreased or increased in a community based upon its reaction. Social workers play particularly crucial role as they bring together the victims with counselling, shelter, legal aid, child welfare authorities and rehabilitation services. These actors must be sensitive, confidential and respectful in their response to the victim with dignity in mind.

### **11.6 Secondary Victimization during Investigation and Trial**

Secondary victimisation happens when the justice process has further negative consequences on the victim. This can occur when the questioning is insensitive, when statements are repeated, when the victim is blamed, when the accused is exposed, when delays occur, when there is a lack of emotional support, when there is hostile cross-examination or when there is no cross-examination. In sexual abuse and child abuse situations, secondary victimisation may cause a victim to be less likely to report for fear of retaliation, affect their credibility and cause further trauma. Children are particularly vulnerable since they might not have a full understanding of the legal process, and may be afraid or embarrassed describing the abuse. The justice system, in turn, needs to minimise unnecessary repetition, ensure privacy, ensure there is support persons and control inappropriate questioning and ensure that proceedings are conducted in a respectful and protective manner.

### **11.7 Need for Trauma-Informed Justice**

Trauma-informed justice acknowledges that victims of sexual abuse and child abuse might react in a variety of ways, such as being silent, confused, disclosing trauma at a later age, feeling fear, anger, emotionally withdrawn, or having a fragmented memory of the event. Such actions are not to be interpreted as lack of integrity or lack of strength. The understanding of police officers, prosecutors, judges, doctors, counsellors and social workers of the impact of trauma on behaviour, memory,

communication and involvement in legal proceedings. A trauma-informed approach is characterised by safety, dignity, choice, trust, privacy and emotional support. It also enhances the quality of evidence as they are more likely to be able to speak clearly when they feel safe. This is a just and kind justice that is effective by law.

## **12. Judicial Trends and Interpretive Developments**

### **12.1 Role of the Supreme Court and High Courts in Strengthening Victim Protection**

Supreme Courts and High Courts have had a significant influence in the domain of victim protection in sexual abuse and child abuse cases. The concept of dignity, privacy, fair procedure, legal aid, compensation and protection from secondary victimisation have been broadened by the courts. Judicial orders have also had an impact on police investigation, medical examination, making of statements, witness protection and trial procedure. In child abuse situations, courts are more and more aware that the justice procedure should not inflict more trauma upon the child. Judicial review also plays a vital role where institutions do not do anything, where the process is delayed or where statutory safeguards are not taken. Interpretation brings constitutional values into the practical reality of protection, and thus ensures that criminal justice is vulnerable-sensitive.

### **12.2 Judicial Interpretation of Consent, Age, Dignity, and Privacy**

Consent, age, dignity and privacy are all pivotal to sexual offence law, and are subject to judicial interpretation. Courts have defined consent as being free, informed, voluntary, and not given under the threat of force, deceptive information, intoxication or abuse of authority. Under the law, in the event of child sexual abuse, age is the most important factor as a child cannot legally consent to sexual activity. Survivors are treated with dignity and privacy during the investigation and trial, particularly concerning their identity protection, medical examination and the questioning in the courtroom. It has also been recognised by courts that the concept of sexual autonomy is closely connected to the concept of bodily integrity and personal liberty. The interpretations will help to

avoid victim-blaming and will reinforce rights-based criminal justice.

### **12.3 Child-Friendly Trial Procedures**

Child friendly trial procedures are required because children may be frightened, shamed, confused or pressured by engaging in court proceedings. It has always been important for a child to not be subjected to an hostile environment, aggressive questioning or direct intimidation from the accused, and courts have been increasingly aware of this. Proceeding may necessitate in-camera hearings, presence of support persons, screening of the witness, use of video-link testimony, use of simple language, breaks in the examination and careful management of the cross-examination. The aim is to uphold the dignity of the child and the right to a fair trial of the accused. Child friendly procedure does not compromise justice, but rather assists the child to give more accurate and reliable evidence. This means that the judiciary needs to be sensitive in order for child protection laws to be meaningfully implemented.

### **12.4 Evidentiary Standards in Sexual Abuse Cases**

Evidence standards in sexual abuse cases call for careful consideration of a survivor's evidence, medical evidence, forensic evidence, circumstances, and procedural fairness. Courts have acknowledged that sexual crimes frequently are committed in private and may leave no visible marks or witnesses. So, if the victim is not injured, does not report the incident or there is no biological evidence, this should not automatically mean that the victim is discredited. Meanwhile, courts need to fairly consider the evidence, and remain consistent and focused on legal safeguards. Credible and confidence inspiring evidence of survivors may be enough, but this will depend on the individual facts of each case. Over time, stereotypes have been replaced by a dignity-based approach to evaluating evidence in judicial interpretation.

### **12.5 Sentencing Principles in Sexual Offences and Child Abuse Cases**

The sentencing of sexual crimes and child abuse should be based on the victim's vulnerability, the

extent of the harm, the culpability of the offender and the need to deter. Courts take these into account: the victim's age; relationship with the accused; breach of trust; use of force; repeated abuse; physical harm; psychological harm; and future consequences for the victim. Stiffer penalties could be warranted in child abuse situations due to the extreme vulnerability and dependence of children in such situations. However, sentencing should be proportionate with the statutory limits and remain within the law. The compensation, rehabilitation and victim support in the wider justice response may also be taken into account by courts. Sentences should be both proportionate and constitutional, and should send a strong message of social condemnation.

### **12.6 Judicial Concern over Delay, Hostile Witnesses, and Misuse Arguments**

The slow investigation and trial, particularly in sexual abuse and child abuse cases, have been a matter of concern for courts in numerous instances. Delay can diminish evidence, intensify trauma and diminish trust in justice. Hostile witnesses also pose a significant problem, which can stem from intimidation, compromise pressure, stigma, family influence or fear of social consequences. Though courts do come across misuse arguments, they must be dealt with carefully to avoid stereotypes and dissuading or discouraging genuine victims. There needs to be a difference between what's considered false implication and what's considered normal inconsistencies that happen due to trauma, fear or delayed disclosure, and that is what should be distinguished in the judicial evaluation. A fair justice system shall protect the victim, safeguard the accused and shall not delay the justice.

### **12.7 Emerging Trends under New Criminal Laws**

New criminal laws have been introduced in India which has ushered in an important period of transition in the interpretation of law. The courts will have to clarify the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, Bharatiya Sakshya Adhiniyam and the rights of victims in cases of sexual offences and child abuse, as well as the rules for evidence and procedure and digital

material. New developments could involve more focus on electronic evidence, a time-sensitive procedure, victim engagement, documentation by the forensics, and connections between criminal law and child protection systems. Judicial interpretation will play a significant role in achieving uniformity of application of new laws in accordance with the constitutional values. The trajectory of criminal justice in the future will hinge on whether courts are able to maintain dignity, fairness, child sensitivity and institutional accountability in the transition.

### **13. Key Challenges in the Existing Framework**

#### **13.1 Underreporting of Sexual and Child Abuse**

One of the biggest problems in combating sexual and child abuse in India is the failure to report the incidents. Fears of the police or formal institutions, emotional trauma, family pressure, social stigma or dependency on the accused discourage many victims from seeking police or formal institutional assistance. When a child is being abused, the person abusing them could be a family member, neighbour, teacher, employer or trusted individual, making disclosure more difficult. Children may not realize that abuse has taken place, or may be afraid of the consequences of reporting abuse (punishment, disbelief, or separation from family). Likewise, underreporting tends to be higher when victims are not aware of their legal rights and support. This means that official crime statistics may only report some of the actual crime. This makes prevention less effective, delays intervention and enables offenders to stay out of the public eye within families, communities and institutions.

#### **13.2 Social Stigma and Family Pressure**

Victim's social stigma is often a barrier to reporting sexual abuse and child abuse. Survivors can be blamed, shamed or be held responsible for the violence inflicted upon them. Reporting may be discouraged by families due to fear of dishonour, marriage-related concerns, community judgment, and/or economic reliance on the accused. Families might try to hide the abuse from public view, or they may try to avoid facing a lawsuit, in situations involving child abuse. This pressure may cause the child to say nothing or give false statements or to

go back on his or her word. Stigma also impacts survivors following the reporting, with potential isolation, loss of schooling, emotional distress or rejection by relatives. Social attitudes are thus, therefore, of crucial importance for the effectiveness of criminal justice. It is a key component of victim protection to provide counselling, community awareness, privacy protection and effective counterintimidation measures.

#### **13.3 Delay in FIR, Investigation, Forensic Reports, and Trial**

A significant drawback in the criminal justice response to sexual and child abuse is delay. There are several stages in which the delay may happen such as the FIR registration, taking of statements, medical examination, forensic sample collection, laboratory analysis, charges' filing and trials. When abuse occurs, delay can impair evidence, and may make it harder to remember, put pressure on the victim, and make them easier to intimidate or compromise. When children wait and are told the same stories over and over again, trauma can be exacerbated. Postponing forensic reports can impact bail, prosecution approach and judicial choices. The delay in a trial also diminishes the faith that the public has in the system and can make it less likely that other victims will come forward. This stronger reaction needs to be time bound, and procedures developed, and police, hospital, laboratory, prosecution and court personnel make use of trained investigators, speed forensic processing, to monitor cases and coordinate.

#### **13.4 Lack of Trained Investigators and Prosecutors**

Special training and expertise is needed to investigate and prosecute sexual and child abuse cases. The investigator needs to know what to expect during a trauma scene, child psychology, evidence collection, statement recording, medical referral, digital evidence and protection of the victim. Prosecutors must be able to present sensitive evidence, examine child witnesses, utilize forensic reports and avoid irrelevant and embarrassing questioning. Without training, police officers and prosecutors can have poor documentation, insensitive questioning, failure to

find evidence, procedural errors, or poor courtroom presentation. Secondary victimisation and loss of reliability of the testimony can result from untrained handling in child abuse cases. Training should go beyond legal provisions, and should include communication skills, gender sensitivity, child-friendly procedure, forensic awareness and victim rights. Ongoing professional learning is required as laws, technologies and patterns of abuse are continually evolving.

### **13.5 Poor Victim Support Services**

Services to victims are limited, fragmented and/or hard to access. Sexual and child abuse survivors might require emergency medical attention, counselling, shelter, legal assistance, reimbursement, school assistance, family counseling and rehabilitation. But, many victims are only given legal attention and not emotional and social support. Counsellors, trained doctors, safe homes, and child protection workers may not be available in resource-limited areas or in rural areas. Without good support, victims may become disengaged from the process, hostile or experience long-term trauma. Children are particularly vulnerable as they require ongoing protection, rather than a "one-off" intervention. Victim support needs to be in place from the time of the initial disclosure onward, during investigation, trial and recovery. Police, hospitals, child welfare committees, legal services, schools, counsellors and community workers should be linked via a coordinated support model.

### **13.6 Inadequate Child-Friendly Infrastructure**

Child friendly infrastructure is not equally distributed throughout the justice system. Children are not safely and privately received into many police stations, hospitals, courts and protection institutions, in a reassuring way. The child victim might be asked to wait in a large room, or be questioned in front of the accused, be put in front of many officials to recount traumatic information and experience, or be asked to recount the same information over and over again. Courts may not have separate waiting rooms, video-link facilities, trained support persons, child sensitive questioning systems and privacy safeguards. There may be no special examination and counselling

rooms in the hospital. This can cause children to be frightened and can impact on their statements. Fair and humane justice demands child friendly infrastructure. Safe space, staff trained to support, easy communication, confidentiality, emotional support must be provided.

### **13.7 Institutional Fragmentation**

Fragmentation of institutions impairs the ability to respond to sexual and child abuse. Such cases call for joint efforts involving the police, prosecutors, courts, hospitals, forensic labs, child welfare committees, legal services authorities, counsellors, shelter homes, schools, prisons, and NGOs. These institutions function independently, and victims might be referred from one office to another without proper directions. Evidence might be delayed, referrals may be overlooked, and rehabilitation may not be completed. Fragmentation also leads to a lack of responsibility and accountability. A child could be attended to legally but not counselled, or medically, but not have protection plans put in place. To provide effective justice, appropriate referral routes, common protocols, case monitoring, multi-agency meetings and defined roles need to be established. Coordination should safeguard the confidentiality of all victims without losing a single one of them in the system.

### **13.8 Prison Overcrowding and Limited Correctional Rehabilitation**

Overcrowding has an impact on the correctional mission of criminal justice. If prisons are overcrowded, the provision of basic management becomes more important than rehabilitation, counselling, education and reform of offenders. This is a serious issue in cases of sexual and child abuse offenders as imprisonment may not be enough to change behaviour, beliefs, addiction, history of trauma or mental health issues. The overcrowding of criminals in prison is another challenge as well because some of the accused persons may be kept in custody for long periods before they are convicted. Prison overcrowding may lead to higher rates of violence, stress, disease and institutional neglect. There is less opportunity for safe reintegration upon release in limited correctional programmes. A prison response

should be meaningful and encompass classification, mental health screening, specialised offender treatment, vocational training, legal support and post-release supervision. The best way to help public safety is through a combination of punishment and structured rehabilitation.

### **13.9 Rural, Caste, Class, Gender, and Disability-Based Barriers**

Access to justice is not equal for all victims. The distance to police stations, hospitals, courts, forensic services and legal aid offices may be a problem for rural victims. People from marginalised caste or class groups may be discriminated against, intimidated or not receive institutional support. Women and girls may be reluctant to speak out due to gender norms and boys may be reluctant due to a sense of shame or gender norms. Communication barriers, reliance on care providers, lack of accessible procedures, and being disbelieved are all common problems for persons with disabilities. The lack of resources to travel, follow up, seek medical assistance, and find safe shelter can also contribute to poverty. These barriers indicate that social accessibility should be complemented with legal protection. Accessibility measures include interpreters, accessible infrastructure (e.g. ramps), outreach services, mobile support and anti-discrimination safeguards from the justice system.

### **13.10 Digital Forms of Child Abuse and Online Exploitation**

New types of child abuse and sexual exploitation have emerged with the digital technology. Children can be groomed online, blackmailed, sexually messaged, sexually exploited or live streamed, cyber stalked and circulated with abuse. Offenders can contact or manipulate children using fake identities, via encrypted platforms, social media, gaming spaces or messaging applications. The electronic nature of abuse poses particular problems as evidence can be deleted in a matter of moments, stored in multiple jurisdictions, or transmitted multiple times. When images and

videos are left online victims can continue to suffer from ongoing harm. Investigators must thus be adept at preserving digital evidence, cyber-forensics, platform cooperation, and handling of online material sensitively to victims. Awareness and prevention is also a need to be reinforced among parents, schools, police and child protection agencies. The criminal justice system needs to evolve to respond to digital abuse while maintaining privacy, dignity and child safety.

## **15. Conclusion**

A criminal justice response, which is legal, institutional, humane and constitutionally based, is necessary for sexual and child abuse in India. The review indicates that India has a broad system of protection provided by the constitution, criminal law, POCSO, juvenile justice law, the prison administration, forensic procedures, courts, child welfare bodies and victim support mechanisms. But the success of this framework relies on implementation, coordination, professional training and practice by survivors. Characteristics of abuse cases include fear, stigma, delayed reporting, inadequate evidence gathering, institutional disintegration and insufficient rehabilitation provisions. So justice must not be restricted to punishment following a conviction. It should also cover prevention, early reporting, being trauma informed, the police investigation being forensic, being child friendly, compensation, counselling, safe shelter, offender rehabilitation and social reintegration. The issue of dignity, equality, privacy, child rights and protection from exploitation must be the guiding principles of the delivery of justice, which is in accordance with the constitutional morality. There needs to be a more robust system that will link police, courts, hospitals, forensic laboratories, Child Welfare Committees and Juvenile Justice Boards, prisons, legal aid agencies and NGOs, into one responsible system. A victim-centric, child-sensitive, evidence-based, rehabilitative and institutionally coordinated criminal justice framework for sexual and child abuse in India is the ultimate goal.

## References

- Assink, M., van der Put, C. E., Meeuwssen, M. W. C. M., de Jong, N. M., Oort, F. J., Stams, G. J. J. M., & Hoeve, M. (2019). Risk factors for child sexual abuse victimization: A meta-analytic review. *Psychological Bulletin*, 145(5), 459–489. <https://doi.org/10.1037/bul0000188>
- Baggio, S., Gétaz, L., Tran, N. T., Peigné, N., Chacowry Pala, K., Golay, D., Heller, P., Bodenmann, P., & Wolff, H. (2018). Association of overcrowding and turnover with self-harm in a Swiss pre-trial prison. *International Journal of Environmental Research and Public Health*, 15(4), 601. <https://doi.org/10.3390/ijerph15040601>
- Bleka, Ø., Storvik, G., & Gill, P. (2016). EuroForMix: An open source software based on a continuous model to evaluate STR DNA profiles from a mixture of contributors with artefacts. *Forensic Science International: Genetics*, 21, 35–44. <https://doi.org/10.1016/j.fsigen.2015.11.008>
- Børsting, C., & Morling, N. (2015). Next-generation sequencing and its applications in forensic genetics. *Forensic Science International: Genetics*, 18, 78–89. <https://doi.org/10.1016/j.fsigen.2015.02.002>
- Campbell, R., Gregory, K., Goodman-Williams, R., Javorka, M., & Engleton, J. (2024). The prosecution of sexual assault cases with forensic DNA evidence: Survivors' testimony experiences. *Psychology, Public Policy, and Law*, 30(2), 204–216. <https://doi.org/10.1037/law0000453>
- Case, S., & Haines, K. (2021). Abolishing youth justice systems: Children first, offenders nowhere. *Youth Justice*, 21(1), 3–17. <https://doi.org/10.1177/1473225420984874>
- Cattaneo, C. (2018). Forensic anthropology: Developments of a classical discipline in the new millennium. *Forensic Science International*, 291, 8–15. <https://doi.org/10.1016/j.forsciint.2018.08.018>
- Fazel, S., Hayes, A. J., Bartellas, K., Clerici, M., & Trestman, R. (2016). Mental health of prisoners: Prevalence, adverse outcomes, and interventions. *The Lancet Psychiatry*, 3(9), 871–881. [https://doi.org/10.1016/S2215-0366\(16\)30142-0](https://doi.org/10.1016/S2215-0366(16)30142-0)
- Garg, P., Das, M., Goyal, L. D., & Verma, M. (2021). Trends and correlates of intimate partner violence experienced by ever-married women of India: Results from National Family Health Survey round III and IV. *BMC Public Health*, 21, 2012. <https://doi.org/10.1186/s12889-021-12028-5>
- Gill, P., Haned, H., Bleka, Ø., Hansson, O., Dørum, G., & Egeland, T. (2015). Genotyping and interpretation of STR-DNA: Low-template, mixtures and database matches—Twenty years of research and development. *Forensic Science International: Genetics*, 18, 100–117. <https://doi.org/10.1016/j.fsigen.2015.03.014>
- Goswami, O., Mahanta, P., Sharma, N. C., Basumatari, B., Baruah, R. R., & Das, A. (2025). An empirical study of informed refusal by sexual assault survivors under the Protection of Children from Sexual Offences (POCSO) Act at a tertiary care center in Northeast India. *Cureus*, 17(6), e86709. <https://doi.org/10.7759/cureus.86709>
- Government of India. (1950). *The Constitution of India*. New Delhi: Government of India.
- Hailes, H. P., Yu, R., Danese, A., & Fazel, S. (2019). Long-term outcomes of childhood sexual abuse: An umbrella review. *The Lancet Psychiatry*, 6(10), 830–839. [https://doi.org/10.1016/S2215-0366\(19\)30286-X](https://doi.org/10.1016/S2215-0366(19)30286-X)
- Herbert, J. L., & Bromfield, L. (2019). Better together? A review of evidence for multi-disciplinary teams responding to physical and sexual child abuse. *Trauma, Violence, & Abuse*, 20(2), 214–228. <https://doi.org/10.1177/1524838017697268>
- Herbert, J. L., & Bromfield, L. (2020). Evidence for the efficacy of the Child Advocacy Center model: A systematic review. *Trauma, Violence, & Abuse*, 21(1), 175–190. <https://doi.org/10.1177/1524838018756125>
- Hillis, S., Mercy, J., Amobi, A., & Kress, H. (2016). Global prevalence of past-year violence against children: A systematic review and minimum estimates. *Pediatrics*, 137(3), e20154079. <https://doi.org/10.1542/peds.2015-4079>
- India Code. (2012). *The Protection of Children from Sexual Offences Act, 2012*. Act No. 32 of 2012. New Delhi: Government of India.
- India Code. (2015). *The Juvenile Justice (Care and Protection of Children) Act, 2015*. Act No. 2 of 2016. New Delhi: Government of India.
- India Code. (2023). *The Bharatiya Nagarik Suraksha Sanhita, 2023*. Act No. 46 of 2023. New Delhi: Government of India.

- India Code. (2023). The Bharatiya Nyaya Sanhita, 2023. Act No. 45 of 2023. New Delhi: Government of India.
- India Code. (2023). The Bharatiya Sakshya Adhiniyam, 2023. Act No. 47 of 2023. New Delhi: Government of India.
- Jahnukainen, M., & Helander, J. (2021). Alternative pathways to adulthood for vulnerable youth: Child protection, juvenile justice and welfare services. *Children and Youth Services Review*, 120, 105750. <https://doi.org/10.1016/j.childyouth.2020.105750>
- Jakubowska, J., Maciejewska, A., Pawłowski, R., & Branicki, W. (2023). Forensic DNA analysis in sexual assault cases: Challenges and current perspectives. *Genes*, 14(6), 1195. <https://doi.org/10.3390/genes14061195>
- Johansson, S., Stefansen, K., Bakketeig, E., & Kaldal, A. (2017). Implementing the Nordic Barnahus model: Characteristics and local adaptations. *European Journal of Social Work*, 20(4), 506–517. <https://doi.org/10.1080/13691457.2016.1193391>
- Kinner, S. A., Young, J. T., Snow, K., Southalan, L., Lopez-Acuña, D., Ferreira-Borges, C., & O'Moore, É. (2020). Prisons and custodial settings are part of a comprehensive response to COVID-19. *The Lancet Public Health*, 5(4), e188–e189. [https://doi.org/10.1016/S2468-2667\(20\)30058-X](https://doi.org/10.1016/S2468-2667(20)30058-X)
- Kumaravel, K. S., Subha, S. S., Anurekha, V., Kumar, P., & Haripriya, P. R. (2023). Sociodemographic and clinical characteristics of child sexual abuse reported to an urban public hospital in Southern India, 2019–22. *Indian Pediatrics*, 60, 133–136. <https://doi.org/10.1007/s13312-023-2811-1>
- Laajasalo, T., Ellonen, N., Horselenberg, R., Izura, C., & Wager, N. (2022). Editorial: Child sexual abuse: Empirical research on understanding and helping victims and offenders. *Frontiers in Psychology*, 13, 844639. <https://doi.org/10.3389/fpsyg.2022.844639>
- Magalhães, T., Dinis-Oliveira, R. J., Silva, B., Corte-Real, F., & Vieira, D. N. (2015). Biological evidence management for DNA analysis in cases of sexual assault. *The Scientific World Journal*, 2015, 365674. <https://doi.org/10.1155/2015/365674>
- Maity, S., & Chakraborty, P. R. (2023). Implications of the POCSO Act and determinants of child sexual abuse in India: Insights at the state level. *Humanities and Social Sciences Communications*, 10, Article 6. <https://doi.org/10.1057/s41599-022-01469-x>
- Manral, I. T., Panjattan, C., Saini, R. K., Roy, S., & Singh, A. (2023). A multi-speciality approach to the Protection of Children from Sexual Offences Act: A review. *Industrial Psychiatry Journal*, 32(1), 1–8.
- Martone, G., & Cooper, L. (2021). Multidisciplinary responses to child sexual abuse: Integrating justice, protection and therapeutic care. *Child Abuse Review*, 30(5), 399–412.
- Mathews, B., & Collin-Vézina, D. (2019). Child sexual abuse: Toward a conceptual model and definition. *Trauma, Violence, & Abuse*, 20(2), 131–148. <https://doi.org/10.1177/1524838017738726>
- Ministry of Home Affairs. (2016). Model Prison Manual 2016. New Delhi: Government of India.
- Mishra, S. K., Pradhan, G., Pradhan, S. K., & Choubey, G. (2024). Prevalence and predictors of domestic violence in India: Complex sample analysis of a nationally representative study conducted between 2019 and 2021. *Cureus*, 16(8), e66113. <https://doi.org/10.7759/cureus.66113>
- Moirangthem, S., Kumar, N. C., & Math, S. B. (2015). Child sexual abuse: Issues and concerns. *Indian Journal of Medical Research*, 142(1), 1–3. DOI: 10.4103/0971-5916.162099
- NCPCR. (2026). User handbook on implementation of POCSO-related child protection procedures. New Delhi: National Commission for Protection of Child Rights.
- Patra, S. S., Sankaran, S., Satapathy, A., et al. (2025). Awareness about the Protection of Children from Sexual Offences Act among healthcare professionals and their role in the care of child sexual abuse victims. *Cureus*, 17(3), e80598. <https://doi.org/10.7759/cureus.80598>
- Penal Reform International. (2022). Global Prison Trends 2022. London: Penal Reform International.
- Puzzanchera, C., Hockenberry, S., Sladky, A., & Kang, W. (2022). Juvenile court statistics and child protection trends. *Juvenile Justice Bulletin*, 2022, 1–16.
- Raheel, M. S., Yadav, A., Pooniya, S., Gupta, S. K., & Jaiswal, A. K. (2016). Potency test of a rape accused in India: Rationale, problems and suggestions in light of the Criminal Law (Amendment) Act, 2013. *Egyptian Journal of Forensic Sciences*, 6(4), 483–486. <https://doi.org/10.1016/j.ejfs.2016.11.004>

- 
- Raj, A., McDougal, L., Silverman, J. G., & Rusch, M. L. A. (2022). Cross-sectional time series analysis of associations between education and girl child marriage in India. *BMJ Open*, 12, e052502. <https://doi.org/10.1136/bmjopen-2021-052502>
- Seth, R., & Srivastava, R. N. (2017). Child sexual abuse: Management and prevention, and protection of children from sexual offences (POCSO) Act. *Indian Pediatrics*, 54(11), 949–953. <https://doi.org/10.1007/s13312-017-1189-9>
- Smith, L. L., Flowe, H. D., & Kanja, W. (2019). Achieving more with less: A critical review of protocols for forensic investigation of sexual violence in low-resource environments. *Forensic Science International: Synergy*, 1, 108–113. <https://doi.org/10.1016/j.fsisyn.2019.07.002>
- Srivastava, S., Kumar, K., McDougal, L., Kannaujiya, A. K., Sikarwar, A., Raj, A., & Singh, A. (2023). Spatial heterogeneity in intimate partner violence across the 640 districts of India: A secondary analysis of a cross-sectional, population-based survey by use of model-based small-area estimation. *The Lancet Global Health*, 11(10), e1587–e1597. [https://doi.org/10.1016/S2214-109X\(23\)00377-7](https://doi.org/10.1016/S2214-109X(23)00377-7)
- United Nations Office on Drugs and Crime. (2020). *Handbook for the Judiciary on Effective Criminal Justice Responses to Gender-Based Violence against Women and Girls*. Vienna: UNODC.