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**SAFEGUARDING INNOCENCE: AN ABSTRACT ON THE
POCSO ACT IN INDIA**

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ABSTRACT:

The Protection of Children from Sexual Offences (POCSO) Act, enacted in 2012, stands as a pivotal legislation in India's legal framework dedicated to safeguarding the innocence and rights of children. This abstract explores the essence of the POCSO Act, its objectives, key provisions, and the impact it has had on addressing the pervasive issue of child sexual abuse in India.

The primary objective of the POCSO Act is to provide a robust legal framework for the protection of children from sexual offences and to ensure the speedy and effective delivery of justice to the victims. It defines various forms of sexual abuse, including but not limited to penetrative and non-penetrative assault, sexual harassment, and pornography involving children. The Act also outlines stringent punishments for offenders, with a focus on ensuring the victim's safety and privacy throughout the legal process.

Key provisions of the POCSO Act include the establishment of Special Courts for the trial of offences, child-friendly procedures for recording evidence, mandatory reporting of offences, and the provision of support services for victims. These provisions aim to create a sensitive and supportive environment for child victims, encouraging them to come forward and report instances of abuse without fear of stigma or retribution.

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Since its enactment, the POCSO Act has played a crucial role in raising awareness about child sexual abuse and empowering survivors to seek justice. It has led to an increase in the reporting of such offences, highlighting the magnitude of the issue while also signaling a shift towards a more proactive approach in addressing it. Additionally, the Act has contributed to the training of law enforcement agencies, judiciary, and other stakeholders on handling cases of child sexual abuse with greater sensitivity and efficiency.

However, challenges remain, including the need for enhanced awareness at the grassroots level, improved infrastructure for victim support, and a more streamlined implementation of the Act across all states and regions. Efforts are ongoing to address these challenges through capacity building, community engagement, and regular review and amendment of the Act to ensure its relevance and effectiveness.

In conclusion, the POCSO Act stands as a beacon of hope for the protection of children from sexual offences in India. Its comprehensive provisions, focus on victim support, and efforts towards sensitization and awareness make it a crucial tool in the fight against child sexual abuse. Continued efforts to strengthen its implementation and address emerging challenges are essential for creating a safer environment where every child can grow and thrive without fear.

CHAPTER 1: INTRODUCTION

1.1 Introduction and Background of the study

A child is considered to be the backbone of every nation and welfare of child is one of the major factor for the building of a nation. A child is considered to be gifts from God and is greatest personal as well as national assets. In the present situation, the protection of children from abuse and violence has become the basic objective of the common people. There have been different cases of crime against children as sexual attacks, child marriages, beggary, repulsive assault, child trafficking, child pornography,

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and child labor which unpredictably spotlight Indian community's own negligence to secure our future generation. Safety and security of children are seen as one of the vital obligation of the government similar to the overall population and bearing in mind the issues and tangles confronted by the child.

The protection of child rights is a fundamental aspect of any society, reflecting its commitment to safeguarding the well-being and dignity of its youngest members. In India, where a significant proportion of the population comprises children, ensuring their rights is paramount for fostering a just and inclusive society. Among the various legal instruments aimed at protecting children's rights, the Protection of Children from Sexual Offences (POCSO) Act, 2012, stands out as a crucial legislation specifically addressing the issue of sexual abuse and exploitation of minors.

Child right committee defined a child is:

All humans below the age of 18 year unless in the laws valid in the child best part is attained earlier. All over the consultation the significance of the Committee on the Rights of Child in the area of child abuse was emphasized. At the same time as Art.19 of the convention specifically addresses child abuse and recommends a broad outline for its identification, reporting, investigation, treatment, follow-up and prevention. "The CAPTA defines child abuse and neglect as: at a minimum, any recent act or failure to act on the part of parents or caretakers, which results in death, serious physical or emotional hurt, sexual abuse or exploitation, or an act or failure to act which presents an imminent danger of serious hurt." Even if any of the types of child abuse might be found independently, they always happen in mixture².

The POCSO Act represents a landmark legislation enacted to address the alarming prevalence of sexual offenses against children in India. Prior to its

² Debarati Halder, Child Sexual Abuse and Protection Laws in India, Sage Publications, 2018 available at <https://us.sagepub.com/en-us/nam/child-sexual-abuse-and-protection-laws-in-india/book263196> (visited on 4, April, 2023)

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enactment, the legal framework for addressing such crimes was fragmented and inadequate, often failing to provide adequate protection and redressal for child victims. The enactment of the POCSO Act marked a significant step towards rectifying this gap by delineating a comprehensive legal framework for the prevention, detection, and punishment of sexual offenses against children.

Under the POCSO Act, 'child' refers to any person below the age of 18 years, acknowledging the vulnerability and special protection needs of minors. The Act categorizes a range of sexual offenses against children, including sexual assault, penetrative sexual assault, sexual harassment, and child pornography, among others. Importantly, the Act prescribes stringent punishment for perpetrators of such offenses, reflecting the gravity of these crimes and the imperative to ensure justice for the victims.

The POCSO Act emphasizes the importance of child-friendly procedures during the investigation, trial, and rehabilitation process, recognizing the unique vulnerabilities and trauma experienced by child victims of sexual abuse. It mandates the establishment of Special Courts dedicated to expeditiously adjudicating cases related to child sexual abuse, with a focus on ensuring a child-centric approach to justice delivery. These Special Courts are tasked with recording the testimony of child victims in a sensitive manner and providing necessary support services to facilitate their recovery and rehabilitation. The POCSO Act represents a significant stride towards upholding the rights of children in India, particularly in the realm of protection against sexual offenses. By enshrining stringent legal provisions, fostering child-friendly procedures, and promoting a culture of accountability, the Act endeavors to create a safer and more secure environment for the nation's youth, reaffirming their inherent right to life, dignity, and protection from all forms of exploitation and abuse.

As per NCRB, 109 children in India confront some type of child sexual abuses daily. The same record shows a sharp increase in offences against children on every year. Unlike most other offences, terrible offences against

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children are often reported low. This is mainly for the reason that even if the child confides in someone, the facts are always covered under the fear of family status and communal stigma. Child abuses are an infringement of the fundamental human rights of children.³

Sexual harassment against children is a multilayered issue which adversely affects child's physical security, psychological wellbeing and behavioral aspects. As per 2018 report, around 110 children were seen to be sexually harassed daily. As per NORB survey, there was a jump of 22 per cent from 2017, and the highlight of pornography in India has increased even more in the lockdown. There is a 95 per cent spike in traffic to adult sites during the 3-week lockdown. There is an increase of 20 per cent in consuming porn contents from even before. Child abuse is hurt to, or abandon of, children by another persons, whether adult or child. Child abuse occurs in all cultural, ethnic, and income groups. Child abuse can be physical, emotional - verbal, sexual or through neglect. Abuse may cause serious injury to the child and may even result in death. An issue that is only beginning to come into light in India rape, sexual abuses is global problems of gender aggression.⁴

The major common stigmas attached to a civilization is that violence and abuses against children. Children can be mistreated physically or emotionally. The types of child abuses such as injuries, abandon or negligent treatments, blame, sexual abuse, child labor and forced begging. Abuses against children can occur in home, school, orphanage, on the streets, in the workplace and in prison. Violence in any type has significant effects on the overall growth of the children. Child abuses result in real or potential damage to the wellbeing of children, survival, expansion and self-respect. Child abuses and neglect is a raising communal issue.⁵

Child pornography is other vital problem for the governments in India. The research reports revealed that 2.4 online child sexual harassments were

³ Bajpai Asha, *Child Rights in India - Law, Policy and Practice*, OUP India, 2017

⁴ Vikas Choudhry ,Radhika Dayal, "Child sexual abuse in India: A systematic review", *Plus One Journal*, Oct 9, 2018

⁵ Debarati Halder, "Child Sexual Abuse and Protection Laws in India", Sage Publication, 2018

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reported in India from 2017 to 2020. Those included in child pornography and related activities, the CBI has findover 50 social media platforms with over 5,000 criminals shared videoof sexual abuses against children with national of above 100 countries⁶.

Major issues in India such as child abuses and pornography are casually taken as there are different legislations in regards to this but although it is happening. There are various measures of media such as magazine, animations, video, film, etc to treat in these practices.

Sexual harassment against children is a multilayered issue which adversely effects child's physical security, psychological wellbeing and behavioral aspects. As per 2018 report, around 110 children were seen to be sexually harassed daily. As per NORB survey, there was a jump of 22 per cent from 2017, and the highlight of pornography in India has increased even more in the lockdown. There is 95% spine in traffic to adult sites during the 3-week lockdown. There is an increase of 20% in consuming porn contents from even before. Child abuses and harassment is hurt to, or abandon of, children by another persons, whether adults or children. Sexual harassment might reason severe injuries to the children and might even results in death. An issue that is only starting to get light in India rape, sexual abuses is global problems of gender aggression.

Before 2012, only sexual offence against minors was perceived by the laws and it criminalize sexual assaults, sexual harassments, rapes and pornography comprising children below 18 years of age. POCSO Act work at protecting the children's interest at all stages of the legal processes by inculcate child friendly mechanism for every purpose comprising reporting, recording of evidences and investigations. "The act makes provisions for medical examinations in presence of the parents or any other individual whom the children trust and in case of a female child by a female doctor. Therefore, the entire act in its sense would give highest safety to the

⁶ Munish Pandey, "24 lakh online child sexual abuse cases with 80% girls under 14 reported in India from 2017 to 2020", India Today, Nov 8, 2021

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children with the due legal processes being conducted and justice being delivered.”⁷

With the enactment of POCSO Act, other type of harassments was also comprised. Most significantly, the POCSO Act was created gender neutral and specially prepared to safeguard children right and make sure the judiciary would be child favour. After the POCSO was sanctioned, sexual crimes against minors were included in three sections of the IPC: Rape in S.376, outraging modesty of women in S. 354 and unnatural sexual activities in S. 377.

Child abuse has always been a secret problem in India, which was ignored until few years. In India there was as such no specific laws relating to protection of children from sexual abuse except for the State of Goa. In general the cases were tried under different provisions of Indian Penal Code which was not sufficient in curbing the problem of child sexual abuse. The Ministry of Women and Child Development and NGOs have actively participated in movement of breaking the silence and bringing up of a specific legislation for children sexual abuse and this way THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES, 2012 came into force.

It can be seen that the issues continue with shocking incidence, and Indians unique profile adds to the complexity of an already difficult subject. Luckily, the issues of child sexual abuses are gradually becoming a more recognized issue, and for this reason, this paper will focus much on sexual abuse against minor children: the laws, victims, and perpetrators. Finally, a study of the characteristics of Indian cultures that make this issue specifically difficult to recognize and manage.⁸

The Ministry has approved of the capital punishment for individuals in minor rape cases under 12, responding to extensive outrages over the rape

⁷Sharadha K, “The other side of sexual abuse: More boys victims”, Indian Express, October 12, 2013.

⁸ Bajpai Asha, “Child Rights in India - Law, Policy and Practice”, OUP India, 2017

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of a teenage girl (Kathua Case) and other assaults and crimes against minor girls. It will need the approval of Parliament in 6 months to become laws. But in the meantime, suspect can be prosecuted under the orders. The government has passed legislations doubling prison term for rapist to 20 years and criminalizing voyeurism, stalk and the trafficking of girls and woman. Indian government and policy makers also voted to lower to 16 from 18 the age at which an individual may be attempted as adults for terrible offence.

1.1 Meaning of child abuse

Child abuse is a condition of expressive, physical, financial and sexual mistreatment meted out to an individual below the 18 years and is a internationally widespread fact. Though, in India, as in many other nations, there has been no knowledge of the extent, importance and trends of the issue. The increasing complexities of life and the remarkable changes brought about by social and economic transition in India have played a key part in boosting the vulnerability of children to different and newer types of abuses.

Child abuses have severe physical and psychological and social effects which negatively influence the health and overall wellbeing of children. According to World Health Organization: "Child abuse or maltreatment constitutes all forms of physical and or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power."

1.2 History of Child Abuse

Early civilizations regularly abandoned deformed or unwanted children, and the ritual sacrifice of children to appease the gods took place in the Egyptian, Carthaginian, Roman, Greek, and Aztec societies. In Roman society the father had complete control over the family, even to the extent

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that he could kill his children for disobedience. Sexual abuse of children was common in both Greek and Roman societies. Children were also sold as prostitutes. Women often participated in abuse. Petronius (c. 27–c. 66), a Roman writer, recorded the rape of a seven-year-old girl witnessed by a line of clapping women.

During the Middle Ages (c. 350–c. 1450) in Europe, healthy but unwanted children were apprenticed to work or offered to convents and monasteries. Infanticide, or the murder of babies, was also common. The Roman Catholic Church contributed to infanticide when it declared that deformed infants were omens of evil and the product of relations between women and demons or animals. In another example of religious support for what would now be considered child abuse, the archbishop of Canterbury in the seventh century ruled that a man could sell his son into slavery until the child reached the age of seven.

In thirteenth-century England the law read, "If one beats a child until it bleeds, it will remember, but if one beats it to death, the law applies" (Albrecht Peiper, *Chronik der Kinderheilkunde*, Leipzig, Germany: Georg Thieme, 1966). By the child's fourth year, harsh discipline played a major role in his or her socialization. Children and parents were taught that beatings were in the child's best interest. In *The Babees' Book: Medieval Manners for the Young*, a primer on manners used first in the eleventh century in France to educate the upper classes, a verse in "How the Good Wife Taught Her Daughter" instructed future mothers, "But take a smart rod and beat them in a row/Till they cry mercy and their guilt well know/Dear child by this lore/They will love thee ever more"

Children were beaten not only by their parents but also by their teachers. In a poem written around 1500, a schoolboy admitted that he would gladly become a clerk, but learning was such strange work because the birch twigs used for beating were so sharp. The children at an Oxford school must have felt justice was served when their schoolmaster, out early one morning to

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cut willow twigs for a switch to beat them, slipped, fell into the river, and drowned.

In sixteenth- and seventeenth-century Europe fathers commonly placed their children in apprenticeships to provide inexpensive labor. The apprentice system was the major job training method of pre-industrial Western society. The apprentice who trained with a master frequently worked under conditions that, by today's standards, would be considered severely abusive.

Child rights are mostly recognized by the view of a child's autonomy. At the international level, conventions like a declaration of child rights, 1959 laid down the framework for child rights across the globe. This also leads to the involvement of various global offices like the United Nations Children's Fund (UNICEF) dedicated to working for children's rights around the world. It is noticed that a family and schooling system plays a vital role in a child's early development. In addition to this, the community also plays an essential role in the event of a child.

In 2007, The Ministry of Women and Child Development released the results of a nation-wide survey on Child Abuse, in which 12,500 children had participated across 13 States. More than half, 53% said that they had been subjected to one or more forms of sexual abuse. If that can be extrapolated it would mean that one in every two children have been victims of sexual abuse. Over 20 percent of those interviewed said they were subjected to severe forms of sexual abuse.

1.4 Literature Review

A study carried out by Halder (2018)⁹ tried to examine the applicability and use of Child Sexual Abuses and Protection Law in India. The study has found what are the key constraints of present laws which need to be identified by the law executives and judiciary. This book points out that the

⁹ Debarati Halder, *Child Sexual Abuse and Protection Laws in India*, Sage Publications, 2018

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child right convention and its protocols on the development on child sexual offence laws.

Bajpai Asha (2017)¹⁰ proposes that abuses against children are common and remain a fearful truth for millions of children from all social and economic groups. Children in India face early marriages, domestic violence, sexual harassments, child labor trafficking, online pornography and bullying. All kinds of harassments, abuses and exploitations have long lasting consequences on child's livelihood.

Srivastava (2011)¹¹ Major issues in India such as child abuses and pornography are casually taken as there are different legislations in regards to this but although it is happening. Child Abuse denotes when there is a physical, mental, and sexual abuse of a child mostly by the parents or by their permanent housemaid or even it could be someone else which results in the harm to the children. It occurs anywhere either in-home or in school, or in any organization.

MuralidharBelagali and R.N.Mangoli (2021)¹² "There are many forms of child maltreatment, comprising neglect, physical abuse, sexual abuse, exploitation and emotional abuse. These types of abuses have a very impact on state and also it's harmful to the upcoming future of any child. When children have caregivers who cannot buffer them from stress or who cannot serve as co-regulators, they are vulnerable to the harmful effects of a challenging environment. Although children can cope effectively with mild or moderate stress when supported by a caregiver, conditions that exceed their capacities to cope adaptively often result in problematic short- or long-term consequences."

Vikas Choudhry ,RadhikaDayal, Child sexual abuse in India: A systematic review, Plos One Journal, Oct 9, 2018. The study found out that Child

¹⁰ Bajpai Asha, "Child Rights in India - Law, Policy and Practice", OUP India, 2017

¹¹ Srivastava RN. Child abuse and neglect: Asia Pacific Conference and the Delhi Declaration. Indian Pediatr. 2011;49:11–12.

¹² MuralidharBelagali and R.N.Mangoli, Child Abuse: Types and its Effects, International Journal of Creative Research Thoughts 2021

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Sexual Abuses are human right issues and public health concerns. The review indicates that prevalence rates of CSA are high among both boys and girls in India also indicate poor physical, societal, behavioral and mental health outcome of CSA in India.

1.5 Problem Statement

The legislations in India on child sexual abuse, the recent amendments made to them and their mode of implementation are not adequate enough to combat child sexual abuse in India.

The aim of study is to analyze the loopholes and challenges in implementing the legislations for prevention of child abuse.

1.6 Research Objectives

- to examine the legal provisions outlined in the Protection of Children from Sexual Offences (POCSO) Act, 2012, focusing on its scope, definitions of offenses, and the rights conferred upon children in India.
- to examine the the practical challenges and barriers encountered in the effective implementation of the POCSO Act, including issues related to law enforcement, judicial processes, and access to justice for child victims.
- to study the societal attitudes, perceptions, and awareness regarding child rights and protection against sexual offenses, with a specific focus on the impact of cultural norms, social stigmas, and educational interventions.
- to analyze the functioning and efficacy of Special Courts established under the POCSO Act in expeditiously adjudicating cases related to child sexual abuse, including their adherence to child-friendly procedures and the quality of justice delivered.

1.7 Hypothesis

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Mental health is considered as the most important aspect of child wellbeing approach of the society should be empathic towards the child as because the child is in the nurturing age where any kind of mental stress or trauma will hinder the overall growth and development of the child. Whether the existing legislations in India on child sexual abuse and the recent amendments that brought in severe punishments help in reducing child sexual abuses.

Protection of children from sexual offences Act , 2012 is a law which is unbiased in dealing with gender i.e., be it a boy or a girl , child would comprise both. But the discrepancies that it shows while dealing with an adolescent boy or girl when they are indulged in consensual sexual relationship contradict the very purpose of the act which is to protect the interest of the child.

1.8 Research Methodology

The present study adopts analytical, evaluative, and descriptive methods to draw inferences and conclusions. The study will be based on doctrinal and non- doctrinal methodology of research. The researcher has taken account both primary and secondary sources of data. Primary sources of information are constitution, Acts and regulations of India while secondary sources of information are articles, journals, commentaries and book.

CHAPTER 2: INTERNATIONAL LEGAL FRAMEWORK RELATED TO CHILD RIGHTS

Introduction

At the international level there are legally binding conventions, guidelines and international strategies that strengthen children's rights and administer protection against the sexual abuse of children and adolescents as well as providing help and support. The privileges of a child have been recognized in International laws in 1924 when the first International Declarations on the right of children were accepted by League of Nations. UDHR 1948 and

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regional instruments identified more commonly the human rights to be free from violence, abuses and exploitations. It applied to everyone comprising children. These are following International Instruments to curb child abuse :

2.1 Forced Labour Convention (ILO) 1930

The Forced Labour Convention¹³ was adopted by the ILO to suppress the use of forced and compulsory labour in all forms in the shortest possible period. It has altogether 174 signatory states until January 2011. The ILO claimed that forced labour also included in the human trafficking. This is the first international instrument to provide the definition of forced and compulsory labour. The debt bondage and slavery are included within the definition of forced labour. The ILO convention 1930¹⁴ defines forced labour includes all works or services exacted from any person as a penalty and not offered voluntarily.

2.2 Abolition of Forced Labour Convention (ILO) 1957

This Convention¹⁵ is concerned mainly together with restrained work so a methods because compulsion. in that Convention, States Parties attached according to nullify someone type about confined then essential work. The Convention characterizes restricted job namely a techniques because racial, social, national yet apt segregation, yet would not redact notice to the gamble about sexual disparity.

2.3 International Covenant on Civil and Political Rights, 1966 (ICCPR)

¹³The Convention was adopted by the ILO on 10th June 1930 and entered into force on 1st May 1932.

¹⁴The ILO Convention No. 29.

¹⁵This Convention complements other conventions, comprising the Slavery Convention, 1926, the Supplementary Convention on Abolition of Slavery, 1956; and the Forced Labour Convention, 1930. It was adopted by the General Conference of the ILO on 25th June 1957, and entered into force on 17th Jan, 1959.

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ICCPR¹⁶ longevity permanency stability units out up to expectation each baby with no segregation had the privilege in imitation of insurance. This agreement restricts durability domination yet thrall trade every structures, bondage, yet confined yet crucial work . Comparative preparations fused into Art. 4 of the UDHR 1948. The States parties are underneath commitment according to actualize the preparations over Art. 7 on the ICCPR. All kids hold the privilege according to such proportions of promise as much are required with the aid of his status namely a minor, comprising honor according to his family, society, and the state. wrongful restriction of young female accumulate on to the dependence like conditions then outside beyond over the preparations concerning ICCPR . The Covenant had been sanctioned by means of 142 nations.¹⁷

2.4 International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR)

The near extensive solution between the field regarding international rule about ethnic rights is the reception on I.C.E.S.C.R does not straightforwardly tackle trafficking.¹⁸ Nonetheless, such alludes in imitation of issues so much would assist between forestalling trafficking of people, which include children. Art. viii concerning I.C.E.S.C.R gives that regimen parties will discover the privilege regarding all and sundry according to respect simply then tremendous states over action and rule managed savings.

2.5 Convention on the Elimination of All Forms of Discrimination against Women 1979 (CEDAW)

¹⁶Adopted by the UN General Assembly Resolution 2200 A.XXI, on 16th Dec,1966, entered into force on 23rd March 1976.

¹⁷Ibid, Article 9.

¹⁸International Convention on Economic, Social and Cultural Rights ,adopted by the UN General Assembly Resolution 2200 A.XXI, on 16th Dec,1966.

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The CEDAW was adopted in 1979.¹⁹ “The Convention subsistence atop States Parties to receive each becoming metering in imitation of stifle every kinds of traffic among girls then the misconduct about prostitution regarding ladies. Art. 6 about the Convention manages prostitution and trafficking over ladies. It now not simply reaffirms the conditions regarding Art. 6 because States to air all sorts on traffic between female and misbehavior regarding the prostitution concerning others, yet moreover states so much destitution and joblessness rule numerous female and adolescents of prostitution. The time period 'trafficking' consists of a extra enormous scope over instances than these secured by way of the Suppression regarding Traffic Convention. Like the Trafficking Convention, C.E.D.A.W joins trafficking according to the misconduct concerning prostitution yet neglects after tackle trafficking for sordid exploitative closures, for example, forced love then limited work. Moreover, C.E.D.A.W requires States Parties according to "take each singular suitable measure, together with enactment, according to innovate or nullify current laws, guidelines, customs, or practices as contain victimization ladies or after harmony women uniformity along guys underneath the constant gaze over the law.²⁰

2.6 The Convention on the Rights of the Child, 1989 (CRC)

The convention²¹ was adopted by the UN, which has been ratified by almost all the member States of UN. India has ratified the Convention in the year of 1992. The Convention is the most comprehensive document on the rights of the child. The best interests of the child are the primary concern and all the State Parties has to ensure for protection and care of children as is necessary

¹⁹CEDAW, adopted by UNGA Resolution 34/180 on 18th Dec 1979 and came into force on 3rd Sep 1981.

²⁰CEDAW, Article 2(1).

²¹Adopted by the United Nations General Assembly on 20th Nov 1989 and came into force on 2nd Sep 1990, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989); 28 I.L.M. 1448 (1989).

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for well-being.²² The States Parties shall take all necessary measures to prevent illicit transfer and non-return of children from abroad. The States Parties shall promote bilateral or multilateral agreements.²³

The UN Convention on the Rights of the Child, 1989, the first legally binding treaty on the rights of children, provides for the protection of children from sexual abuse. Article 34 of the Convention puts obligations on the states to undertake all appropriate national, bilateral and multinational measures for the protection of children from all forms of sexual exploitation or abuse.²⁴ The state parties shall protect the children against all forms of exploitation.

2.7 In 2000, the UN General Assembly adopted the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

It is the leading universal treaty that deals specifically with the issue of sexual abuse of children. It recognized the rights of victims of these crimes and laid down standards for the protection of victims in the criminal justice process. The Optional Protocol provided not only for the strengthening of international cooperation and the adoption of extra-territorial laws, but also for the non-recognition of the concept of dual criminality. Article 3 of the Optional Protocol mandates the States to criminalize the production, distribution, importation, exportation, dissemination, offer or sale of child pornography and Article 3(1)(c) obliges the States to punish the possession of child porn if it is for any of the purposes previously mentioned²⁵.

2.8 The World Summit for Children 1991

The World Summit for Children was convened in New York in 1991. It adopted the World Declaration on the Survival, Protection and Development of Children and Plan of Action. This important document contains concrete

²²The Convention on the Right of the Child, 1989, Article 3.

²³Ibid, Article 11.

²⁴Ibid, Article 3.

²⁵ Milind Rajratnam, Combating Child Pornography in India, May 14, 2020

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goals to be achieved before the end of the 20th century in various fields of children's lives. On the basis of the World Summit Plan of Action, adopted and signed by many States and governments, national action plans for 1991-2000 were adopted. Among others these plans aimed at reducing illiteracy, providing access to basic education and solving the problem of children in extreme poverty and difficult circumstances.²⁶

2.9 Declaration on the Elimination of Violence against Women 1993

The Declaration on the Elimination of Violence against Women 1995²⁷ brings to focus on the role of women in society by attempting to set up a global consensus on the status of women. In addition, it calls on States to take steps to promote social policies to eliminate gender-based violence of which girl children are mostly vulnerable. The declaration identifies violence usually experienced both within the family and in the community as sexual abuse as well as trafficking.

2.10 The World Conference on Human Rights 1993

“The World Conference on Human Rights 1993²⁸ draws attention to rights of children and urged the universal ratification of the Convention on the Rights of the Child by 1995 and effective implementation by states parties through necessary measures.²⁹ International cooperation should be promoted to the implementation of the Convention on the Rights of Child. The right of the children is to be maxim priority of the UN system on human rights. The World Conference seek all the states parties to deals with the acute problem of children who are under difficult circumstances, exploited and abused, harmful child labour, sale of children, child prostitution, child pornography and other forms of sexual abuse. The Conference recommended that the

²⁶S.C.Singh, “Child Sexual Abuse and Exploitation in India-Perspective, Frontiers and Legal Protection. (2011) Publication Serials Publications , New Delhi, p. 134.

²⁷U.N.G.A. Res. 48/104, 48 UN GAOR Supp. (No. 49 at 217, UN Doc. A/ 48/49 (1993).

²⁸Held in Vienna during 14-25 June, 1993.

²⁹Vienna Declaration, paragraph 21.

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condition of child so far as human rights is concerned be regularly reviewed and monitored by the UN.”

2.11 UN Children Fund

UNICEF is guided by the international convention, declarations and protocol. The objective of UNICEF is to strengthen the state and district level capacity to deal with the issue like study childlabour education and its linkage with trafficking. UNICEF holds that any new policy on trafficking must be built on standards already adopted by the international community, comprising the CRC. The strategy of UNICEF for addressing child trafficking focus on four main the access to and quality of education; and advocacy for the rights of the child. UNICEF is working for eradication of child labour, child trafficking, and child prostitution in India by giving support to the government and NGOs working on the child rights issues. UNICEF has been through its compulsory primary educational programmes, focusing on preventing child labour and child trafficking.

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