

CHAPTER VII

SUMMARY AND CONCLUDING OBSERVATION

"Safety and security don't just happen, they are the result of collective consensus and public investment. We owe our children, the most vulnerable citizens in our society, a life free of violence and fear."

— Nelson Mandela¹

Child Sexual Abuse is like a disease, which plagues all classes or groups of society. Such vile occurrence can take place anywhere in society irrespective of their religion, community, culture or geographic location. No institution or place can be deemed safe nowadays for a child due to several instances where the abusers were found in the form of parents, siblings, relatives, caretakers, priests, neighbors, teachers, strangers etc. In legal terms, Child Sexual Abuse is an umbrella term describing criminal offence in which an adult engages in sexual activity with a minor. Children who can be lured and persuaded easily with gifts become soft targets for perpetrators.

Generally, the term child refers to a person who is less than eighteen years of age, unless legally specified otherwise. Such a person is usually of immature intellect, have imperfect discretion and unable to envisage and grasp the consequence of their own acts. Child abuse generally comprises of three element, viz; physical abuse, sexual abuse, and emotional abuse. Child Sexual Abuse is a heinous act wherein it is suggested that an adult engages a minor in sexual act or exposes the minor to inappropriate sexual conduct or sexually suggestive materials. It may also involve acts wherein a child is coerced into performing any sexual acts by another child/minor. It may involve use of violent threats or physical force but most often it is found that it involves subtle forms of manipulation or

¹ Former President of South Africa

control in which the child is coerced believing that such sexual activity is nothing more than an expression of love and is a normal thing.

An act can be constituted as Child sexual abuse even when there is lack of physical contact between the child and the perpetrator, as some form of Child sexual abuse can be performed by obscene phone calls, text messages, forcing the child to fondle, exhibitionism or indecent exposure of genitals towards a child, masturbation in front of the child or coercing the minor to masturbate or perform any other sexual acts. In short, Child sexual abuse can be summed up as an act which involves a minor, who is not yet fully mature and adults who engage in sexual activities with such minors who are unable to give informed consent. Such acts violate the social taboos of social roles and aims in fulfilling the sexual desires of the abuser.

CSA as discussed above in chapter II has historical imprints and is found to have been committed all over the globe is continuing as a serious problem in our society due to multiple reasons. While analysing the reasons it was found that none of the causes are independent factors leading to causing of CSA rather all are interrelated to one another, which results into commission of CSA in our society from the time it was recognised as a problem till date.

Among the various causes the most vital causes recognised in chapter IV are poverty, urbanisation and industrial development, influence of intoxicants, non-reporting of cases, low conviction rate, visual media display, lack of parental control, lack of sex education, religious and cultural practices in society, high demand for young girls in red light areas, lack of awareness, high life style, war and illegal immigration. All these causes are responsible jointly for child sexual abuse in any form such as child marriage, prostitution, sex slaves, child pornography in cyber space, rape, non-penetrative sexual assault etc.

All these type of child sexual abuse have severe consequences upon the child which can be seen in his physical and behavioural changes in the post victimisation period. While discussing the long term effect of sexual abuse upon a child it was found that the consequences are multidimensional and hence was broadly classified into three categories, namely; physical consequences, psychological consequences or mental consequences and behavioural consequences. The physical consequences includes risk of contracting sexually transmitted infection, somatisation disorder, irritable bowel syndrome, permanent damage to reproductive organ, unwanted pregnancy, gynaecological and prenatal complications, poor health condition and death in some cases.

The second category i.e., psychological or mental health disorder includes problems like depression, personality disorder, psychological distress, dissociation, symptoms of post-traumatic stress disorder, anxiety disorder, self-mutilation, addiction to drug and alcohol and eating disorder.

Similarly, the third category i.e; behavioural consequences includes symptoms like poor peer relation or avoiding social interaction, extraordinary violent behaviour resulting in self injury or injury to others, intellectual dullness resulting into lack of attention or concentration and fleeing from home to avoid the family members if the culprit is one among them.

The problem of child sexual abuse which is having historical tracing is one of the major crime committed in the society was addressed in the international platform lately *i.e* only after 19th century onwards. The reason for addressing the problem lately is that before 19th century children were not recognised as independent person having having independent existence rather they were regarded as the property of their parents and specifically their father.

After examining the existing international laws, which includes the conventions, declarations & protocols that deal with child abuse in any form, it is found that the international laws were adopted lately by the international forum like United Nation. These conventions and declarations were adopted mostly to recognize children as an independent entity so that their rights could be protected as that of an adult human being.

Although there are few many convention, declaration and protocols, declaring and recognizing rights of child in general through its various clauses, there are only a few instruments which directly deal with the rights of children against various forms of abuse. When we talk about abuse it includes various types of abuse such as physical abuse, emotional abuse and sexual abuse which were discussed in chapter one. But, unfortunately there is no single international law which specifically addresses the problem of child sexual abuse and declared rights of a child victim in such cases except the optional protocol on the sale of children, child prostitution and child pornography, 2000 which to some extent dealt in with the allied problem of child sexual abuse like; sale of children, prostitution of children and child pornography. All these international conventions and declaration adopted by the UNO were signed and ratified by the govt. of India with a promise to implement the same in India.

In the national level, the 'Constitution of India' which was adopted by independent India as the parent law of the nation, although did not directly declare a specific list of right, or protective measures for children against sexual abuse, but the framers of the constitution have tactfully inserted certain provisions so that positive discriminatory treatment for the children can be made by the government by formulating policies and enacting specific statutes.

Provision for protection of children under the Indian constitution have been traced within the certain words of the preamble, fundamental rights, directive principles of state policy and fundamental duties. The expression 'social justice' that had been included

within the preamble recognizes the greater good to a larger number of people because interpretation of the word social justice simply means providing equality along with liberty. Children being the marginalised section of the society the government have the responsibility to take every possible measure to improve their condition.

Part III of the Constitution of India deal in fundamental rights, which consist of the very basic rights that every human being requires for their survival with dignity. Although none of the right is directly related to protection from sexual abuse of children but on wider interpretation it has been found that right against exploitation under article 23 and 24 also prohibit child sexual abuse in the form of human trafficking for the purpose of slave trade or prostitution. Similarly, it also prohibits forced labour where the children often fall prey to sexual abuse at the hands of the employer.

Further, article 14 speaks about equality of status and hence the children cannot be denied any right, which an adult is entitled to enjoy. Article 15 empowers the State to make special provisions for children whereby state can take appropriate measures to protect the children from sexual abuse. In addition article 21 always propagate the right to live a dignified life with decency free from any form of exploitation or abuse.

The Directive Principles of State Policy in short D.P.S.P which plays important role in a welfare State like India also consist of provisions which directs the State to adopt protective means in order to prevent the children from being abused and make necessary arrangement so that they are protected against exploitation and can develop in a healthy manner.

Another provision in the constitution is clause 'k' of article 51 A which entrust duty upon parents towards their child at least till the age of 14 years so that they grow properly without falling prey to sexual abuse or any other type of exploitation and live a dignified life.

The criminal procedure code shortly Cr.P.C is the procedural law which help in the execution of penal laws as well as give the procedure through which the victim can get justice. Among the various provisions which deals with the procedure relating to examination of a rape accused, recording of statement from any person including the victim of sexual offence; taking evidence from witnesses(victim of sexual offence below 18 years); immediate recording of statement of the victim by magistrate; medical examination of the victim of rape within 24 hours; victim compensation scheme and immediate medical aid to the victim of rape /gang rape free of cost are few specific provisions which are inserted in the Cr.P.C later by amendment in order to deal with sexual offences. All these provisions which have been added to the Cr.P.C are useful to help the victim irrespective of his age. These specific provisions were added to the procedural law by keeping in view the seriousness of the offences like sexual abuse. However, all these provisions are applicable only for female, which denies the right to a male child victim of sexual abuse.

The IPC is the oldest and the most important penal law ever enacted to punish all the type of offenders irrespective of the nature of the offence. Among the various chapters, Chapter XIV which deal with offences affecting the public health, safety, convenience, decency and morals & Chapter XVI which deal with offences affecting the human body and life incorporate the offences leading to sexual abuse. These chapters not only prescribes punishment for serious sexual offences like rape or gang rape but also prescribes punishment for offences like assault or criminal force to women, sexual harassment, voyeurism, selling & buying minor for the purpose of prostitution, procuring of minor girl and any act which is intended to insult the modesty of a women.

In the light of the constitutional provision as well as the international obligation of India for protection of children against abuse, exploitation and hardship including sexual exploitation the Govt. of India had enacted several specific statutes with the object to protect children from exploitation.

The Juvenile Justice Act was enacted to give special protection to the juvenile or children who are either in conflict with law or in need of care and protection. This act give preferential treatment even to the delinquent children in comparison to the adult accused person. The primary object of this act is to ensure that the children do not come in conflict with law and protection of those juveniles who somehow come in conflict with law from human rights violation, exploitation & abuse. This act was enacted replacing the old Childrens Act and had been further amended from time to time to make the procedure more child friendly and to meet the challenges so that the children do not suffer from any type of abuse or exploitation at the hands of the executive machinery. The provisions of this act is made in such a manner that the child in conflict with law is not harassed or exploited or abused in any form during the trial procedure or even after his conviction.

The Child Labour (Prohibition and Regulation) Act, 1986 is a central statute enacted with the sole object of prohibition and regulating the existing problem of child labour. The basis of the act is to ban employment of a child below 14 year of age and regulate the working condition of those child worker who have completed 14 year but are below 18 year of age. It is because child labour is not only a violation of human rights but it leads to various other forms of exploitation and abuse which include sexual abuse.

There is an another act namely Commission for the Protection of Child Rights Act, 2005 which was enacted with the object to establish a commission with the power to regulate, examine and enforce the rights of children provided under various statutes including the constitution. Thus, the primary function entrusted upon the commission by the act is to protect the child rights including protection from exploitation and abuse.

The prohibition of child marriage act was enacted by keeping in view the various evil consequences of child marriage not only upon the society but also upon the individual child who become the victim of child marriage due to any reason whatsoever. This act intend to eradicate the various forms of abuse including sexual abuse upon the child by

declaring a marriage as void, where either or both the party to the marriage is below the prescribed age of marriage *i.e.* 18 for girls and 21 years for boys. The act prescribes punishment not only for the person who marries a child but also for those person who are involved in performing, abetting, conducting, directing or aiding in any form in the performance/commencement of the child marriage.

Immoral trafficking of human being is an age old problem which takes place for various purposes including sex trade, forcefull marriage etc. which lead to gross violation of human rights specially of the young children who are easy and soft target for the organised criminal gangs. In order to curb this problem the govt. of India passed the Immoral Trafficking (Prevention) Act in the year 1956 whereby immoral trafficking was declared to be an illegal act punishable with severe punishment under the said statute.

The Legal Services Authority Act is an legislation which gives additional protection and special rights to the marginalised section of the society which include children. Thus a child victim including a victim of sexual abuse can take help under this act to get legal assistance, aid and even compensation through the DLSA(District Legal Services Authority) which is a specialised authority established under this Act.

An another act namely the Indecent Representation of Women(Prohibition) Act, 1986 was enacted in order to punish those persons who indecently represent a women in public platform by any means as described under section 2(c) of the Act. Thus, the Act aims at putting a ban on publication or advertisement of any matter such as book or pamphlet, which contain indecent representation of women in any form. This act does not have direct provision which prohibit indecent representation of children but on wider interpretation of the term '*women*' it can be assumed that a girl child will be protected under this Act although male child will be deprived from such protection.

Human rights are the inevitable rights attached to a human being from his/her birth. In order to protect these basic rights the Human Right Act was enacted in the year

1993 by the Indian government in consonance with the UDHR(Universal Declaration of Human Rights). This Act does not have any specific provision that speaks of children rights or protection of children from sexual abuse but on wider interpretation it can be seen that human rights include even the rights of children against abuse or exploitation because children are not excluded from the definition of human being. The Act advocates for establishment of a National Human Rights Commission at the central level, State Human Rights Commission at the state level and human rights court at the district level to look after the matter of human rights violation so that speedy justice can be ascertained.

Sexual harassment of women at workplace is a severe violation of women's' rights that was recognised in the landmark case of *Visakha v. State of Rajasthan*² where after the govt. of India passed the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act in the year 2013, with the primary object to provide protection to working women, irrespective of age from any act which lead to sexual harassment by the employer or her co-workers so that she could feel safe in the workplace. The act has various provision for prevention as well as settlement of allegation made by the victim. Sexual harassment is a branch of sexual abuse and hence this act clearly address the said problem but unfortunately the act is limited only to the female girl child working in any place of employment and does not cover the male child within its ambit.

The information technology act is one of the first act of its kind enacted to regulate online activities and prevent commission of crime in electronic mode which is of recent origin in comparison to traditional *modus operandi*. Among the various types of offences committed *via* online mode child sexual abuse in the form of child pornography is a very common one. The Act incorporate provision whereby it prescribes punishment for the offender if found guilty of publishing or transmitting any material depicting children in

² AIR 1997 SC 3011

sexually explicit act in the cyber space. This act is gender neutral and hence applicable for both male and female victim of sexual abuse.

Till 2011 although there were multiple statutes which were enacted to safeguard the rights of female in various angles but there was no specific legislation which was enacted to address the problem of sexual abuse of children irrespective of the gender of the child.

However, in the year 2012 for the first time the government of India enacted a gender neutral legislation specially to protect the children from the offence of sexual abuse. This Act incorporates various child friendly procedures starting from the stage of investigation till delivery of judgement keeping in view the psychological, physical and emotional condition of the child victim in the post victimisation period. Among the many, the most important child friendly provision are establishment of special court to try only cases booked under POCSO Act, appointment of special public prosecutor who will be having specialised knowledge & experience to prosecute the POCSO cases in the special Court so that the victim is not denied justice, in camera trial procedure so that the child do not hesitate or fear to give statement/witness in the court and many more. This Act has provided punishment not only for heinous offences like penetrative sexual assault or aggravated sexual assault but also for abetment and attempt to commit such offences. It has also made it obligatory for any people who come to know of commission of such offence to report it immediately to the police or other agency and if the person fails to do so he will be liable to be punished. Apart from severe form of sexual abuse, the act also brings the non-touch behaviour with a child below 18 years within the ambit of the definition of sexual abuse. Severe punishment has been prescribed under the statute so that it have deterrent effect not only upon the convict but also on the other persons of the society.

However, there are certain defects in these laws, which need to be rectified for better protection of children from sexual offences. Hence, at present it can be said that the municipal laws and more specifically the POCSO Act are not absolutely perfect. Certain modification through amendment is necessary to make these laws perfect piece of legislation for protection of children. Again, having a good piece of legislation is not enough to curb a problem unless the law is enforced to the optimum level by the enforcement machineries.

In order to implement and enforce the statutory laws for protection of the rights of children these are various enforcing agencies established under different statutes. These agencies work combinely with each other for enforcement of the law so that the law does not remain unenforced. These agencies plays pivotal role not only in prevention of the crime like CSA but also in the post victimisation period by following the child friendly procedure prescribed by law which help the child to get quick justice as well as proper care so that he/she could recover himself/herself from the trauma suffered.

Among the many police plays the most important role as because it is the primary and chief enforcement agency in a state and it is their duty to take all necessary step to prevent commission of crime and to take immediate measure in the post victimisation period. However, police are always overburdened with work load because they have multiple functions due to which it becomes very difficult for them to keep an eye on the matter like child sexual abuse and do the needful for giving justice to the victim of CSA. Hence the JJ Act and POCSO Act have laid down special provisions for formation of SJPU(Special Juvenile Police Unit) and designation of child welfare officer in every police station. The JJ Act and the POCSO Act in addition to the Cr.P.C have laid down some special procedure/measure to be followed by the investigation officer while dealing with the sensitive cases of CSA.

However, it was seen that in many cases the police have failed to prevent commission of sexual offence against children due to which cases are increasing day by day and also could not follow the detailed and specific procedure prescribed by specific laws like the JJ Act and POCSO Act during investigation of a sexual offence due to which often it is seen that the victims are re-victimised at the hands of police and are denied justice.

The CWC being a statutory body have to determine the question whether the victim child recovered by the Police or NGO is in need of care and protection and if the CWC is of the opinion that the child victim is in need of care and protection, the child should be send to a place of safety including CCI so that he/she could live safely & comfortably. Apart from these function the CWC have many other function like providing support person to the child victim during investigation and trial either suo motu or on application of the party.

The special court established or designated under the POCSO Act to try cases of sexual offence against children have to follow many child friendly procedure provided under POCSO Act & Rules while trial of the case with the object to give speedy justice to the victim without any harassment during the trial.

The DCPU that has been established in every district under the JJ Act give protection to the children in need of care and protection as well as children in conflict with law. Apart from the JJ Act the DCPU have multiple functions under the POCSO Act and the ICPS. Among the various functions of the DCPU the most important ones are namely, to rescue children in need of care and protection; to work in order to implement the legislation & scheme for the betterment of children; to have a check on the status of the shelter homes; children home & observation homes within their jurisdiction; make arrangement for training of the stakeholders, support victim child, spread awareness etc.

Special public prosecutor for each special court appointed under the POCSO Act for prosecuting the cases charged under POCSO Act have crucial role to play during the entire procedure of trial for the sake of justice. He/she have to ensure that all the special measures and rights available for the child under the POCSO Act are applied during trial and victim is protected from further harassment. The SPP should be a trained person having special knowledge on how child related laws and method to tackle a deal with child victim or child witnesses so that no stone is left unturned to bring the truth before the court.

The NGO's are although not statutory body or Government department but are recognised under the special statutes like the POCSO Act & JJ Act as a key stakeholder in helping the government machineries like the Police, DCPU, CWC etc. in implementing these Acts and protecting the children from offences like harassment, cruelty or abuse including sexual abuse. These NGO's have played active role in implementing the government policies and schemes as they work with the common people in the grass root level of the society where the government department or agencies could not work successfully due to lack of manpower or any other issues. The NGO's specially working with child rights not only help the child victim to get justice but also support the victim in the post victimisation period. Further, NGO like the CHILDLINE India Foundation are playing active role in protecting the potential victim or even the victim of sexual abuse along with other cases by recovering the a child whenever they are informed of the same by any person either by themselves or with the help of police.

Among the various enforcement machinery, DLSA established under the Legal Services Authority Act in each district, plays significant role in creating awareness among the common people of the society about the problem of child sexual abuse and fight against it in all possible manner. In addition the DLSA is also responsible for providing legal aid advocates to the child victims and making arrangement for payment of

compensation to the child victim per the direction of the Special Court from the Victim Compensation Fund or any other fund established by the State Government.

The National Commission for Protection Of Child Rights at the central level and the State Commission for Protection Of Child Rights at the state level are the authorities established by the government under the Commission for Protection of Child Rights Act, 2005 in order to protect the children from being abused and safeguard the rights of children guaranteed by various statutes. These two commissions monitor the proper implementation of the POCSO Act and have cordial relation with the agencies like Police, CWC, DCPU, DLSA, CHILDLINE etc. so that they could review the existing provisions of law and recommend the same to the Government for making necessary changes in the law & policies.

The findings of the study conducted to find out the adequacy of state machineries/enforcement agencies under various statutes to deal with the incidence of child sexual abuse and their challenges in the three district of Assam namely; Dibrugarh, Tinsukia and Dhemaji can be highlighted as below:

- No legal consultant has been appointed in the ASCPCR to assist the commission in monitoring compliance of law.
- There is dearth of office staff in the ASCPCR, which makes it difficult for the commission to work smoothly and speedily.
- Full-fledged POCSO mechanism is not established in the districts of Biswanath Charaideo; Hojai; South Salmara-Mankachar; West Karbi Anglong; and Majuli in the State of Assam.
- There is vacancy in the post of Chairperson in the CWC of Dibrugarh since 2019 resulting in functional and administrative difficulties of the CWC.
- Various post in the DCPU of the three districts are found to be lying vacant without which it is difficult for proper functioning of the DCPU as well as

providing proper secretarial support to the CWC in their functioning. The post that are lying vacant are of Protection Officer(Institutional Care) and other supporting office staff in the DCPU of Dibrugarh and Tinsukia district; and vacancy in the post of Counselor, social worker & outreach worker.

- No separate Special Court for trial of POCSO cases in any of the three districts of study.
- There is no waiting room for children in the court complex due to which the child have to wait in the corridor of the court complex or sometime in the court room itself which is not a child friendly environment.
- The design of the court room are not child friendly mostly because of lack of sufficient infrastructure.
- Facility of video-conferencing not available for recording the statement of child victim without bringing him to court during trial.
- There is only one(1) of forensic science laboratory in the State of Assam which is insufficient.
- In Dibrugarh and Dhemaji there is no Special Public Prosecutor rather the Public Prosecutor is designated as SPP, which is an additional burden.
- Insufficient number of Child Care Institutions in the three district leading to overcrowding of these institutions. In figure Dibrugarh and Tinsukia have two each whereas, Dhemaji have only one.
- None of the available CCI in the three districts of study was established by State Government but are mostly run by some organizations in rented buildings. Some of these CCI are financially aided by Govt. but due to non-regular funding and lack of infrastructure, these institutions do not comply to the requirements of the JJ Act and ICPS guidelines.
- Lack of manpower specially in the rank of Sub-Inspector was clearly seen in the police stations of all the three districts due to which the available officers are

entrusted with multiple duty like investigation, VIP duty, law & order etc. resulting in poor investigation or non-compliance of procedural law.

- Insufficient number of women police officers is another problem identified in all the three districts due to which the male officers have to handle the CSA cases.
- Except the Sadar Police Stations all other stations are in short of vehicles which is very necessary for production of the child in need of care and protection before the CWC and other investigation purpose.
- There is no provision for cash in hand or separate fund to be used by the police in urgent situation specially when they have to travel to distance place out of state to recover child victim on receiving information.
- In none of the police station in the three district there is facility for audio-visual recording of statement of the child victim.
- Frequent transfer of the police officers is identified as one of the major problems for delay in justice or no justice.
- No training is provided to the CWC members, Legal Aid Advocates engaged for child victim, Police officials investigating cases of POCSO and SPP appointed or designated in the Special Courts.

From the study, it has been found that the state machineries established by the Govt. of Assam to deal with the incidence of child sexual abuse under various statutes are not adequate due to several drawbacks such as; structural non-compliance, lack of man power, lack of adequate training and so on.

The findings of the study conducted to find out the extent of enforcement of laws or procedural compliance by the agencies in the three district of Assam namely; Dibrugarh, Tinsukia and Dhemaji are highlighted below:

- The ASCPCR had not taken any exceptional or specific initiatives for spread of awareness about the POCSO Act and formulation of guidelines for the use of stakeholders like NGO, teachers, support persons etc.
- The ASCPCR had not taken any step for collection of data to prepare report on various aspects of CSA in the state of Assam.
- The DCPU of Dibrugarh and Tinsukia do not have updated list of Support person, expert, translator, counsellor etc. basically due to non availability of qualified persons and hence not circulated to the police stations, CWC and Special Court. Whereas, DCPU of Dhemaji had not prepared any such list till 2020.
- DLSA of each district of study provide with free legal aid advocate to the victims of sexual offences whenever they ask for such aid. However, the DLSA do not maintain a separate list of penal lawyer for such special sensitive cases.
- DCPU of Dibrugarh and Tinsukia do organise training program for the stakeholders working with child victims but the attendance of the stakeholders are not satisfactory due to which these training programs fail to achieve its objective. However, in Dhemaji the DCPU do not organise any such programme.
- In majority cases the police do not provide information to the informant regarding the name, designation, phone number, & address of the officer recording the information.
- The police make effort to produce the child in need of care and protection before the CWC within 24 hours but they sometimes fails due to unavoidable reasons.
- In majority cases the police use to interact and record statement of the child victim in uniform itself.
- In almost all cases, the police use to record the statement of the child in police station itself.
- Only in rare case, the police use to give information regarding free legal aid to the child family or any other person of child trust.

- In maximum cases the police exercise discretion in allowing the parents of the child or any other person of child trust to remain with the child during the entire process of recording statement.
- All the designated Special Courts take direct cognizance of the cases under POCSO Act.
- The Special Courts allow the child to be accompanied by the parents or any other person of child choice during examination of the child. However, in Tinsukia if the child seems to be confident in the initial stage of introduction or he/she does not ask for such person, the court do not allow.
- The Special Courts in all the three districts generally don't allow direct questioning of the child by the Prosecutor or defence counsel but occasionally the defence counsel takes the opportunity to put direct question to the child if the prosecutor do not oppose the same.
- Frequent break to the child during trial is not a regular practice in any of the Special Court of the three districts.
- The ratio of timely disposal of POCSO cases in all the three districts is very marginal.
- The conviction rate of Dhemaji is highest with 50 to 60 percent conviction among the three district followed by Dibrugarh with 40 to 50 percent conviction and Tinsukia with the lowest i.e. 20 to 30 percent.

The success of a law is dependent on its enforcement in actual sense but the findings above manifest that the provisions of the POCSO Act and other allied law to protect children are not enforced in toto by the state machinery empowered under the POCSO Act due to reasons like lack of knowledge; or over burden with duty; or unwillingness of the agencies and so on.

The findings on the other correlated aspects are:

- Victim of non-touch sexual abuse like offence of harassment, use of child for pornographic purpose are deprived from compensation in Assam as the Assam Victim Compensation Scheme 2012 do not cover such offences within its ambit.
- There is no NGO specifically working in the field of sexual abuse of children to assist the govt. machinery except CHILDLINE in Dibrugarh and Tinsukia whereas, in Dhemaji there is neither CHILDLINE facility nor any NGO.
- Non-appearance of the Victim in given date of trial is one of the major reasons for delay in disposal of cases.
- Forceful compromise with the accused is quite common among the victims leading to witnesses turning hostile.
- Lack of awareness among the public regarding POCSO Act many times results in non-reporting of offence or late reporting which creates a problem in accumulating evidence.

On analysis of the data, it is found that the enforcement machineries face several problems, which act as a hurdle in enforcement and implementation of the law for protection of children.

However, the higher judiciary has played a pivotal role in realizing this heinous crime against children. Time and again the judiciary has issued various guidelines & directions to Central Govt., State Govt., High Courts, Special Courts, Police etc. in a list of cases as discussed in chapter six for ensuring the security and rehabilitation of the children affected by sexual assault so that the children feel protected.

CONCLUSION:

Sexual Abuse in Children has garnered more attention in recent years, which has become one of the most widely written about topics in the last 15 years. Over the years,

Sexual abuse in Children and its damaging long-term effects have become more prevalent recently due to more recognition and national attention towards the problem now than ever before. This new awareness among the masses and its prevalence through studies and research has shed light on this heinous act.

Child Sexual Abuse which may happen through means of sexual molestation, rape, incest, commercial sexual exploitation or pornography is one of the most underreported crimes in India. The Children who are victims of abuse are often found to be from diverse backgrounds and often belong to different gender, social strata, or class. The growing Complexities associated with the urban lifestyle, nuclear families, working parents who spend very little time with their children, poor awareness of the issue and social stigma all together make the present day child more susceptible to sexual abuse along with other problems such as, uncaring social-attitude; double standards towards child sexual abuse; poor community response; poor response of authority; insensitive attitude of police; and medical fraternity. All of these culminate towards the growing menace of child sexual abuse in India.

Apart from the aforementioned problems, risk of abuse by family members, neighbors and school-caretakers render these abused children even more vulnerable and thus the problem starting from home itself or educational institutions cannot be ruled out.

Such abuse can have long-term consequences; far beyond childhood, as such traumatizing events rob the children of their childhood and innocence by creating loss of trust, feelings of guilt and self-abusing behaviors. Such effects can be devastating for the child whether such abuse takes place once or multiple times. The impact of the said abuse can vary from victim to victim, depending on their environment and the resources and help the child received after disclosure of such abuse to their families or others. Sexually abused children who received proper treatment and resources to help them cope and adapt in the aftermath of such abuse generally do quite well in the future. Whereas other

survivors of the same age group of similar abuse with certain risks and less resources may have more difficult time in the future. Sometime the abuse is so severe that even with adequate resources it becomes difficult for the child to escape the trauma which has been dealt to them. Thus, the effects of Child-Sexual Abuse may be long-term or short term and may affect the child physically or psychologically, and even socially in Indian Society.

In order to cope up with such a severe problem the international body like United Nation had taken several initiative at the international level from time to time through conventions and declarations such as; Convention of International Labour Organisation; Geneva Declaration on the Rights of Child; Universal Declaration of Human Rights; Convention for the Suppression of the traffic in person and of the Exploitation or the prostitution; Declaration of the Rights of Child; United Nation Convention on the Rights of Child; International Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst form Of Child Labour; Optional Protocol on the sale of Children, Child Prostitution and Child Pornography etc. in order to protect and safeguard the rights of child against various forms of exploitation. Among the various international efforts the most important is the Convention on the Rights of Child, 1989 and the Optional Protocol which was supplementary to the convention, because until 1989 all other international laws did not directly dealt with the problem of sexual abuse of children and were non-binding upon the State parties.

In addition to these international laws various international agencies like, UNICEF, ILO, ASIAN foundation, OHCHR, ECPAT had worked in various aspects of child abuse including sexual abuse. However, among the various international agencies it is observed that the End Child Prostitution, Child Pornography and Trafficking of children for sexual purpose(ECPAT) was founded directly to work on the possible means to eliminate all forms of sexual abuse and exploitation of children.

In India prior to the passing of POCSO, Act 2012, the law relating to child sexual abuse was uncertain. Due to the lack of proper legislation, acts relating to child sexual abuse were prosecuted under various sections of Indian Penal Code, Immoral Trafficking (Prevention) Act, Prohibition of Child Marriage Act, Information Technology Act, Indecent Representation of Women (Prohibition) Act, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act etc. but, none proved to be adequate. However, these provisions were suitable for the adult victims as a result; it caused grave inconvenience on the part of the child victims.

However, due to international pressure being signatory to many international instruments for protection of child rights against exploitation, the Indian Parliament brought a special legislation for the protection of children from offences relating to sexual abuses. This Act proved to be a boon for the humanity as because the said Act aims to provide protection and safeguard to the child irrespective of his/her gender which was until now not been provided. The Act also provides for child friendly redressal mechanisms like; obligation of reporting cases; free legal aid; the testimony of the child shall be recorded at the residence or at a place where the victim desires and the statement shall be recorded preferably by a women police official or an official not below the sub-inspector rank, in civilian dress; the child shouldn't come in contact with the accused at any stage; onus is upon the accused person to prove that he is innocent; payment of interim 7 final compensation to the victim by the state government; disposal of case in fast track manner by Special Court within one year; support person to the child victim during the entire process of trial and so on. Further authorities like National Commission for the Protection of the Child Rights and the State Commission for the Protection of the Child Rights are authorized to supervise whether the provisions of POCSO Act 2012 are properly executed or not.

Among all these municipal laws it is only the POCSO Act that is specifically meant for protection of Children irrespective of gender from the sexual offences that are

committed against them. All other legislations including the POCSO Act are having some lacunas in them, which need rectification for properly addressing the problem of CSA in India.

There are various enforcement agencies namely; SJPU or Local police, Child Welfare Committee, Special Court, District Child Protection Unit, Special Public Prosecutor, NGO's, District Legal Services Authority, National Commission for Protection of Child Rights and State Commission for Protection of Child Rights which are empowered under the POCSO Act and other allied laws for protection of children from sexual offences. However, it is seen that the performance or functioning of all these agencies are not satisfactory as because they are not complying with the provisions of the laws and guidelines formulated for them in toto. Further, lack of support from the State Govt. in various aspects like; structural compliance and other facilities essential for enforcement of law in actual sense is another reason for failure of these agencies in protecting the children from sexual offence. This non-compliance are identified as a key reason for failure of the statutory law like POCSO Act in achieving its object of protection of children from sexual abuse.

Due to some drawbacks in law and lack of effective enforcement from the initial stage the cases of CSA remain unchecked resulting into high increase of such cases. Left with no other option, the judiciary which is regarded as the guardian of the constitution and protector of peoples right, started judicial intervention to protect the children from the evil of sexual abuse. The higher judiciary specially the Apex Court played proactive role in all aspects such as; giving wider interpretation to laws, finding lacuna in the existing laws, directing the subordinate judiciary through guidelines, recognizing the role of NGO's, Police, Public Prosecutor & support persons in cases of CSA, giving direction to the government and commissions for implementation of the law etc.

However, in two cases namely; *Satish* and *Mathura rape case* it was found that the apex court gave very narrow interpretation to the statutory provisions as a result of which the offenders who were punished by the inferior courts were acquitted, which is not at all encouraging.

Nevertheless, it is because of the judicial interventions that, the Govt. was bound to recognize the vulnerability of children and realize the lack of special laws to deal with the cases of CSA, specially for boys, resulting in enactment of POCSO Act. Apart from it, the government was made bound to amend many provision of procedural laws and other special laws from time to time to meet the need of the hour as per the advice or direction of the judiciary. However, it is worth mentioning that all the directions, guidelines and suggestions made by the judiciary are yet to be followed and implemented in actual sense due to which the cases of CSA are alarmingly increasing.

CSA being a multidimensional problem have severe consequences upon the child, family and society. Great integrity and coordination is required on the part of all the stakeholders in the process of reporting, investigation, counseling, rehabilitation, prosecution, adjudication, compensation and monitoring in the matters of CSA for proper enforcement of the law, so that the children are protected in all possible manner. The achievement of this goal is dependent on the role played by Police, NGO'S, CWC, DCPU, DLSA, Prosecution, Courts, Counsellors and the society as a whole. Effective measures for proper implementation of the existing laws with suggested modification along with other allied laws is the need of the hour. However, this is possible only by sensitizing the public specifically, the Childrens, Prarents, Teachers, Caretakers, NGO personals, Social Workers and training the stakeholders/professional empowered under the statutes.