

## **CHAPTER V CONCLUSION**

### **A. Summary of the Study**

Child defined as people that haven't reached the age of eighteen years (Ministry of Law and Justice of India, 2012). Ministry of Women and Child Development Government of India divided children three levels of division; adolescent (15-18 years), children (13-14 years) and younger children (5-12 years). There are almost nineteen percent of the world's children live in India. There are about 440 million, one third of its country's population, haven't completed the age of 18 year old. Problems like social marginalization and poverty have always been major issues in a big country with such big population like India. Often, the most vulnerable group for the criminal victim is children (Ministry of Women and Child Development Government of India, 2007).

Child abuse is an action that put harm on a child or young person and failing to create protection for them. A family member or a close person and strangers (from the internet) are the trends of people who would likely to abuse children sexually (National Institute for Health and Care Excellence , 2017). World Health Organization defined child sexual abuse as a situation where a child involves in a sexual action where he or she does not fully understand, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that against the laws or social value of the community. It defined for a sexual case between a child with an adult or with another child who is still in a relationship of responsibility, trust or power, the activity tends to satisfy the needs of the other person (World Health Organization ).

In India, child rape, selling of girls for prostitution, and buying of girls for prostitution are some of CSA form that were

recognized by the NCRB through its reports. Studies and data are still very minim about CSA. Thousands of children are reported being abused sexually every year. Within five years in 2000 to 2004, there were 14464 cases reported that children were raped, sold for prostitution, and bought for prostitution. The highest number of rape during the period of time was in 2004 as 3542 reported cases. Rape is known as the most used CSA form in India which reached 14268 cases during five years. The activity of buying of girls for prostitution is higher than the number of selling girls prostitution as 113 and 83 cases. The selling of girls for prostitution in 2003 is 36 reported cases which is known as the highest number among the years while in 2002 there are 5 reported cases which is known as the lowest number among the years. The buying of girls for prostitution in 2000 is 53 reported cases which is known as the highest among all the years while in 2001 there are 8 reported cases which known as the lowest number among the years. The number of the cases keep increasing from year to year except from 2000 to 2001.

There is vary of definition for child in the status of law in India. According to the Juvenile Justice Act of 1986, a girl child is someone below the age of 18 years. The Child Marriage Restraint Act of 1928 defined 18 years as the cut mark for the child marriage restraint. The Indian Penal Code (IPC) vide sections 375 identifies wife as someone who is not under the age of 15 years, but according to Section 376 of the IPC it is someone who is not under the age of 12 years.

Until 2000, there are 3499 children below the age of 10 years and 15436 children aged 10 to 16 years were reported raped in five years. Children who are in age of 10 to 16 years are more vulnerable to get raped than children who are below 10 years. Children below 10 years in 1996 known the least and children below 10 years in 2000 known the most during the five years. Children who are 10-16 years in 2000 known the least and children who are 10-16 years known the most during the years.

According to the National Human Rights Commission (NHRC) Action Research Study conducted in 2005, derived social sections of society such as Scheduled Castes and Scheduled Tribes has put children in risk to be trafficked. Children in the age of 11 to 14 are the most trafficked victim in India. They are usually abused sexually and kept in a slavery and bondage conditions. India is known as the origin, transit and destination state for human trafficking. There are at least 150,000 women and children were trafficked in South Asia and mostly happened from, via, and to India. Children with poor family background is the most likely at risk to be trafficked.

Indian culture believes that parents play a dominant role in their children lives. The practice of how parents raise their children will also relate to CSN. Parents who are indifferent about their children would likely neglect and ignore their child's basic physical and emotional needs. There are also parents who act authoritarian who see their children as their personal property rather than seeing them as young people who are in need of parents' love, care, and protection. However, there are also parents who are indulgent who don't provide protection and boundaries in and out of the family. These three types of parenting styles, as opposed to a more authoritative style which shows firm and follow through of discipline balanced with choice and flexibility, put children at greater risk, including for various forms of abuse and neglect. With such big issue on child sexual abuse, it is expected that India could implement the OPSC in order to combat child sexual abuse in India. On 15 November 2004, India had signed the OPSC and ratified it in 16 August 2005.

The OPSC was formulated in 25 May 2000 by the United Nations Commission on Human Rights (OHCHR) as a further commitment in protecting children as mentioned in the Convention on the Rights of the Child (CRC). It was established to respond the high incidence of sexual abuse against children. It acts to measure the protection of children from the sale of children, child prostitution, and child pornography provided by

the State Parties as their proof to comply the Protocol. The CRC especially article 1, 11, 21, 32, 33, 34, 35, and 35 are the main measuring tool to the State Party in providing protection toward the children.

The efforts that the Government of India has been made in complying the OPSC as they have ratified it on 2005 to combat CSA in India. The efforts are divided into certain implementation such as;

1. Institutions:
  - A. Ministry of Women and Child Development (MWCD), 2005
  - B. National Commission for Protection of Child Rights (NCPCR), 2007
2. Policies
  - A. National Plan of Action for Children (NPAC), 2005
  - B. Protocol on Inter State Rescue and Post Rescue Activities Relating to Persons Trafficked for Commercial Sexual Exploitation, 2007
  - C. Protection of Children from Sexual Offences (POCSO) Act, 2012
3. Coordination
  - A. Integrated Child Protection Scheme (ICPS), 2009
  - B. National Coordination Group on the Rights of the Child (NCG), 2004
  - C. Ujjawala Scheme, 2007
4. Resources through Children Budgeting

## **B. Recommendation**

1. Studies and researches about CSA in India should be conducted more especially from those institutions that are concerned about the issue. The high number of studies and researches about CSA would help the Government of India in tackling the CSA issue as well

as in evaluating the policies regarding to CSA which the Government of India had implemented.

2. The provision of laws, shouldn't be gender bias. The Government of India should tackle the CSA problem without any distinguish of religion, caste, race, as well as gender. The Government of India is too focused on girl victim as written in many reports Crime in India by the NCRB. In fact, the number of boy victims are not significantly less than the number of girl victims. However, even one single child should be protected without concerning his/her gender.
3. It is very clear that the OPSC has demanded State Parties should be able to distinguish the sale of children and child trafficking. The Government of India should provide significant different laws between the sale of children and child trafficking. Because sale of children is more specific than the child trafficking and is most relevant to the OPSC.