

# Knowledge Attitude and Practices of Lawyers Addressing Legal Cases of Child Sexual Abuse



# **Knowledge Attitude and Practices of Lawyers**

## **Addressing Legal Cases of Child Sexual Abuse**

**Sahil Research**  
**2012**

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## Contents

Acknowledgment .....	1
Executive Summary .....	2
The Research Methodology .....	3
Provincial Divide .....	5
Recommendations .....	19
Annexures .....	20
Provincial Data Analysis (Federal) .....	21
Provincial Data Analysis (Punjab) .....	30
Provincial Data Analysis (Sindh) .....	38
Provincial Data Analysis (KPK) .....	47
Provincial Data Analysis (Balochistan) .....	56
Sample Questionnaire for Lawyers .....	65
As Sent to Cabinet .....	68

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## Executive Summary

Sahil has been providing free legal aid to victims of child sexual abuse since 1997.

In a recent research by Rita Laura Shackel, Faculty of Law, University of Sydney (International Journal, Child abuse and Neglect 32 (2008) 485-495), it was found that professionals often do not understand the behavior of children who have suffered abuse. This especially impacts the attitude of judges and lawyers who may react adversely to these behaviors.

This research prompted Sahil, who has a vast network of lawyers, to develop a questionnaire based on a number of issues that may influence the defense counsels, and also have an effect on the case. Sahil legal team developed and distributed the questionnaires which contained 21 questions. The responses were received from 221 lawyers in 29 cities across the 4 provinces and Federal Capital of Pakistan.

The demographic information shows that the lawyers had handled criminal and civil cases, and most of them had handled cases at District and High Court levels. Their years of experience ranged broadly from 7 years to 18 years or more.

The questions related to the United Nations Convention on the Rights of the Child showed that about 50% of the lawyers knew about it and also defined the age of a child at 18 years.

Less than 50% of the lawyers had no knowledge of the eight forms of sexual abuse. Only two forms of sexual abuse that is rape and sodomy were identified.

Out of 221 lawyers, 76% understood that children may not necessarily suffer physical injury during sexual abuse, and may also deny sexual abuse to parents. About 50% lawyers thought that children who are sexually abused could have difficulties in recalling details.

More than 26% lawyers thought that if children had difficulties in recall of details of abuse it would mean that it was fabricated. A 75% correct response was given regarding the legal requirements of CSA cases, such as; no medical report required for registration of FIR, sexual abuse is a non-compoundable offence and police officials are bound to lodge an immediate FIR in a cognizable offence.

Sahil's vast experience as legal aid provider to victims of child sexual abuse enables it to reach the conclusion that there is a need to work with lawyers on capacity building, especially on international commitments of the state, and also on amendments in procedures which can encourage the victims to seek justice instead of compromise. These efforts would ultimately escalate the ratio of cases registered and increase the trust of victims in the justice system.

Sahil also hopes that these recommendations are addressed by the relevant government authorities.

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## The Research Methodology

### Introduction

Sahil, working against child sexual abuse (CSA) and exploitation, was established in 1996. Sahil vision is “*Her Bachcha Mehfooz*” safe secure and protected. Sahil mission is to develop a protective environment for children free from all forms of violence, especially child sexual abuse. Sahil's work includes trainings and capacity building, awareness raising, advocacy on child rights, researches, and other publications. Sahil also offers free legal aid and free counseling services.

A research in the International Journal, Child abuse and Neglect 32 (2008) 485-495, has a review on “The beliefs commonly held by adults about children's behavioral responses to sexual victimization” by Rita Laura Shackel, Faculty of Law, University of Sydney. This review shows that there are significant gaps among professionals (Holguin, 2003) including attorneys and jurors, who do not understand that “failure to report, recantation, difficulty with dates and time, and inability to recall specific details of the abuse did not suggest fabrication” (Schneider, 1994).

In Pakistan, such difficulties can be seen, especially in cases of incest, where victims are often not believed and judgments have stated that “it is highly improbable that a father would have committed such a heinous crime with his own daughter.” (p.14, Incest Victims in Pakistan, a struggle for justice, WAR, 2010)

Sahil's experience of providing free legal aid for child sexual abuse cases shows that not only a great deal of effort and competency on part of the lawyers is required to ensure a conviction, but also the need to build a rapport with the clients to counsel them through the lengthy process, give them courage to fight the case, and not go in for a compromise.

Taking a lead from all these findings, Sahil, felt that it was important to understand how lawyers in Pakistan view the spectrum of issues that are related to and surround child sexual abuse, and to see if their knowledge, attitudes and practices were in accordance to the needs of the victims. It is visualized that the results of this research will be helpful to all persons and organizations who are working in this field, and especially for the universities and colleges having a faculty of law, to understand the information requisites in cases of child sexual abuse.

### Background

As a part of its intervention program, Sahil offers free legal aid to victims of child sexual abuse. Initially, this legal aid was provided through a volunteer lawyer based in Islamabad. However, in 2006, Sahil expanded its work and established offices in 4 cities, one in each province. A team of lawyers was hired to provide free legal aid in cases of CSA in each of the offices of Abbottabad, Sukkur, Jaffarabad and Lahore.

Along with this, lawyers who were registered as Sahil volunteers began to offer their services. A system of referral lawyers was established. Now Sahil referral lawyers take up CSA cases out of Sahil's domain. Today, Sahil has a cadre of 50 referral lawyers available from across the country.

Over the years, Sahil has offered legal help in over 6788 cases, and 410 convictions have been decided by the

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courts. It has been a very encouraging sign that recently courts are taking decisions on CSA cases within a year, and meting out severe punishments (Sahil Legal Case Studies-Innocent Lives, 2012). However, a big challenge is to be able to improve laws and procedures, especially so that victims do not go in for compromises in cases of sexual abuse.

### **Objectives of the Study**

- To understand the lawyers level of information on child rights,
- To see if lawyers adhere to certain myths which exist on child sexual abuse,
- To ascertain their opinion on legal procedures and its improvements.

### **Data Collection**

A questionnaire was developed as the data collection tool (Annex 1). Sahil lawyers in the Regional Offices and Islamabad Head Office had the questionnaires filled by the legal fraternity in their respective provinces.

However, Sahil Islamabad head office also collected data from lawyers of 4 neighboring cities, namely, Fateh Jang /Attock, Chakwal, Mandi Bahauddin, and Gujar Khan as these lawyers were in contact with the head office. In the Balochistan data, there are respondents from Jacobabad. The inclusion of Jacobabad (which is actually a city of Sindh province) is because Jaffarabad regional office deals with issues from that city.

Questionnaires were collected over a period of 4 months, August – November 2011. Later it was decided to include Sahil referral lawyers in the research. The questionnaires were then sent in July 2012 and 60 referral lawyers' responses were incorporated in to the results.

### **Sample**

The sample consists of 221 lawyers from the four provinces of Pakistan that is Punjab, Sindh, Khyber Pakhtunkhwa, Balochistan, and the Federal Capital including 4 cities which brings the total to 29 cities represented by the lawyers.

The lawyers had experience of working in the District Courts, High Courts, and the Supreme Court. They had dealt with civil and criminal proceedings.

The provincial divide of the respondents was as follows:

### Provincial Divide of the Respondents

Federal Capital/Cities	
Cities	Lawyers
Islamabad	53
Fateh Jang /Attock	4
Chakwal	3
Mandi Bahauddin	2
Gujar Khan	1
<b>Total</b>	<b>63</b>

Sindh	
Cities	Lawyers
Sukkur	29
Khairpur	8
Karachi	1
Dadu	1
<b>Total</b>	<b>39</b>

Punjab	
Cities	Lawyers
Lahore	33
Faisalabad	3
Shiekhopura	3
Layyah	2
Bhawalpur	2
Gujranwala	2
Kasur	2
Gujrat	1
Daranawala	1
Toba Tek Singh	1
Sialkot	1
Okara	1
Bakkhar	1
<b>Total</b>	<b>53</b>

Khyber Pakhtunkhwa	
Cities	Lawyers
Abbottabad	40
Haripur	5
Mansehra	3
Swabi	1
<b>Total</b>	<b>49</b>

Balochistan	
Cities	Lawyers
Turbat	7
Dera Allah Yar	6
Jacobabad	4
<b>Total</b>	<b>17</b>

**Grand Total 221**

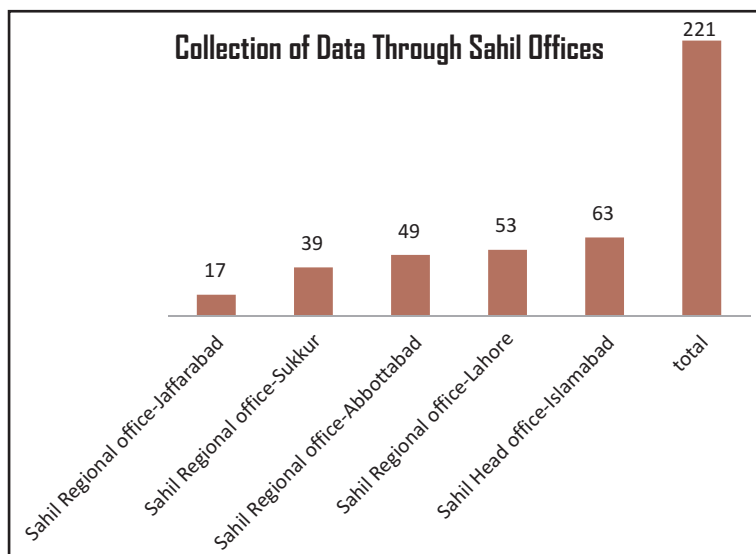
## Data Analysis

The following is the data analysis of responses of 221 lawyers from 29 cities of the 4 provinces of Pakistan and the Federal Capital, Islamabad.

### Demographics of the Respondents

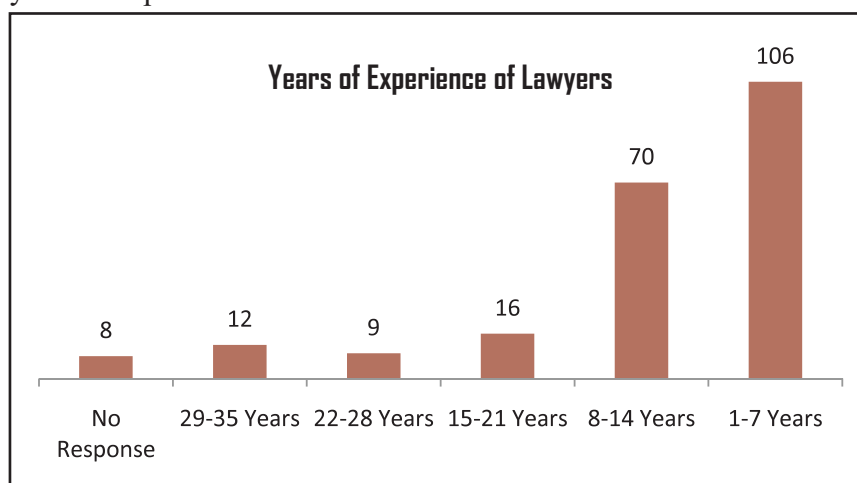
A total of 221 lawyers responses were collected through Sahil Head Office and 4 Sahil Regional Offices.

**Graph 1**



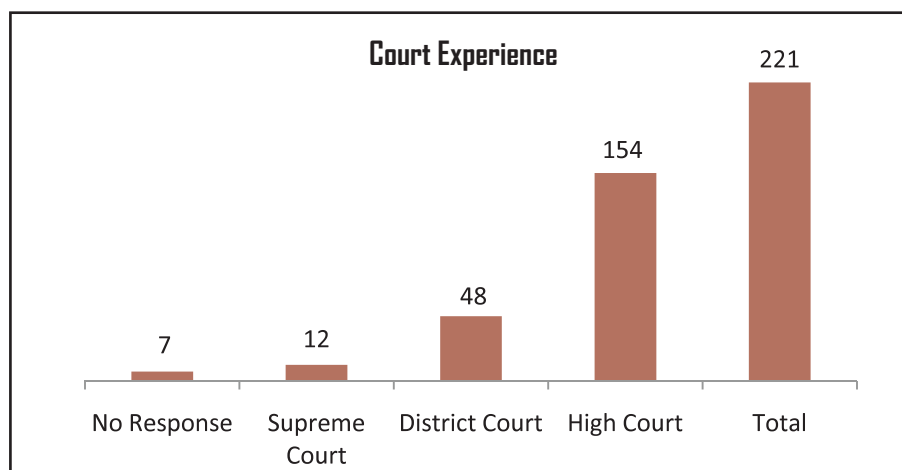
-The largest number of responses from lawyers was collected in Islamabad due to easy access to the courts, and the inclusion of 4 other cities Fateh Jang /Attock, Chakwal, Mandi Bahauddin and Gujar Khan which were in direct contact with Sahil Head Office in Islamabad. The least number of respondents are from Balochistan because of the smaller population, and difficulties in out reach.

**Graph 2- Lawyers years of experience.**



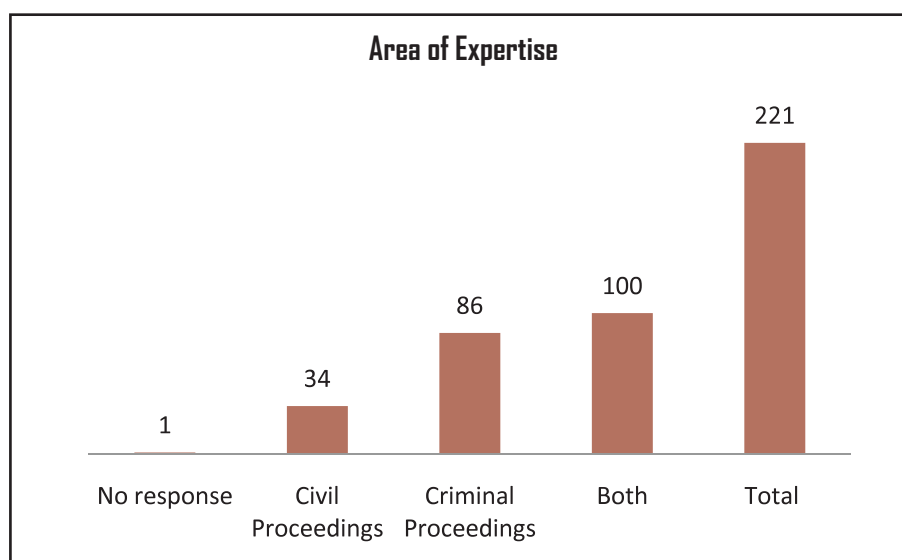
The range of experience interestingly varies from one year to 35 years. This enriches the data as the views of the respondents will have a wide spectrum related to their experience. The largest number of lawyers had experience of up to 7 years, whereas the most experienced had up to 35 years.

**Graph 3-** Court experiences of the lawyers.

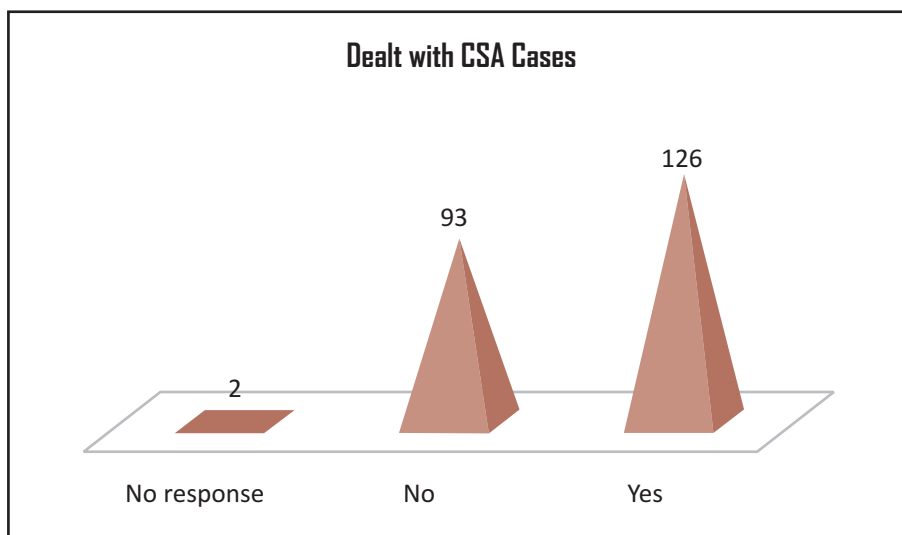


The majority of the lawyers had High Court experience which enables them to comment on the gaps that they may see in the law which hinders the conviction in CSA cases.

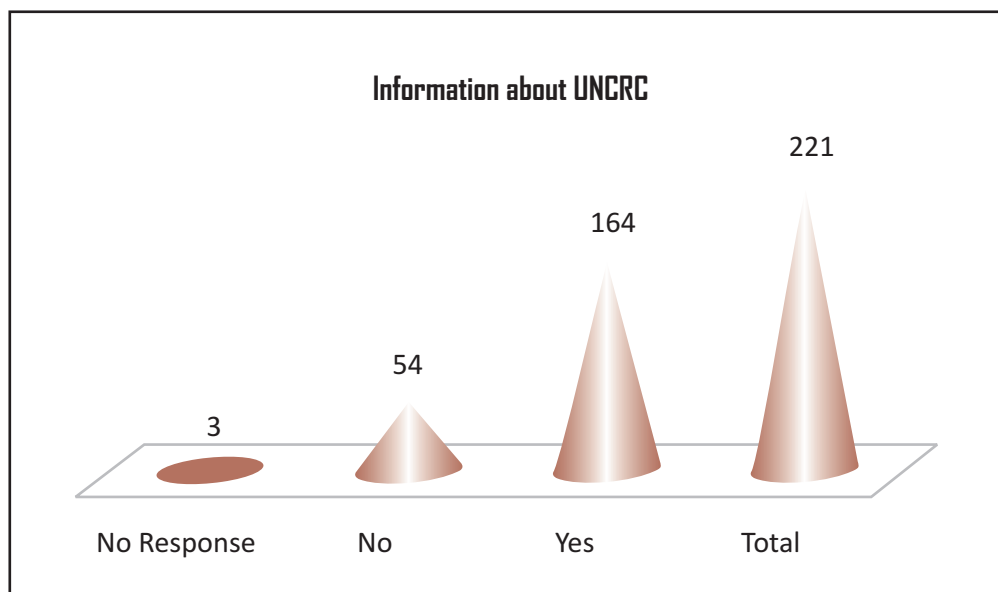
**Graph 4-** Lawyer's expertise in civil and criminal procedures.



Out of 221 lawyers, with 86 dealing with criminal cases and a 100 also having experience of criminal cases means that a total of 186 lawyers have experience of criminal cases which is important as CSA cases come under a criminal offense.

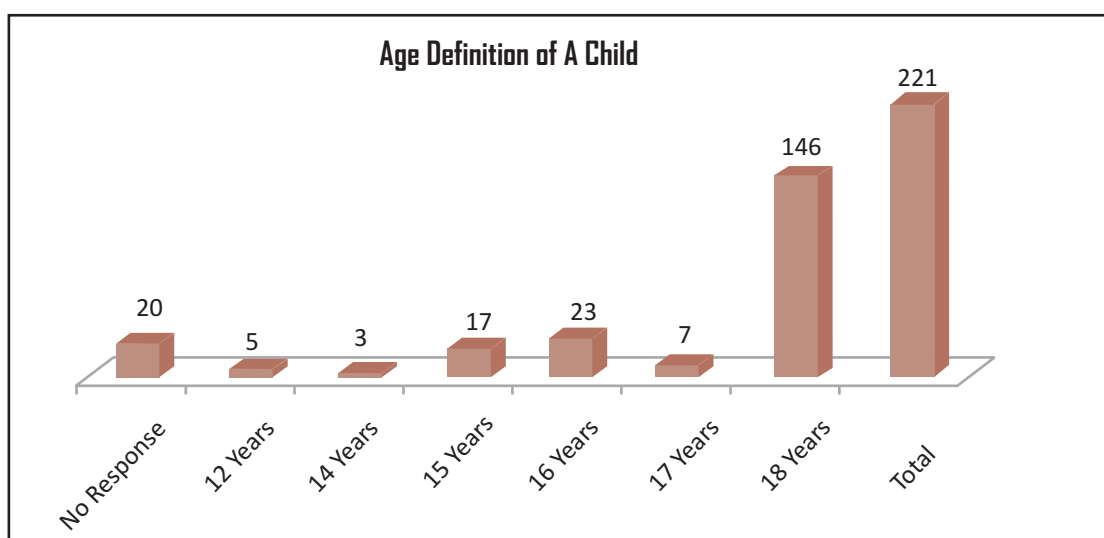
**Graph 5-** Have you handled any case of child sexual abuse (CSA).

Although 42% of the respondents had not handled a CSA case, their answers to the questions on laws show that they are well versed in the aspects of the law.

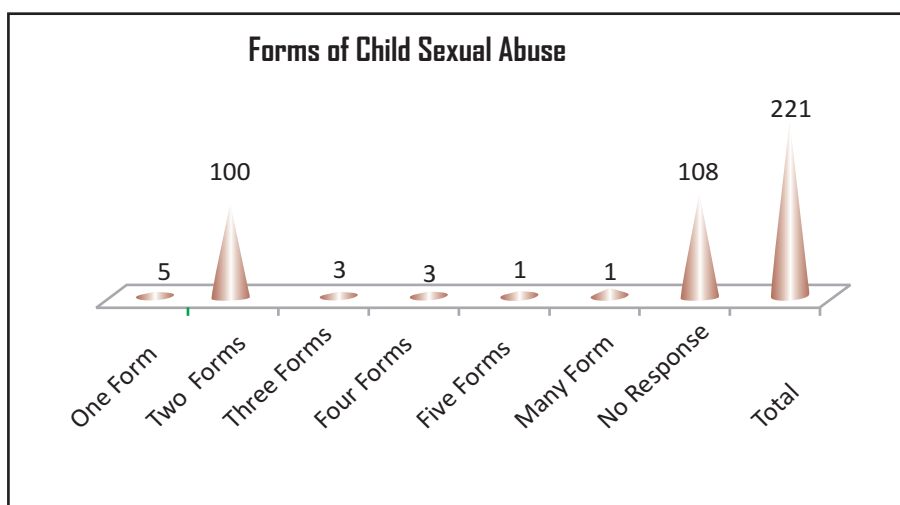
**Graph 6-** Do you know about the UN Convention on the Rights of the Child (UNCRC)

Out of the total, 74% lawyers said that they knew about the UNCRC. It is encouraging that 39 lawyers knew about the UNCRC out of the 93 lawyers who had not handled any child sexual abuse cases (as seen in Graph-5).



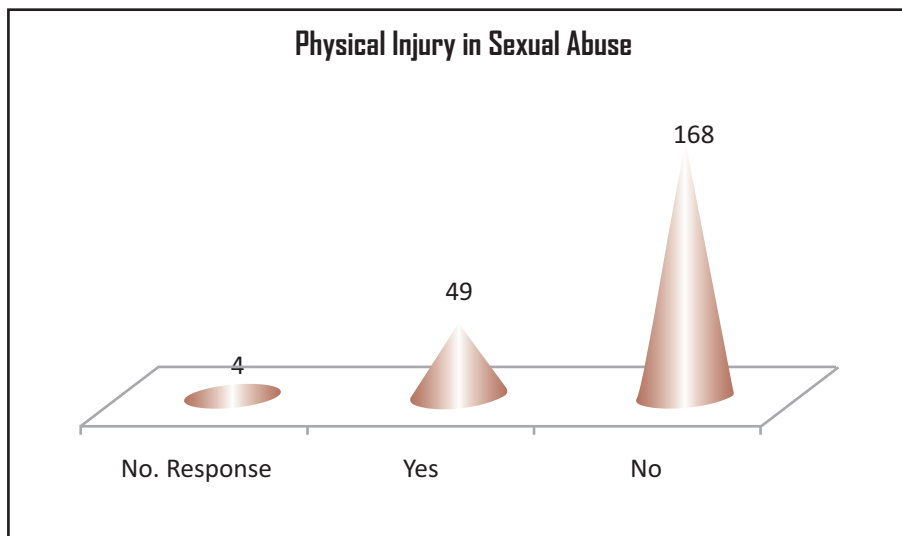
**Graph 7-** According to you, what is the age that defines a child?

The correct response of 66% lawyers on 18 years as the definition of the age of a child corresponds with the earlier question on their knowledge of UNCRC. It is important that the 34% lawyers (75) who have given the age range from 12- 17 years, including 20 no responses be made aware of the UNCRC and its articles.

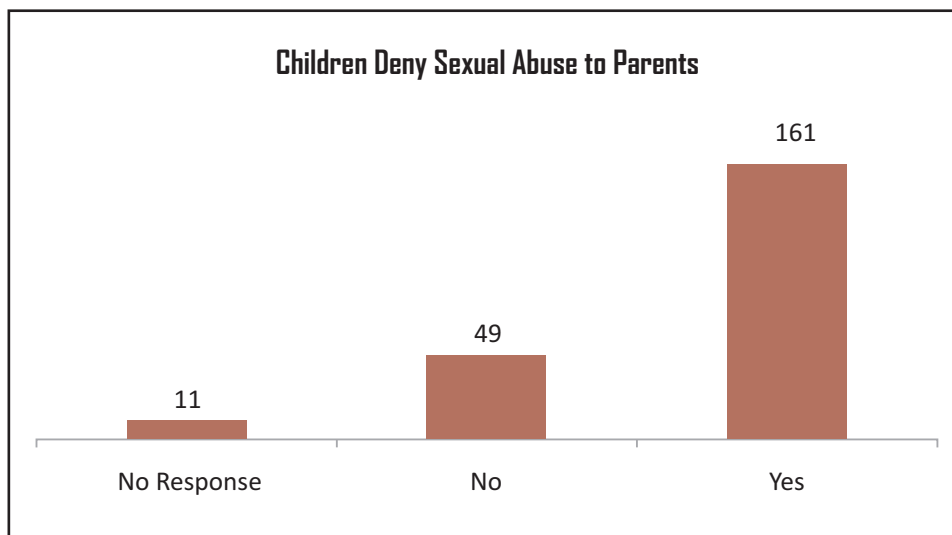
**Graph 8-** How many forms are there of child sexual abuse.

There is a major gap in the knowledge of the forms of sexual abuse as 48% lawyers have not responded to the question. All of them should know at least about the three forms that are most commonly reported, that is, rape/ sodomy, and attempt of rape /sodomy, also referred to as molestation. These are obviously the most recognized forms of sexual abuse, and have been identified by 22% respondents. Only one respondent has identified “many” forms of sexual abuse.

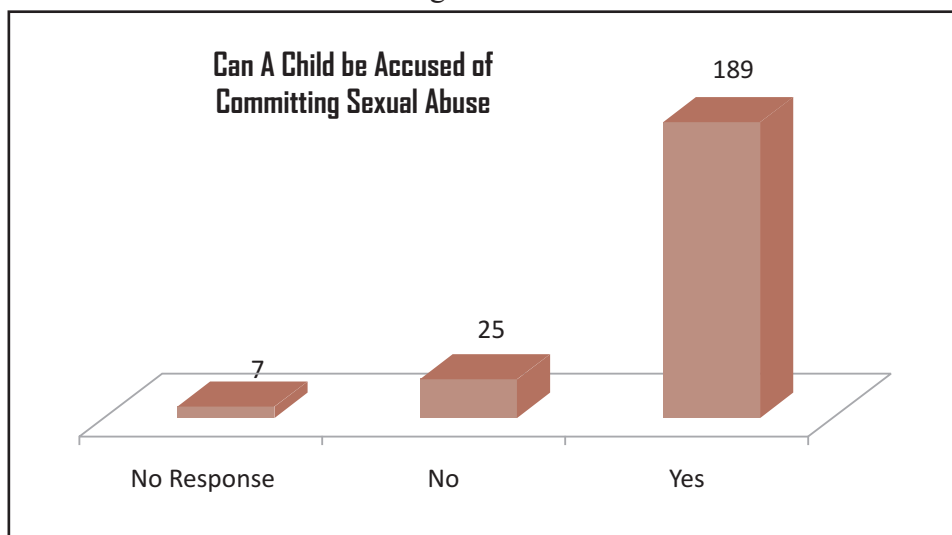
There are actually eight forms of sexual abuse which include voyeurism, exhibitionism, and verbal sexual abuse, touching of the body in a sexual manner, pornography, oral sex, prostitution, and rape/sodomy.

**Graph 9-** Is physical injury necessary during an incident of sexual abuse.

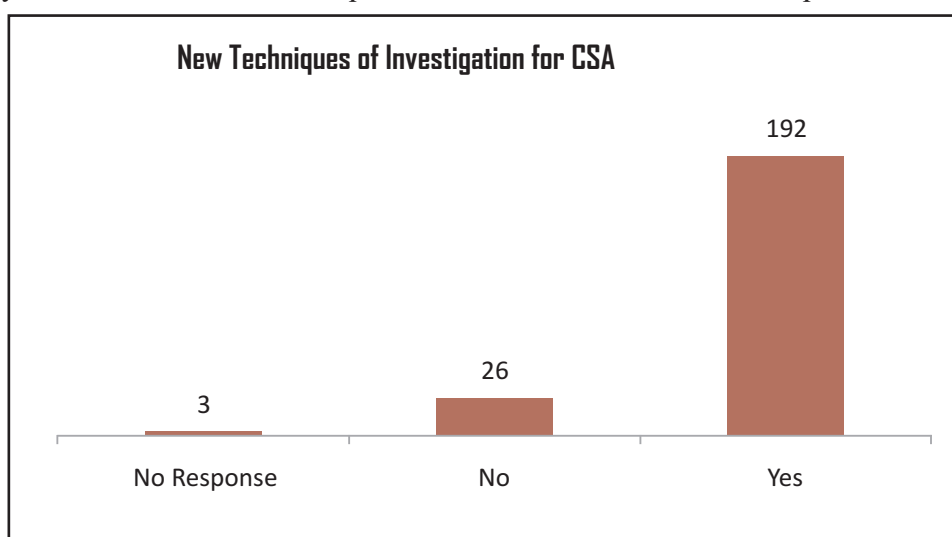
Often the abuser uses love and affection to trap children. The abuser would usually avoid giving physical injury to the victim as it will prevent continued accessibility. Injury may also force the victim to disclose the abuse. This reality was understood by 76% respondents.

**Graph 10-** Can children deny sexual abuse to parents.

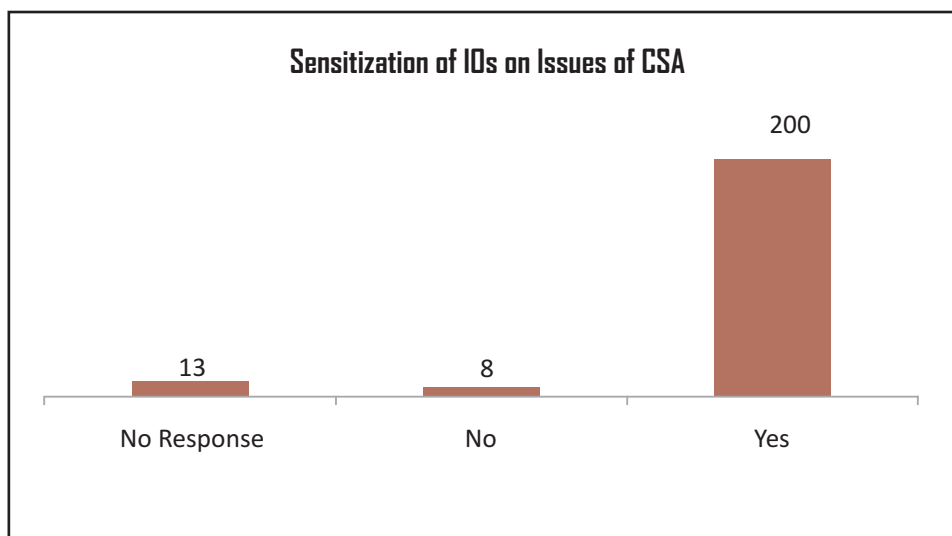
Denial of sexual abuse by the child victim is extremely probable due to a number of reasons. There is fear, guilt, self blame, and most of all lack of confidence due to the poor parental communication and support. Awareness of this fact was among 73% of the respondents.

**Graph 11-** Can a child be accused of committing sexual abuse.

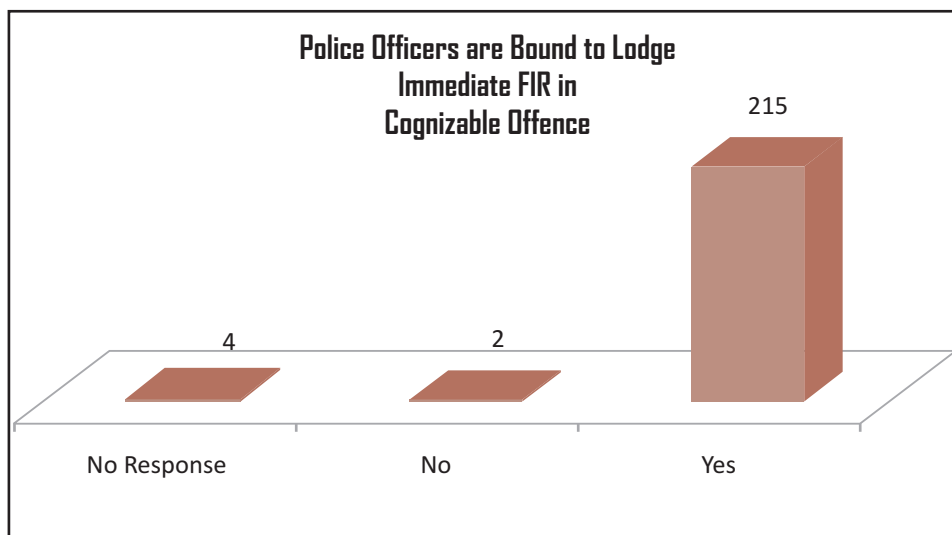
Most of the lawyers (85%) know that children can be accused of sexual abuse. These cases are usually against boys between the ages of 14 to 17 years who are accused of committing sexual abuse. At this age, as they are still under 18 years of age, they should not be put in jail. Unfortunately, there are no correction homes for them to receive counseling, or learning alternative behaviors. The chances are that they may be further criminalized during their imprisonment in jail.

**Graph 12-** Do you think that CSA cases require more new and advanced techniques of investigation.

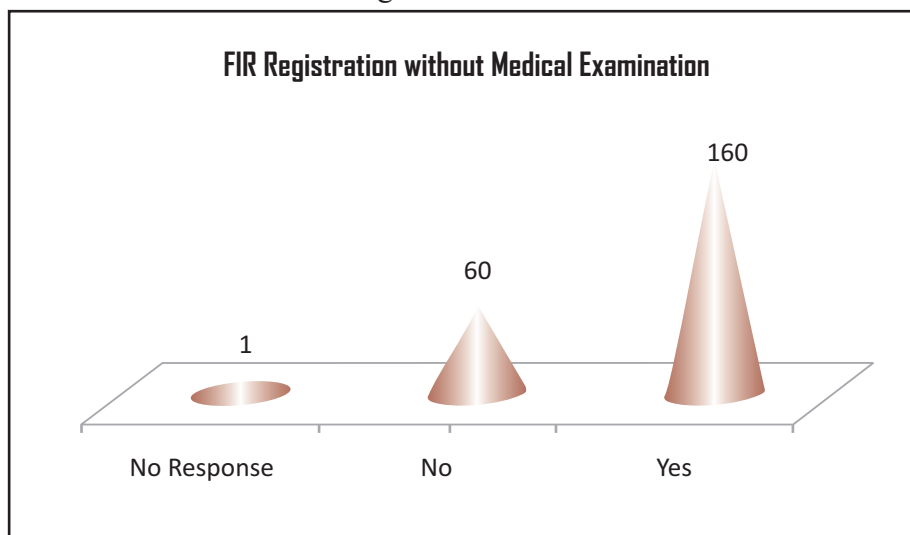
There is a high level of agreement amongst the lawyers that there should be new forms of investigation. This reflects that the procedures laid down in the Juvenile Justice System Ordinance 2000 should be adopted for the child victim under the age of 18 years. For example, all the requirements as enumerated in section 6 and 8 of JJSO 2000 should, mutatis mutandis, apply in cases where the victim is a minor. Some other points of the JJSO law are that evidence of the child should be in camera, no joint trials.

**Graph 13-** Do you think the Investigating Officers (IO) should be more sensitized on the issue of CSA.

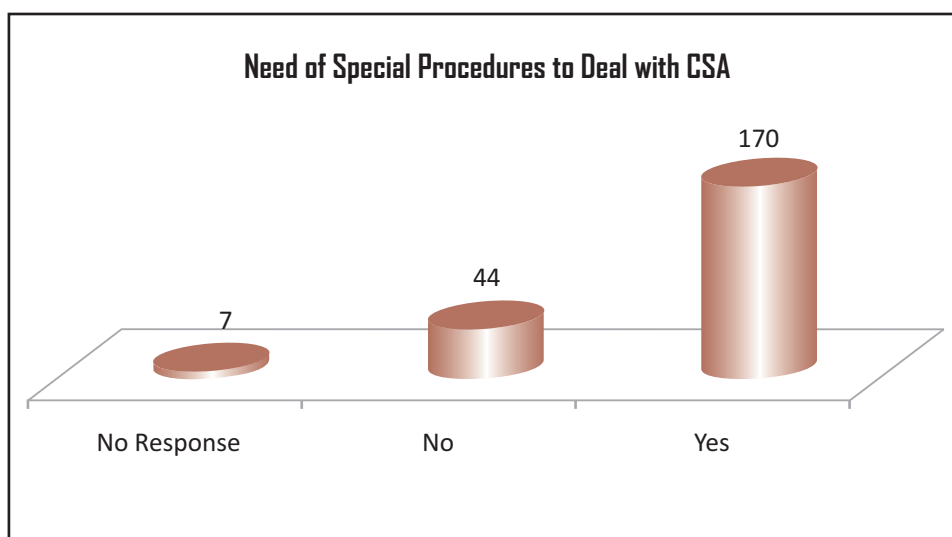
There is a wide acceptance by the respondents (91%) of the need to sensitize the IO. The strength of a case depends on the investigating officer, so his understanding of issues with regard to CSA is extremely important.

**Graph 14-** Do you think that police officials are bound to lodge immediate FIR in a cognizable offence.

This has been correctly responded to by nearly all the lawyers.

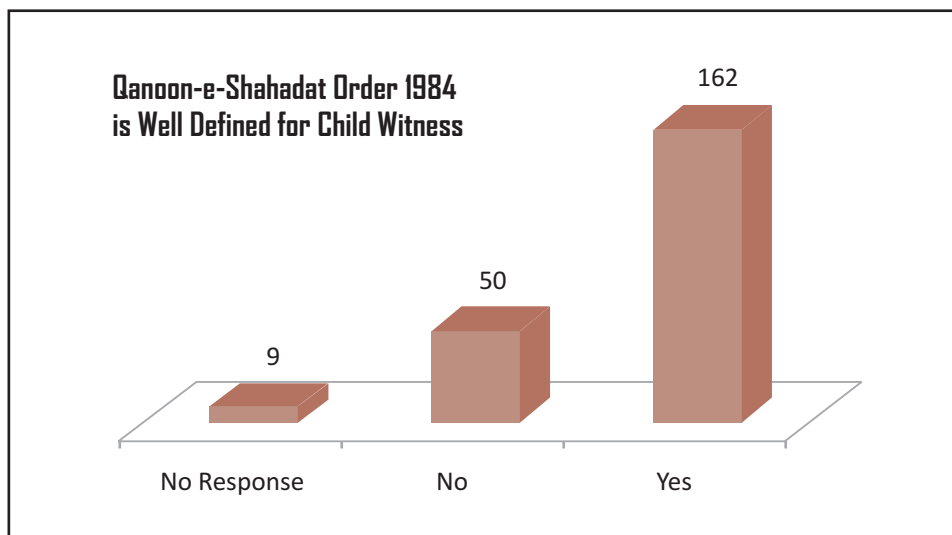
**Graph 15-** Can an FIR for sexual abuse be registered without medical examination.

The complainant is often told that an FIR cannot be registered till a medical report is submitted. Even though the majority of 72% lawyers have responded correctly, it is of some concern that 28% of the respondents did not know this fact.

**Graph 16-** Do you think that special procedures in the context of laws should be adopted while dealing with CSA cases.

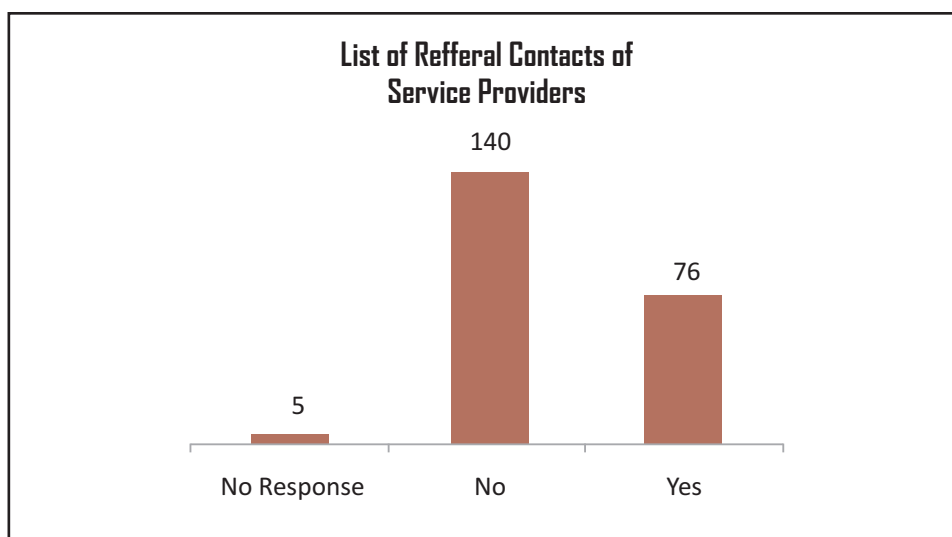
A majority of the lawyers (77%) realize the problems faced by the victims due to long drawn out procedures often end up with the complainants abandoning the case.

**Graph 17-** Do you think the Article 3 of Qanoon-e-Shahadat Order, 1984, which deals with competency of witnesses, requires more interpretations and explanations with regard to child witness, including when he or she is a victim.



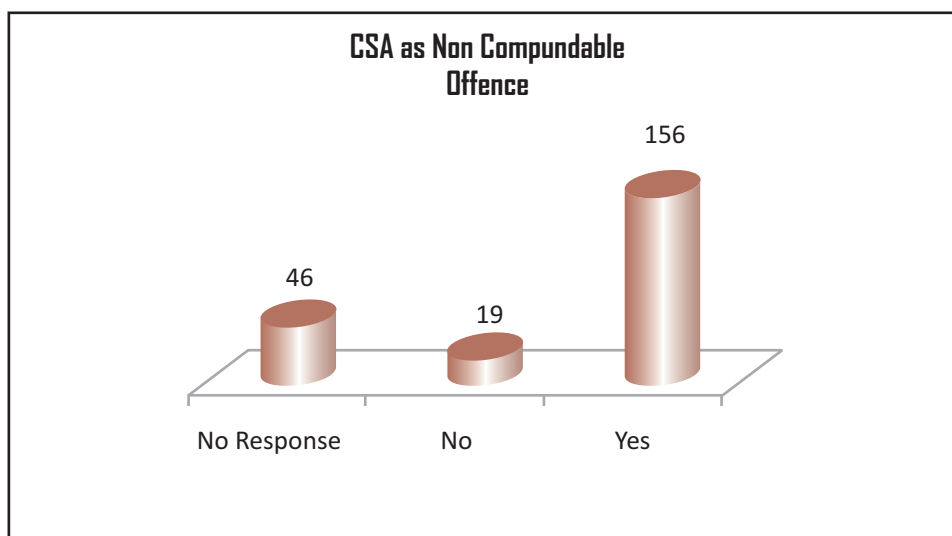
This response also corresponds to the question regarding special procedures for CSA cases in Graph-16. An almost equal number of respondents (72%) see the need for more interpretations of the Qanoon-e-Shahadat.

**Graph 18-** Do you have any list of referral contact information of service providers for child protection?



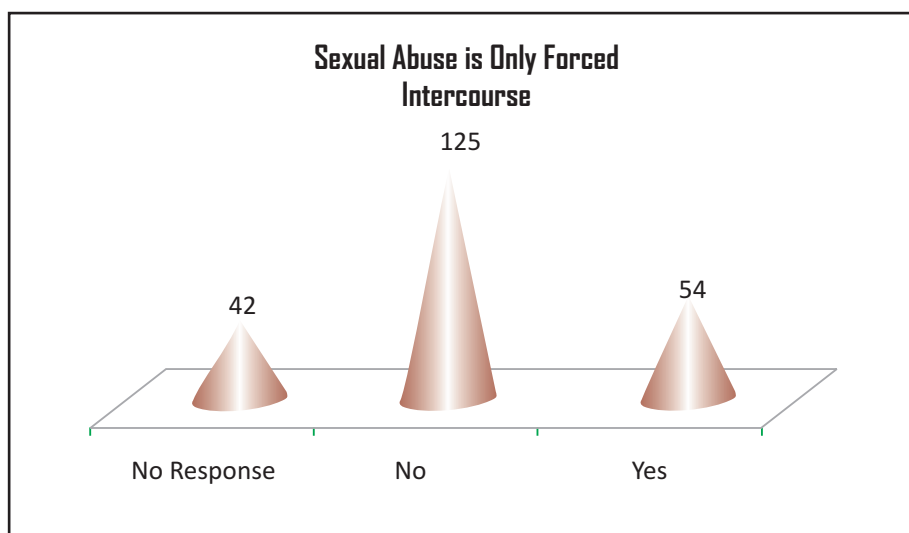
This is a gap that needs to be addressed as 63% of the respondents had no referral contacts of service providers for child protection. Often victims of sexual abuse may require support in the form of a safe shelter, monetary support and/or psychological counseling.

**Graph 19-** Is child sexual abuse a non-compoundable offence.



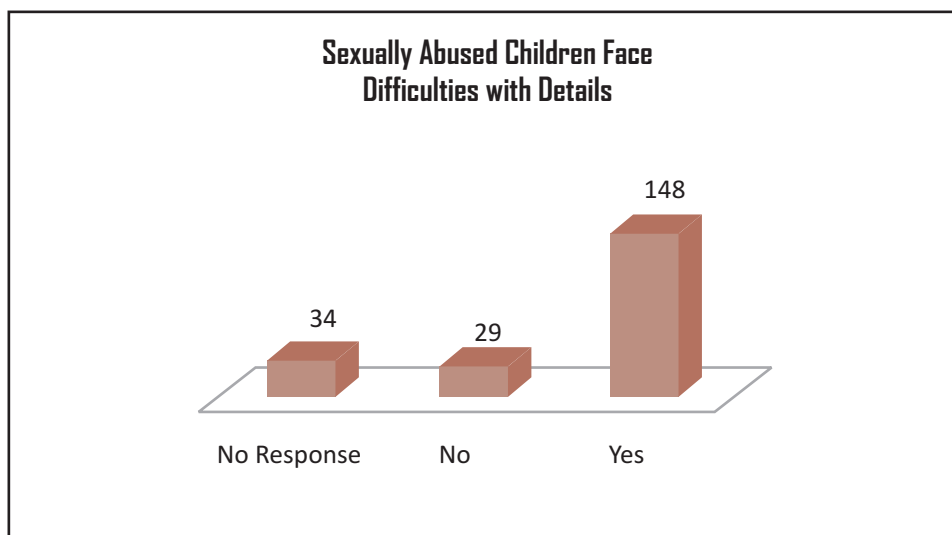
This information should be known to all lawyers that CSA is a non compoundable offense, but 29% did not give a response, and 2.5% actually said that CSA is **not** a non-compoundable offence.

**Graph 20-** Is child sexual abuse only forced sexual intercourse.

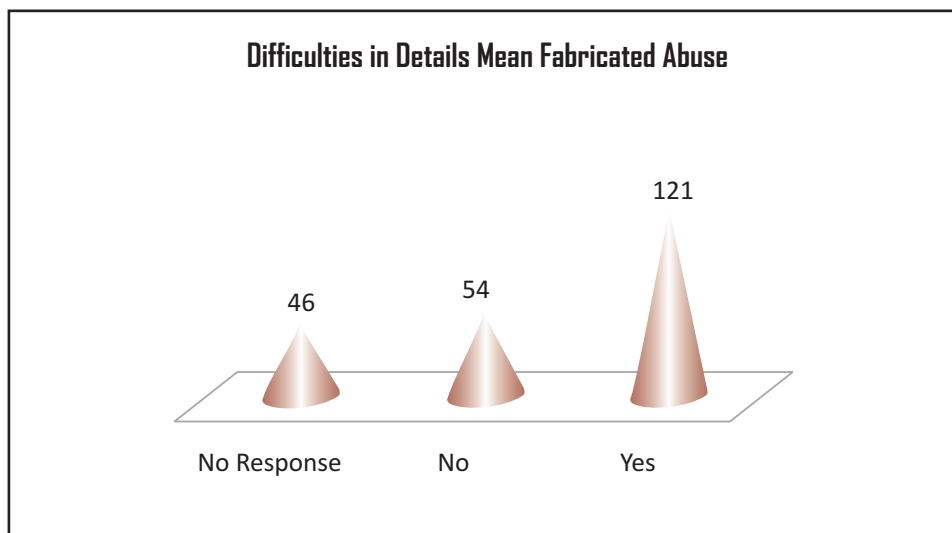


Although 50% of the respondents realize that sexual abuse is not only forced sexual intercourse, the other 50% of the respondents show lack of knowledge about forms of sexual abuse as seen in Graph-7 also.

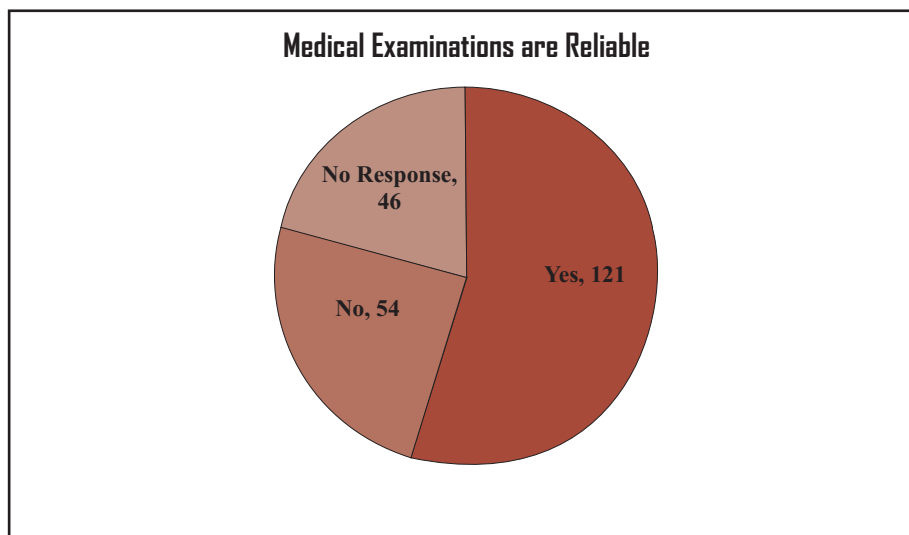


**Graph 21-** Can children who have been sexually abused have difficulties with details.

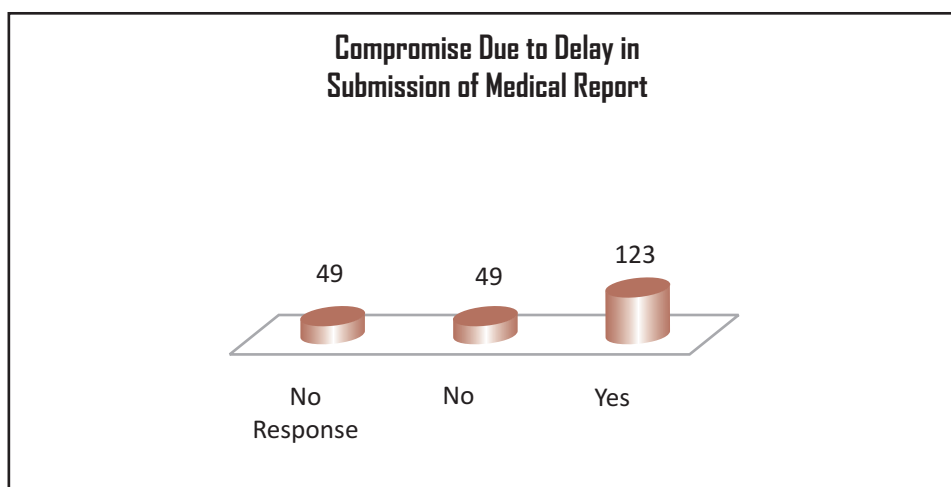
A little more than half the respondents (66%) have shown sensitivity to understanding that child victims could have difficulty with details. This is a very important factor that lawyers must know as they will then be able to understand why statements may be inconsistent, and how they can best help the child to recall and recount the incidence.

**Graph 22-** Will these difficulties mean that the abuse is fabricated.

It has to be understood that CSA victims can have difficulties in recall, but that does not mean that the case is fabricated. This aspect must be considered when dealing with a case as it may be the cause of the failure to pursue a case of child sexual abuse. It is unfortunate that 54% of the lawyers are of the opinion that this would mean that the case was fabricated although they understood that there can be difficulty in recall as seen in Graph-21.

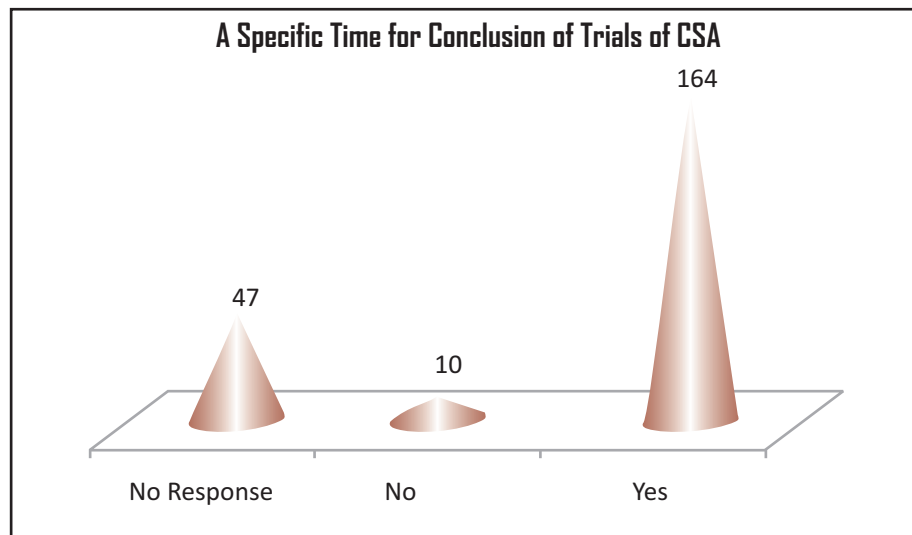
**Graph 23-** Do you think that results of samples for medical examination are reliable?

If we include the 54 respondents who have said no to the question and the 46 who have given no response, nearly 50% of lawyers do not think that the results are reliable. Legal-medico officers have reported that they do give negative results because they do not have any transport available to them to go for providing evidence, and they are also accused by seniors for being absent from work.

**Graph 24-** Does the delay in submission of Chemical Examination Report force the victim party to think of compromising with the accused party.

Nearly 66% of respondents agree that delays in chemical reports give enough time for a compromise to be reached. It should be remembered that the accused is often in a position of power, therefore a lot of pressure is usually put on the victim party to withdraw the case. Delay in the submission of reports or other court procedures gives space to the abuser to harass the victim and that is when the complainant gives up hope of justice. According to statistics of legal cases handled by Sahil, an average of 60% cases goes into compromise.

**Graph 25-** Do you think that there should be some specific time period for conclusion of the trials of CSA cases.



It is encouraging to see that the lawyers (74%) do feel that there should be a time bind for decisions on CSA cases. The victim party, especially the child, should be relieved of the onerous procedures in the shortest time possible.

## Recommendations

Lawyers will need to be further informed and sensitized on:

- The articles of The United Nations Convention on the Rights of the Child (UNCRC)
- International commitments on women and children
- Forms of sexual abuse
- Effects of child sexual abuse

Recommendations for future actions regarding legal procedures include:

- Improvements in procedures for CSA cases
- Inclusion of special procedures in context of the law
- Sensitization of investigating officers
- More interpretations on competency of witnesses
- A specific time period for the conclusion of trials of child sexual abuse cases

This is the consensus of more than 75% of the lawyers in response to the questionnaire. (Annexure I).

Sahil wishes to take up these very important concerns of lawyers to further strengthen the laws on exposure to seduction, child pornography, cruelty to children, trafficking of human being and sexual abuse. (Annexure II).

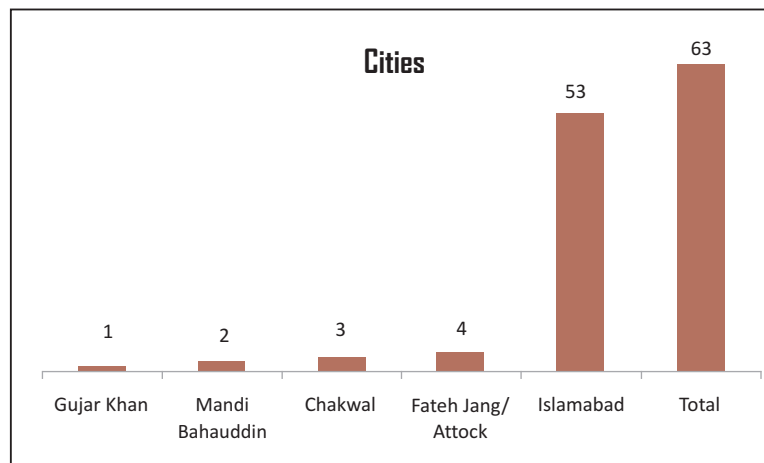
As a part of this advocacy Sahil will now be going in for consultation with Bar Councils and Lawyers Associations in 8 districts of Pakistan, two from each province.

## Federal Capital / Cities

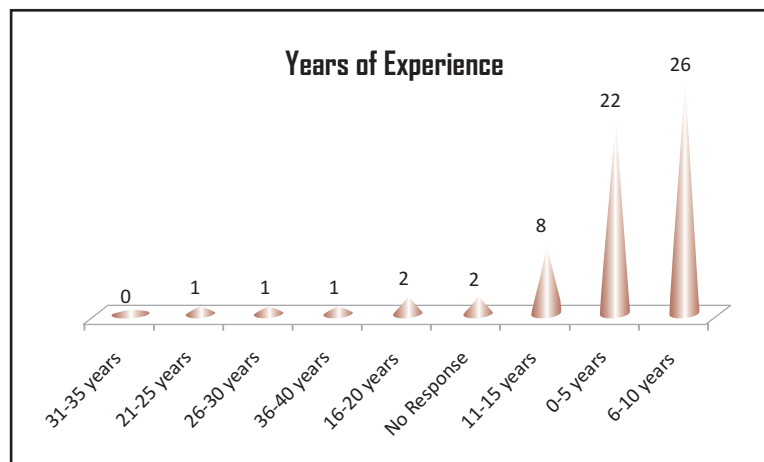
A total of 63 lawyers answered the questionnaire with 53 from Islamabad, 4 from Fateh Jang /Attock, 3 from Chakwal, 2 from Mandi Bahauddin, and 1 from Gujar Khan.

## Demographics

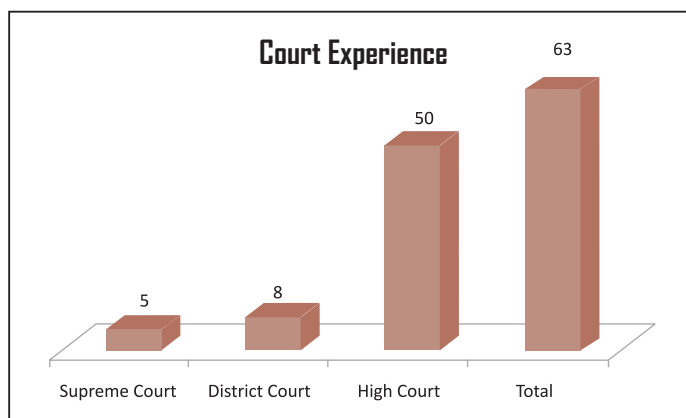
**GRAPH 1** – 63 respondents from Federal Capital Islamabad and neighboring cities



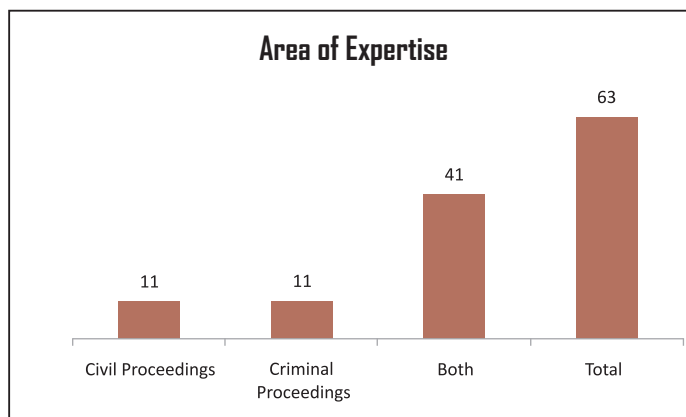
**GRAPH 2-** Years of practice



**GRAPH 3-** Court experience

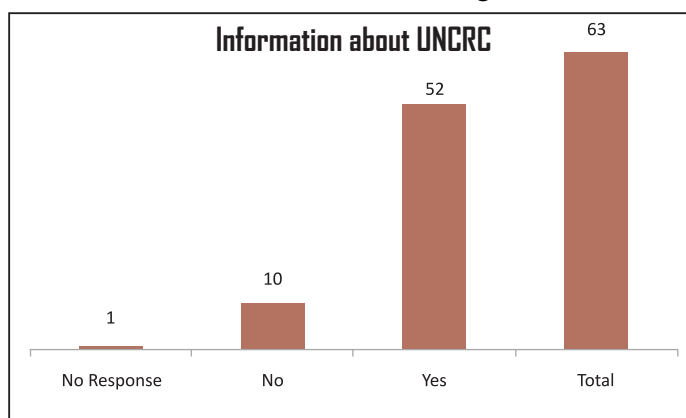


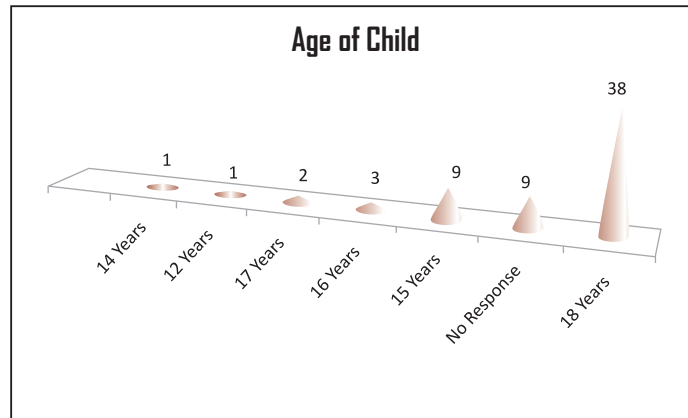
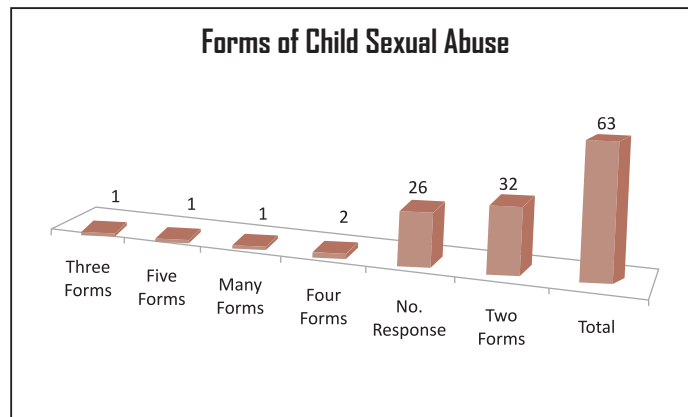
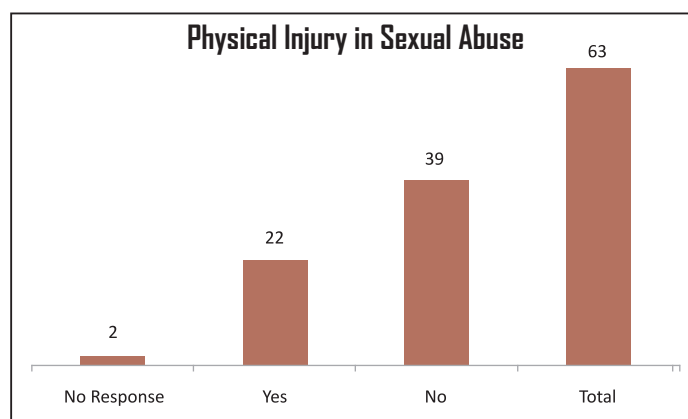
**GRAPH 4 -** Area of expertise



Responses to the questionnaire

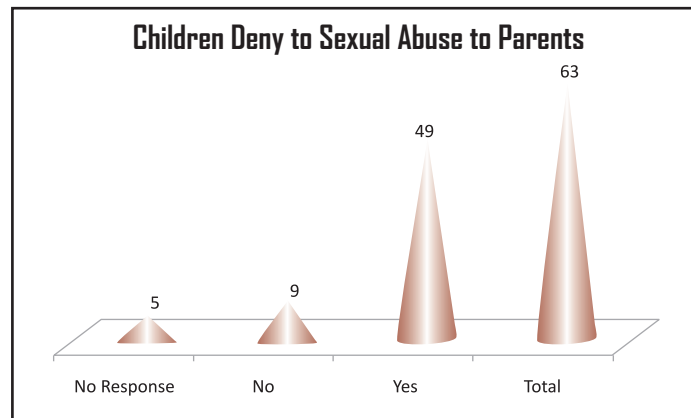
**GRAPH 5 - :** Do you know about the UN Convention on the Rights of the Child?



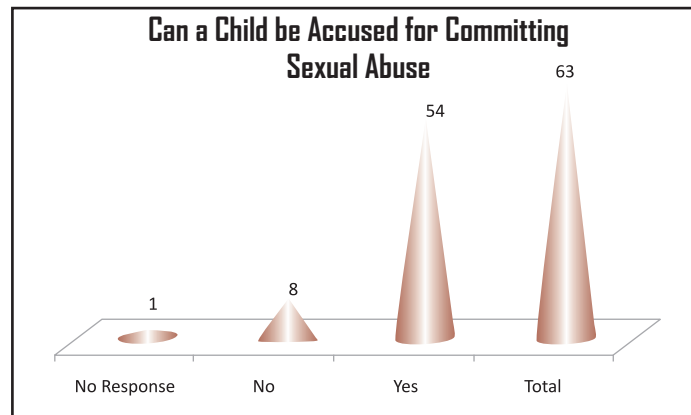
**GRAPH 6 -** According to you, what is the age that defines a child?**GRAPH 7 -** How many forms are there of child sexual abuse?**GRAPH 8 -** Is physical injury necessary during an incident of sexual abuse?



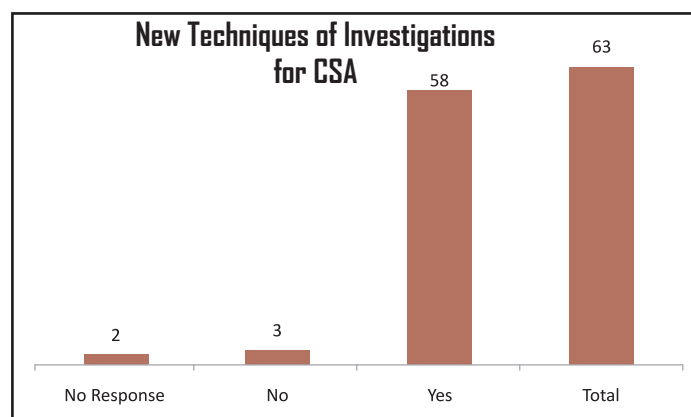
**GRAPH 9-** Can children deny sexual abuse to parents?

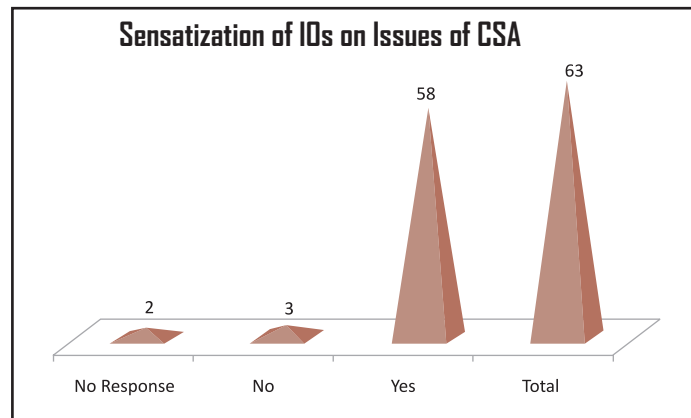
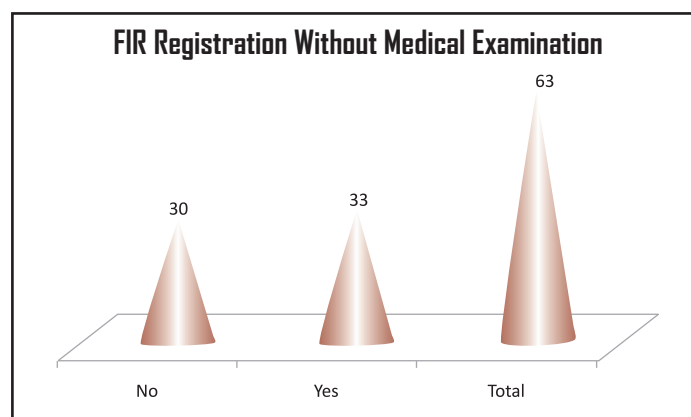


**GRAPH 10-** Can a child be accused of committing sexual abuse?

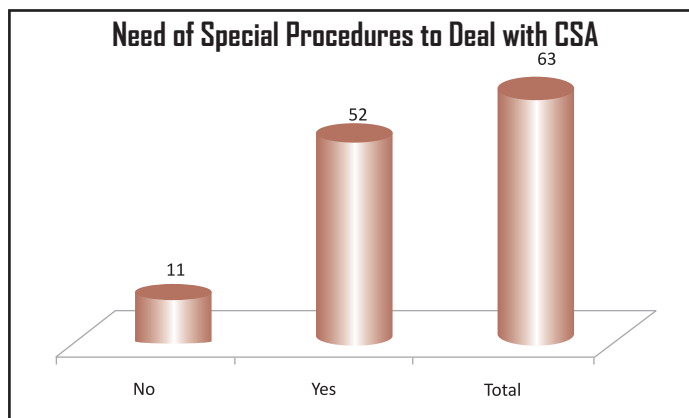


**GRAPH 11-** Do you think that CSA cases require more new and advanced techniques of investigation

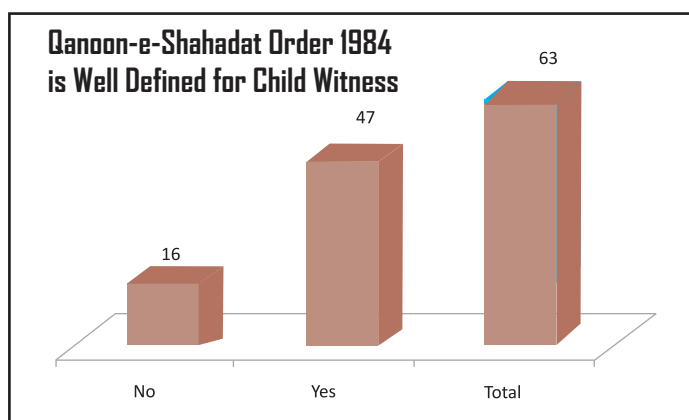


**GRAPH 12-** Do you think the investigating officers (IO) should be more sensitized on the issue of CSA?**GRAPH 13-** Do you think that police officials are bound to lodge immediate FIR in a cognizable offense?**GRAPH 14-** Can an FIR for sexual abuse be registered without medical examination?

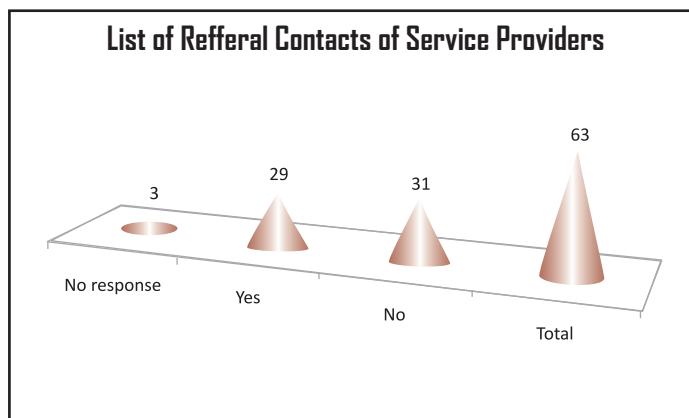
**GRAPH 15-** Do you think that special procedures in context of laws should be adopted while dealing with CSA cases?

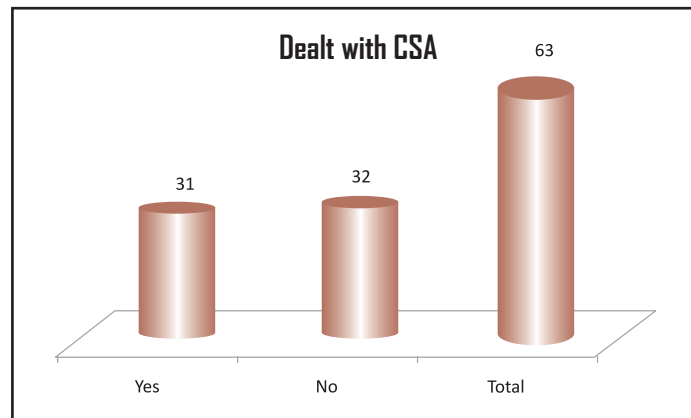
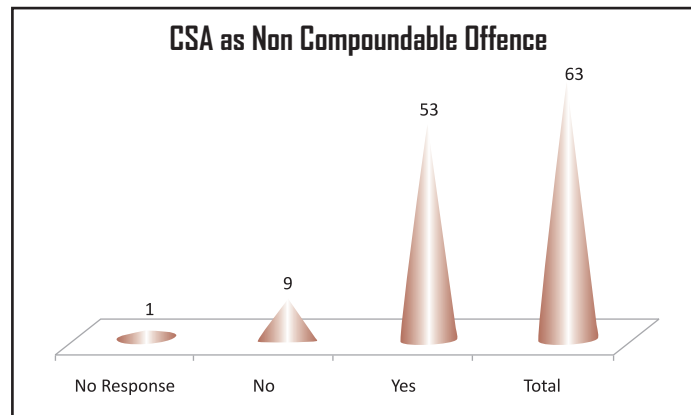
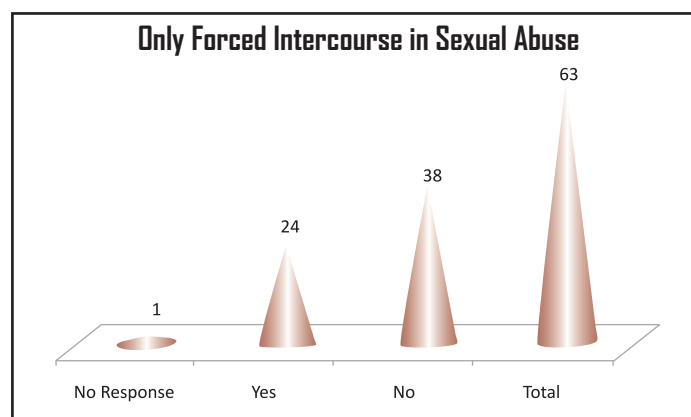


Do you think the article 3 of Qanoon-e-Shahadat Order 1984, which deals with the competency of witnesses, requires more interpretations and explanations with regard to child witness including when he or she is victim

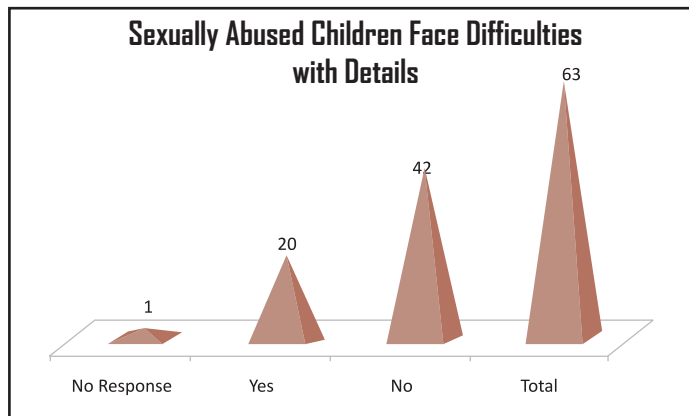


**GRAPH 16-** Do you have any list of referral contact information of service providers for child protection?

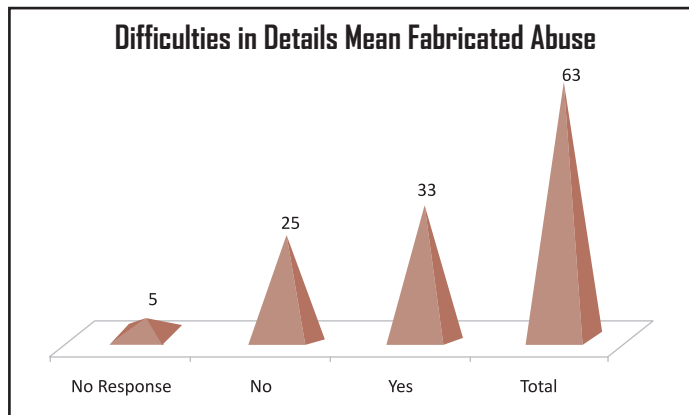


**GRAPH 17-** Have you handled any case of child sexual abuse (CSA)?**GRAPH 18-** Is child sexual abuse a non-compoundable offence?**GRAPH 19-** Is child sexual abuse only forced sexual intercourse

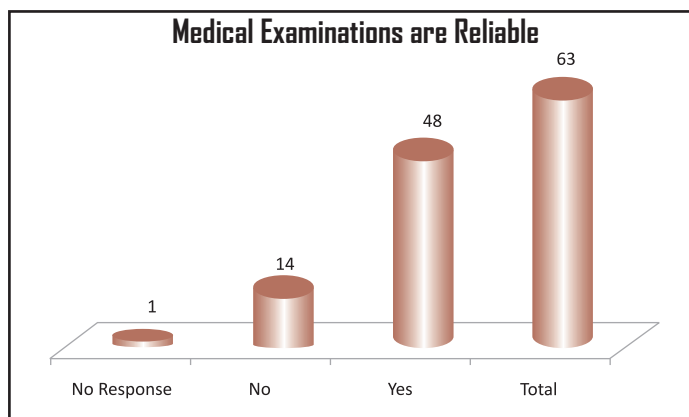
**GRAPH 20-** Can children who have been sexually abused have difficulties with details?



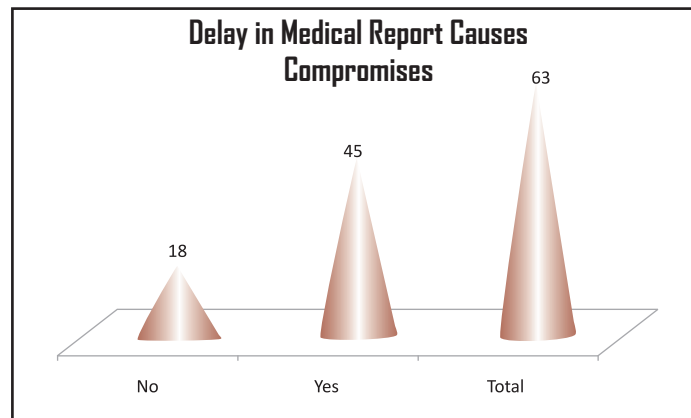
**GRAPH 21 -** Will these difficulties mean that the abuse is fabricated?



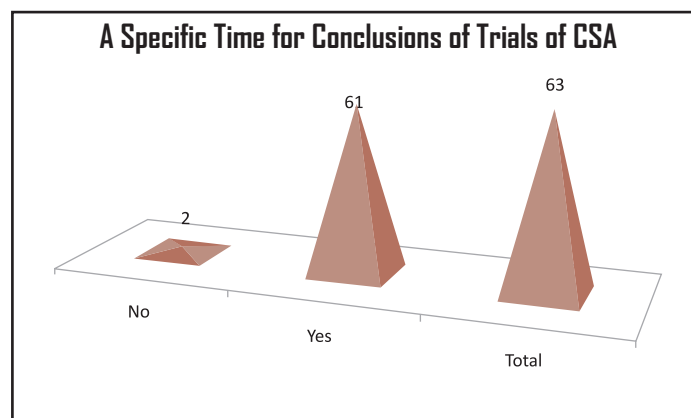
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**GRAPH 23** - Does the delay in submission of Chemical Examination Report force the victim party to think about compromise with the accused?



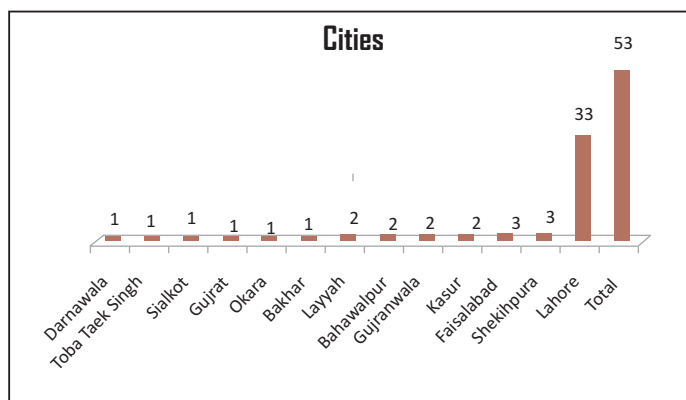
**GRAPH 24** - Do you think that there should be some specific time period for conclusion of the trials of CSA cases?



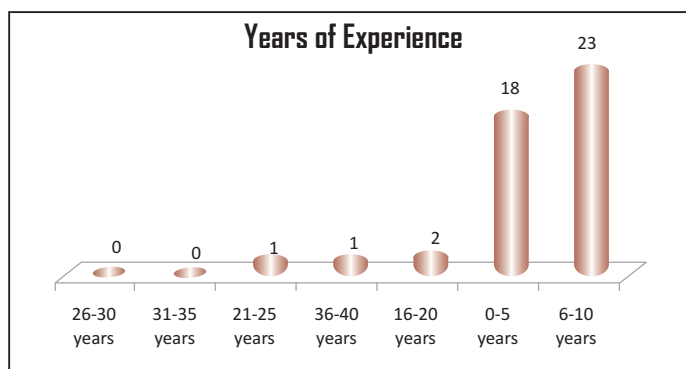
## Punjab

### Demographics

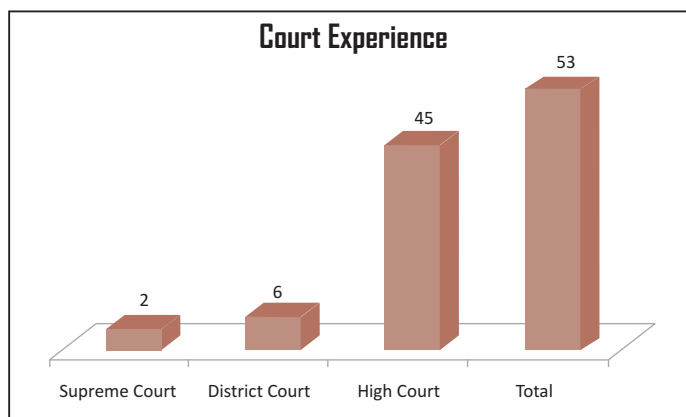
GRAPH 1 – Cities



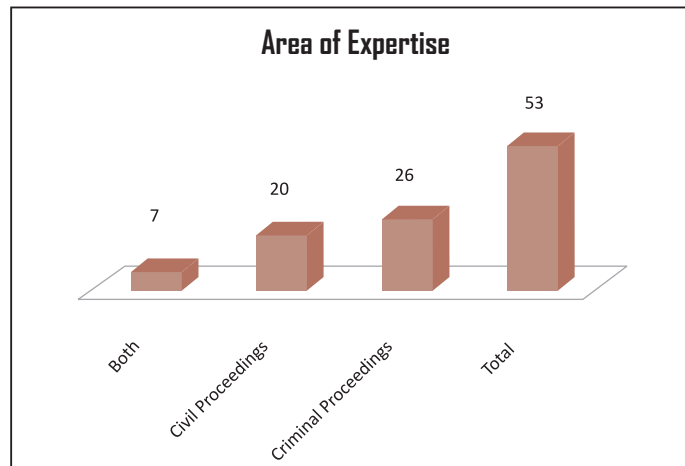
GRAPH 2- Years of practice



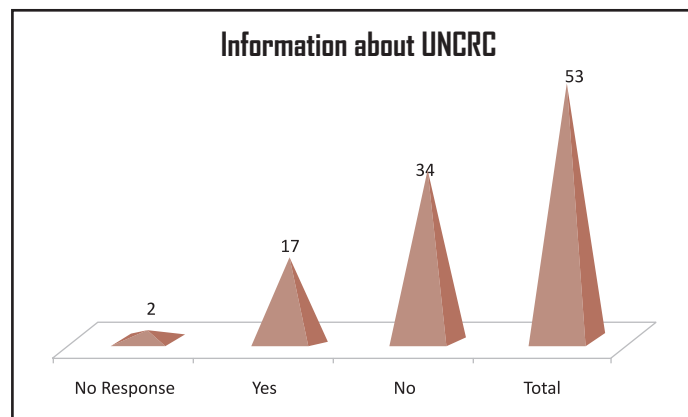
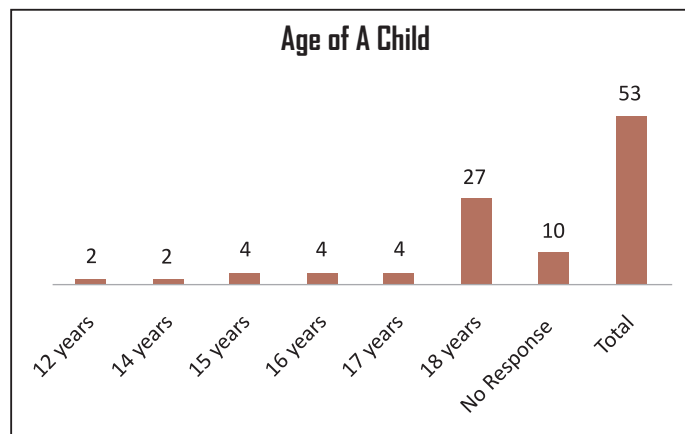
GRAPH 3- Court experience



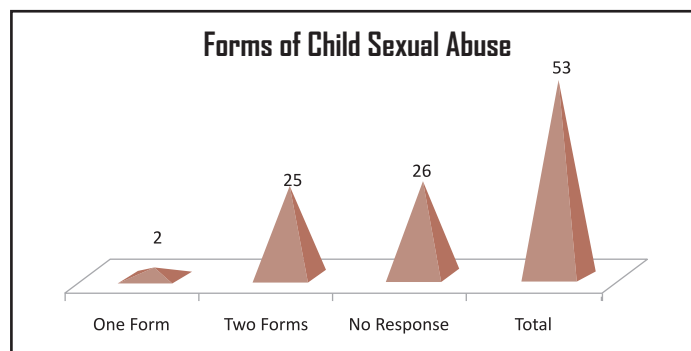


**GRAPH 4 - Area of expertise (no need of total)**

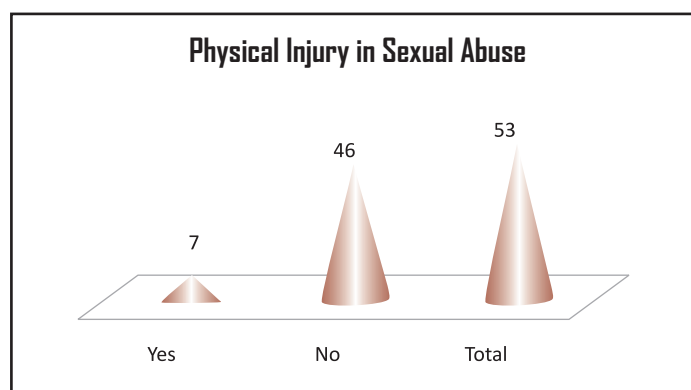
Responses to Questions

**GRAPH 5 - : Do you know about the UN Convention on the Rights of the Child?****GRAPH 6 - According to you, what is the age that defines a child?**

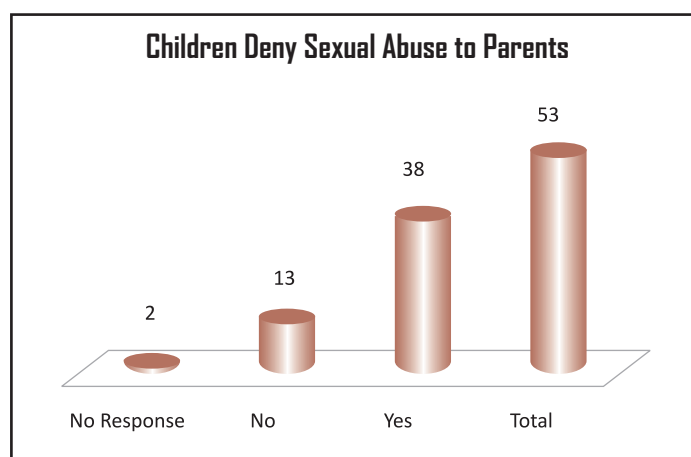
**GRAPH 7-** How many forms are there of child sexual abuse?

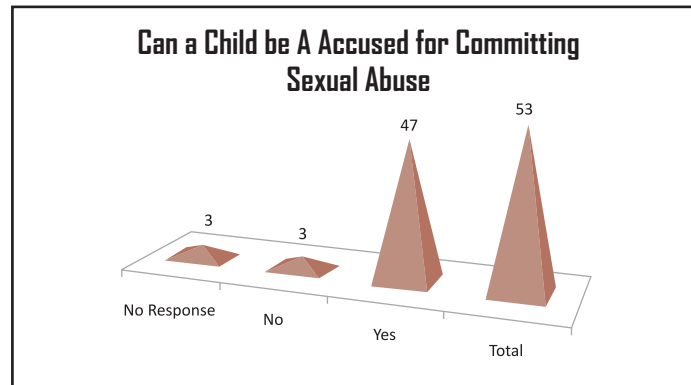
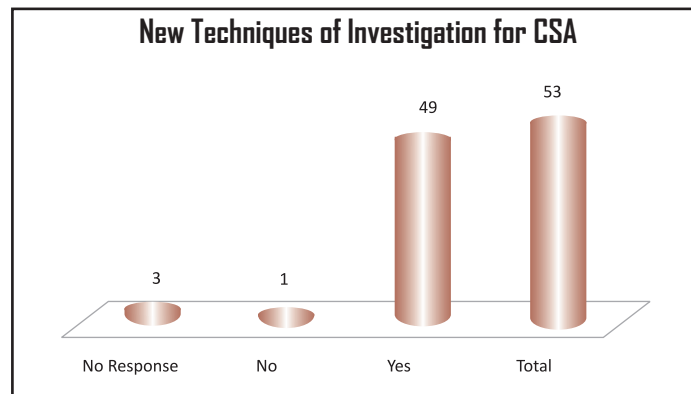
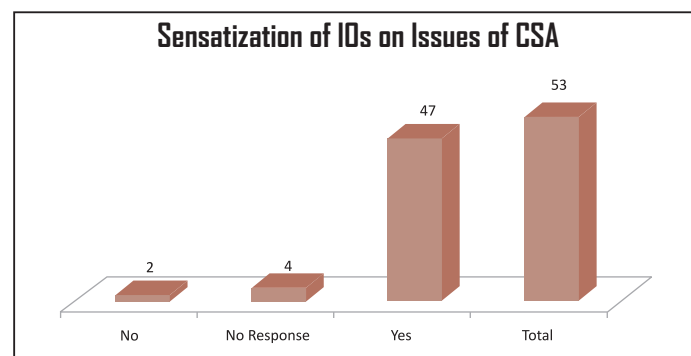


**GRAPH 8-** Is physical injury necessary during an incident of sexual abuse?

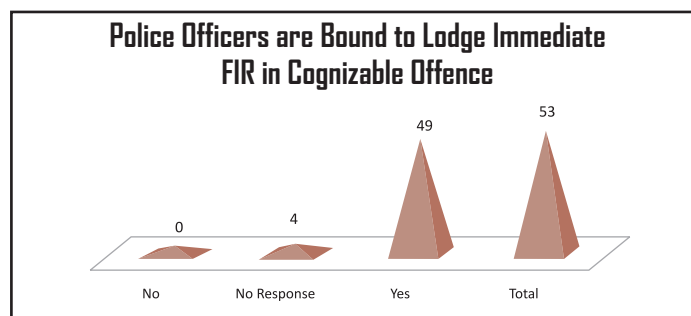


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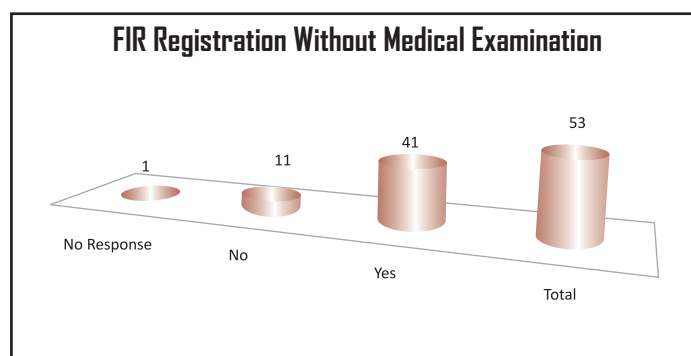


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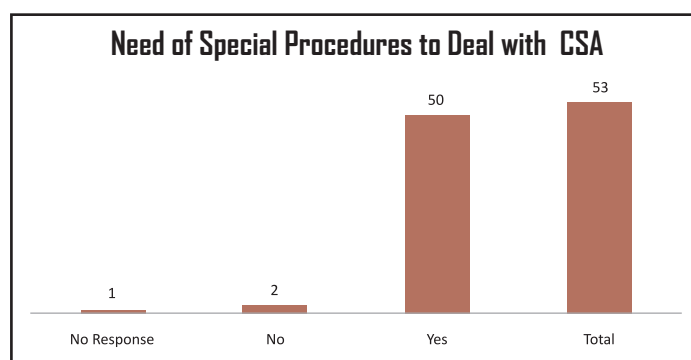
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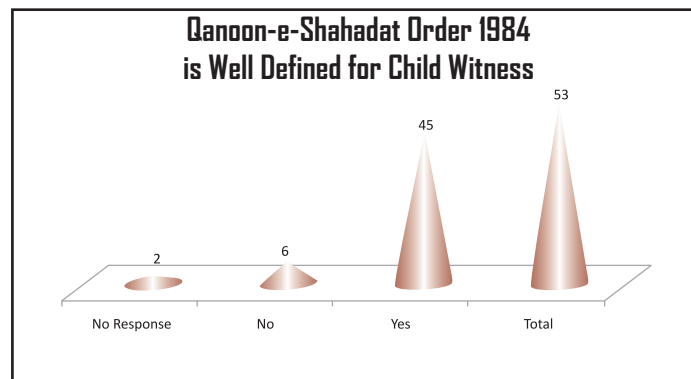
**GRAPH 14-** Can an FIR for sexual abuse be registered without medical examination?



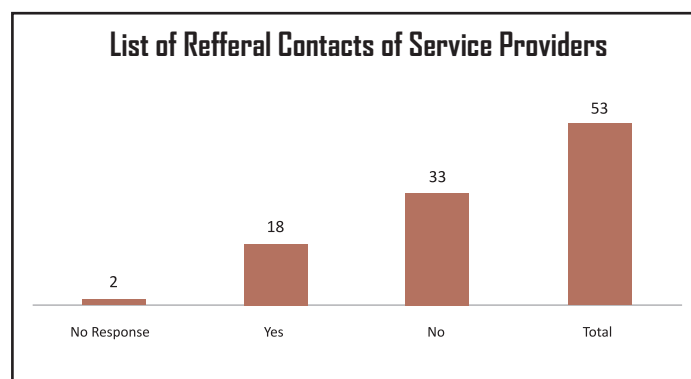
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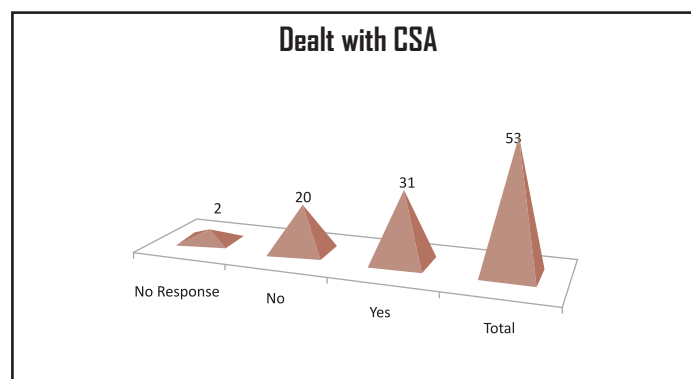
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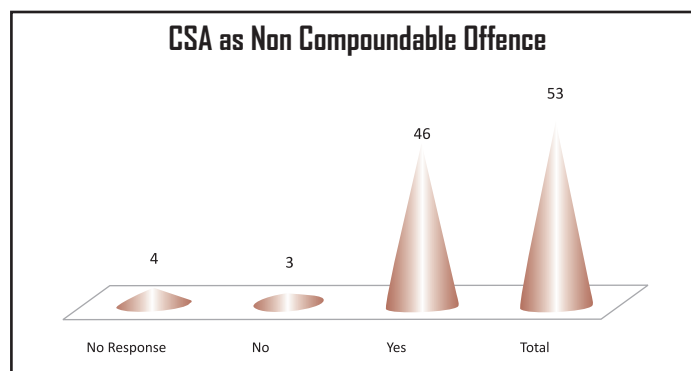
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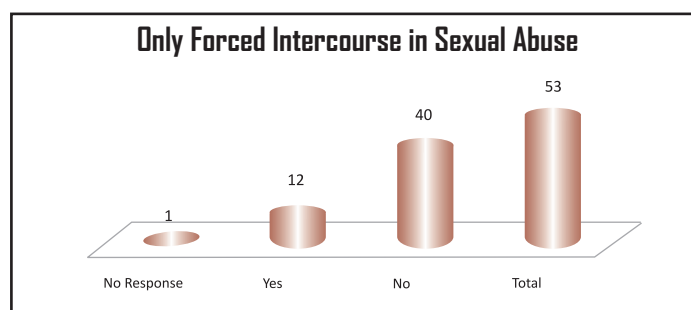
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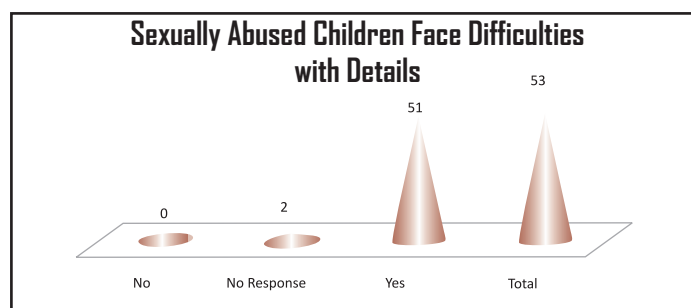
**GRAPH 18-** Is child sexual abuse a non-compoundable offence?



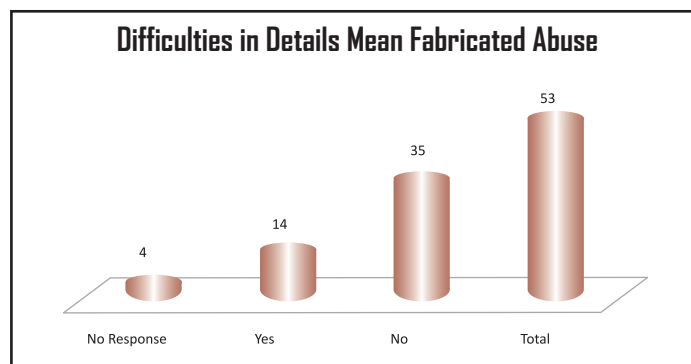
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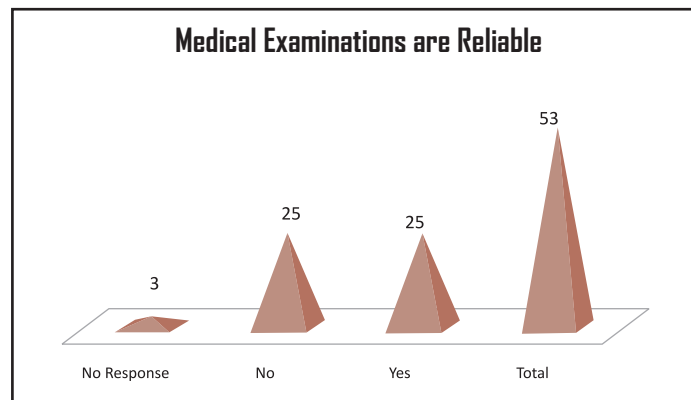
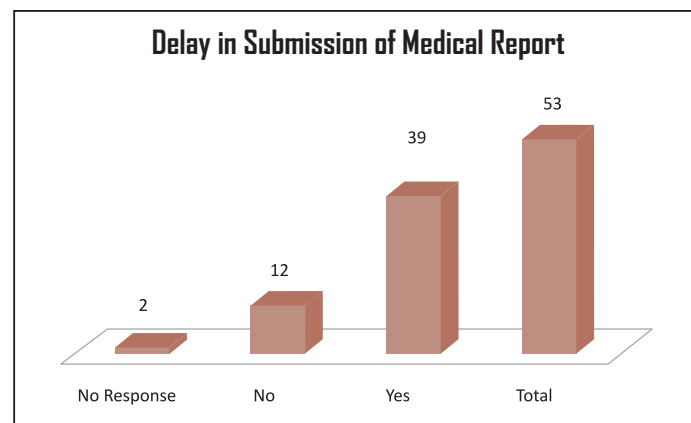
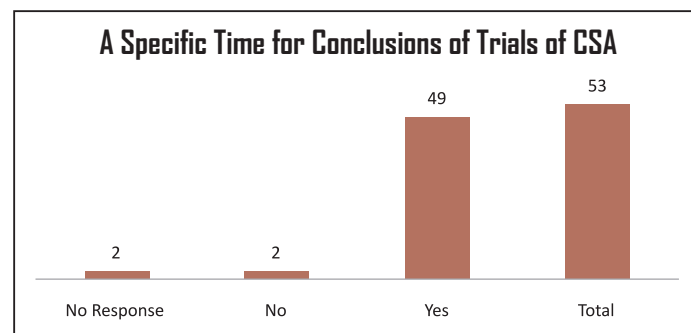


**GRAPH 20-** Can children who have been sexually abused have difficulties with details?



**GRAPH 21 -** Will these difficulties mean that the abuse is fabricated?

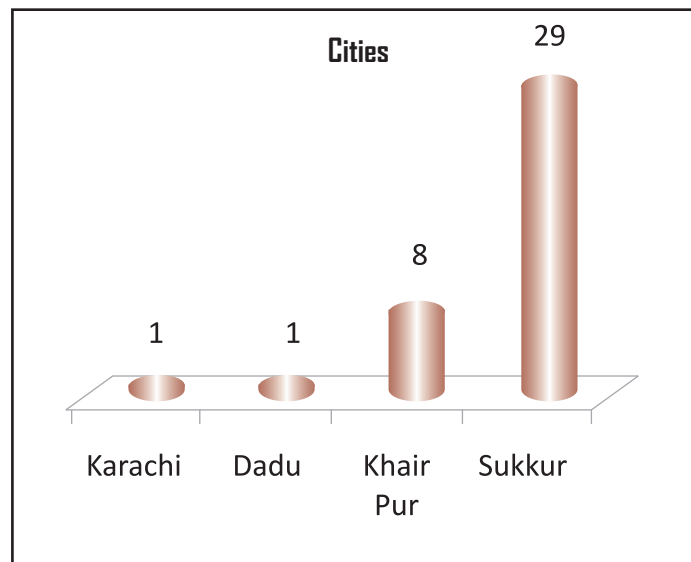


**GRAPH 22-** Do you think that results of samples for medical examination are reliable?**GRAPH 23 -** Does the delay in submission of Chemical Examination Report force the victim party to think about compromise with the accused?**GRAPH 24 -** Do you think that there should be some specific time period for conclusion of the trials of CSA cases?

## Sindh

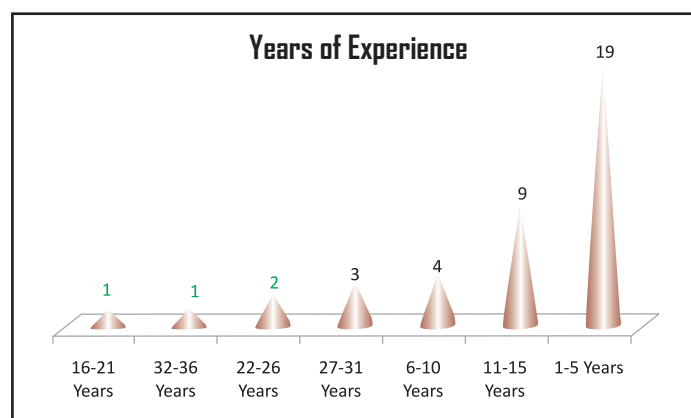
A total of 39 lawyers from Sindh, including Sukkur 29, Khairpur 8, Karachi 1, and Dadu 1 answered the questionnaire.

**GRAPH 1.** Cities of Sindh

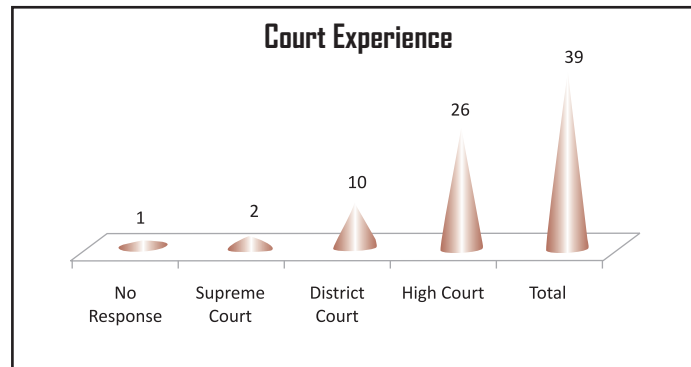
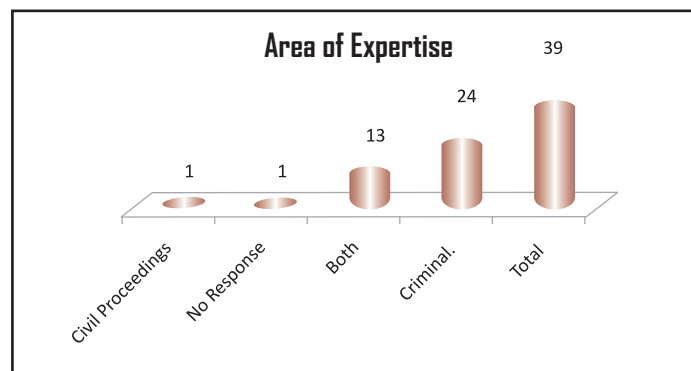
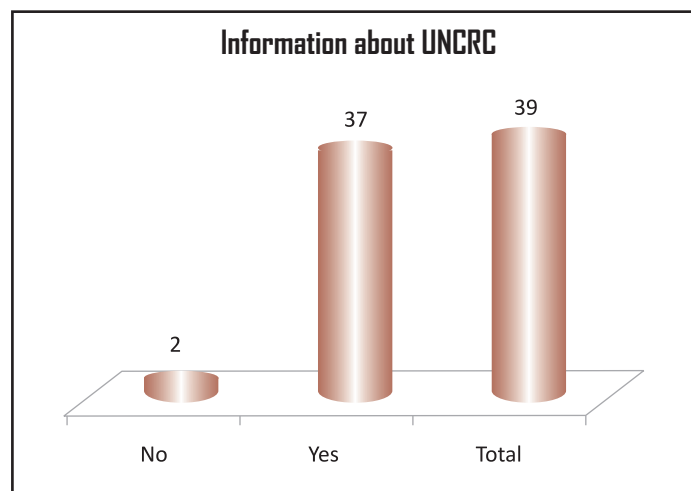


**GRAPH 2-** Years of practice.

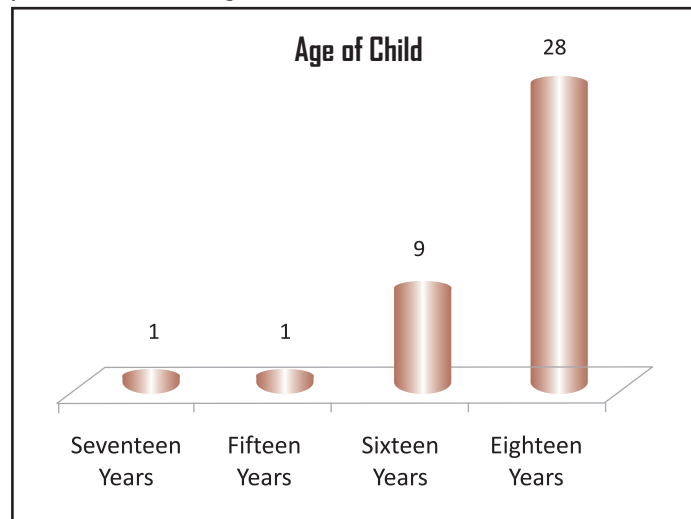
Their years of practice ranged from one year to 31 years. The break up can be seen in the following graph



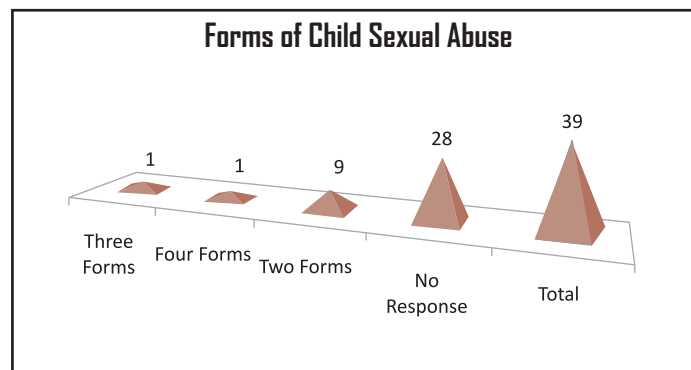


**GRAPH 3- Court experience****GRAPH 4 - Area of expertise****GRAPH 5 - : Do you know about the UN Convention on the Rights of the Child?** A total of 37 lawyers knew about the UN Convention on the Rights of the Child.

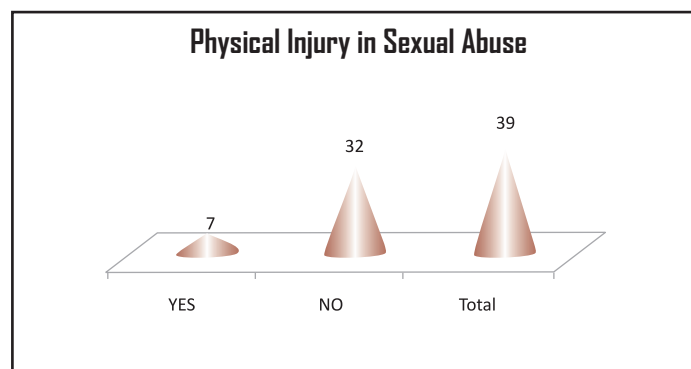
**GRAPH 6 -** According to you, what is the age that defines a child?

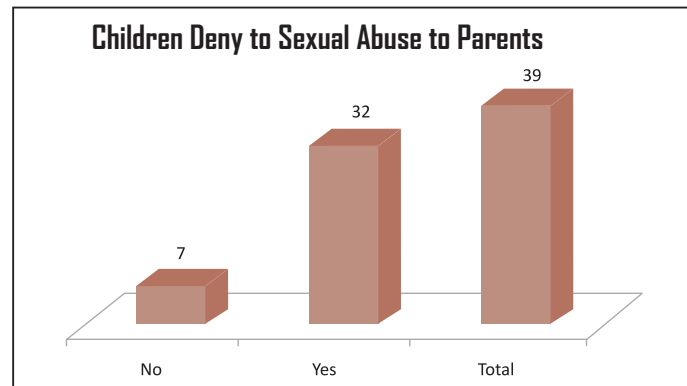
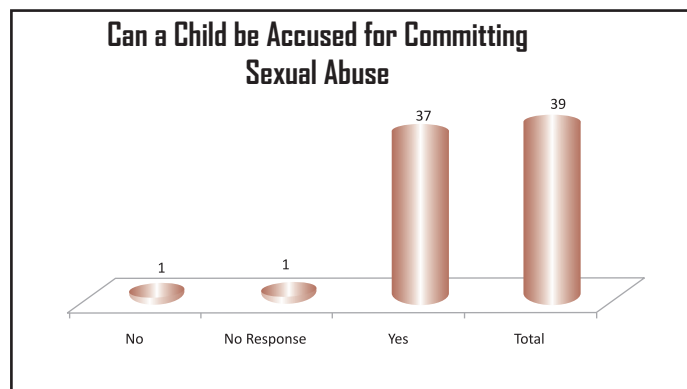
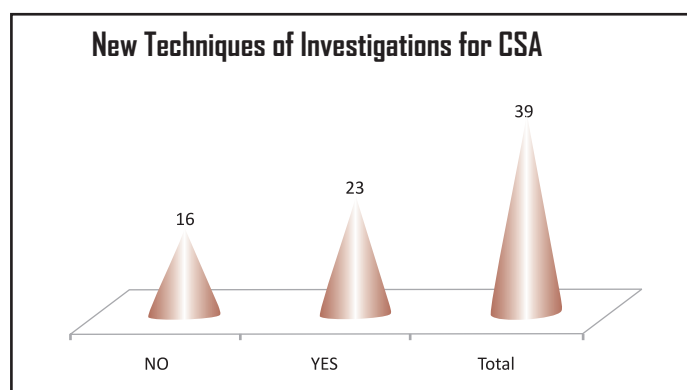


**GRAPH 7-** How many forms are there of child sexual abuse?

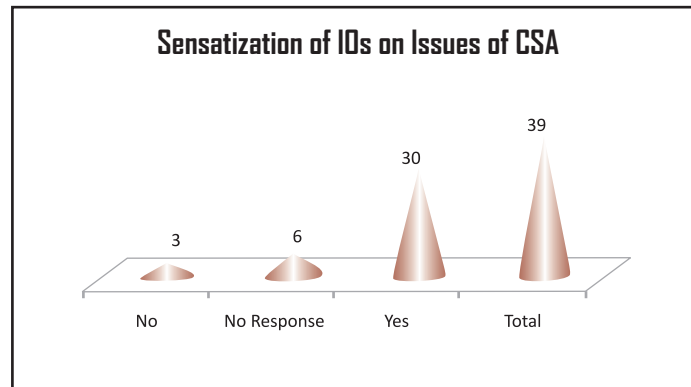


**GRAPH -8** Is physical injury necessary during an incident of sexual abuse?

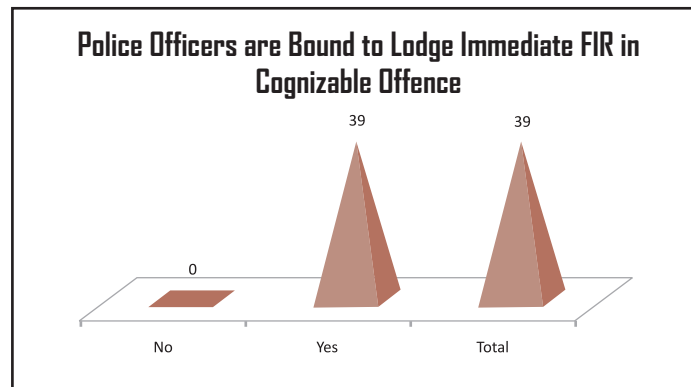


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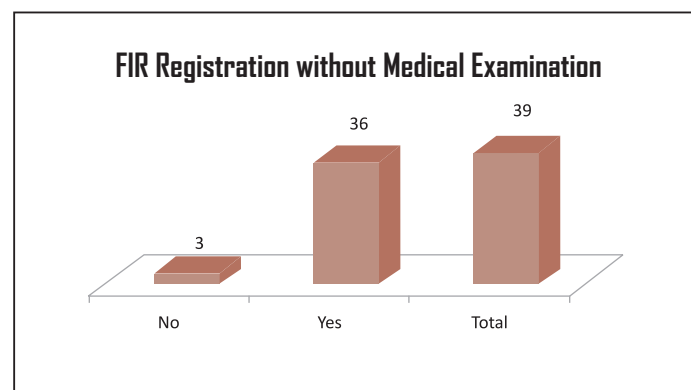
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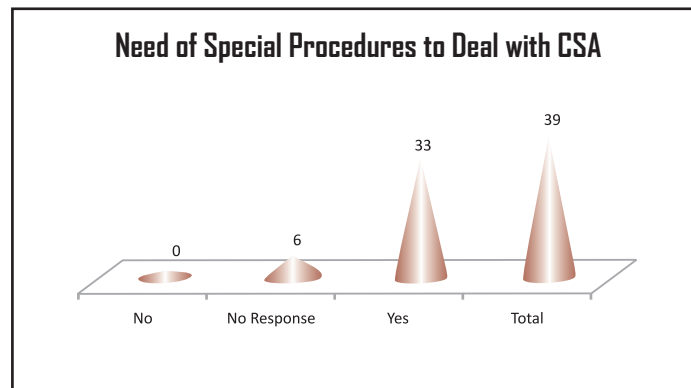
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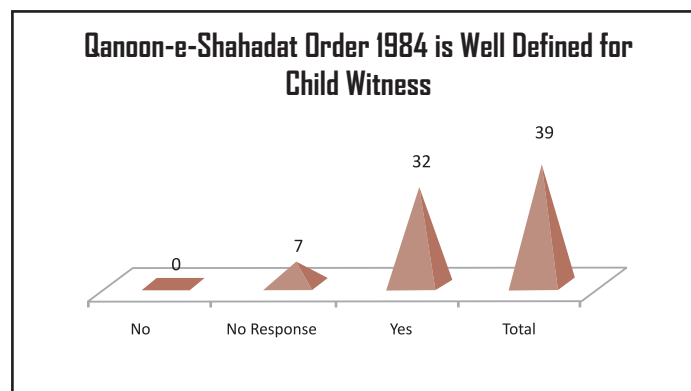
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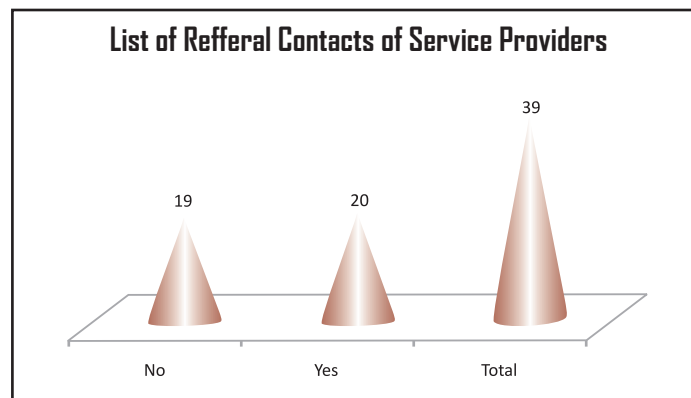
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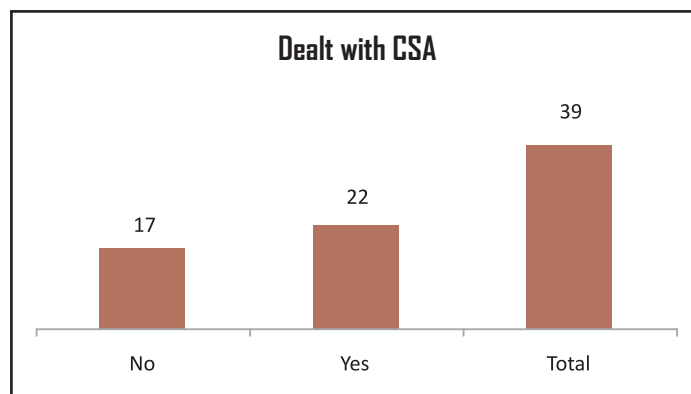
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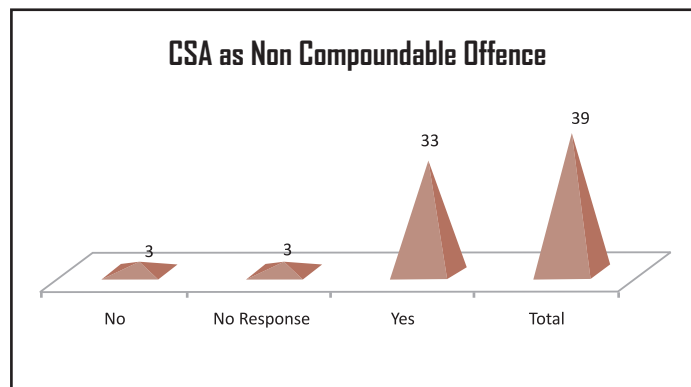
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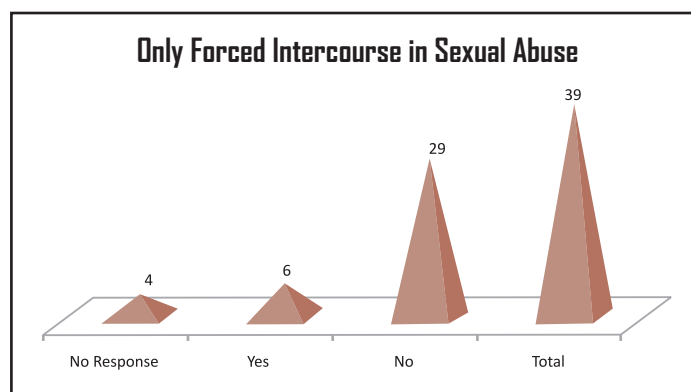
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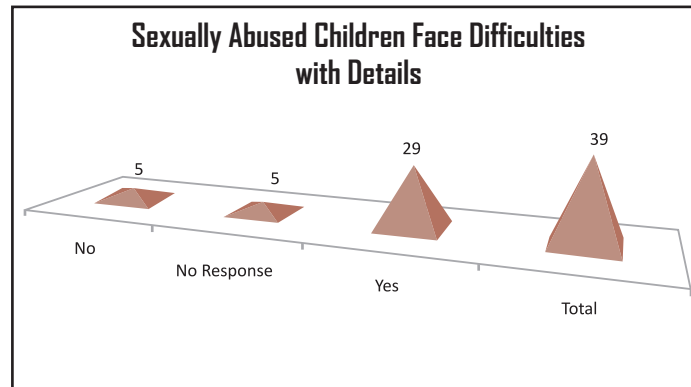
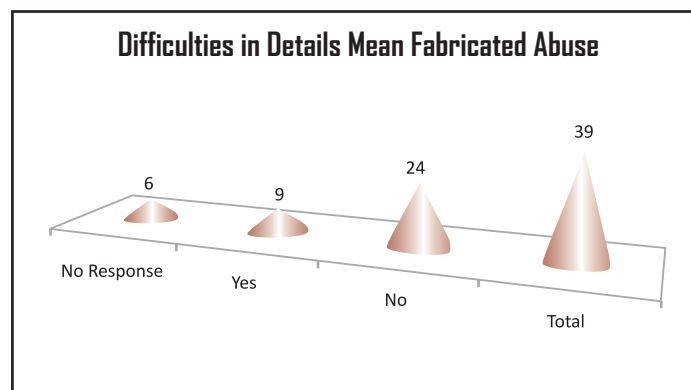
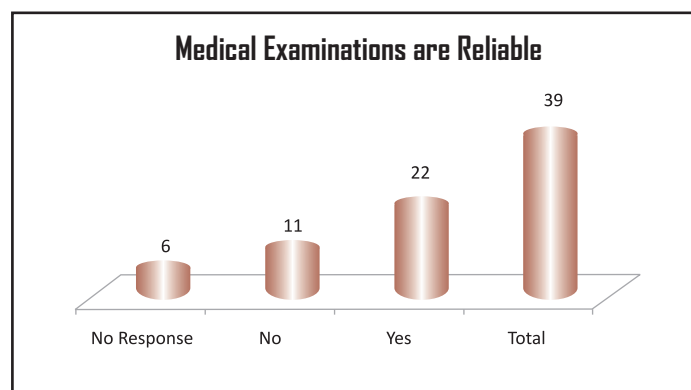


**GRAPH 19-** Is child sexual abuse a non-compoundable offence?



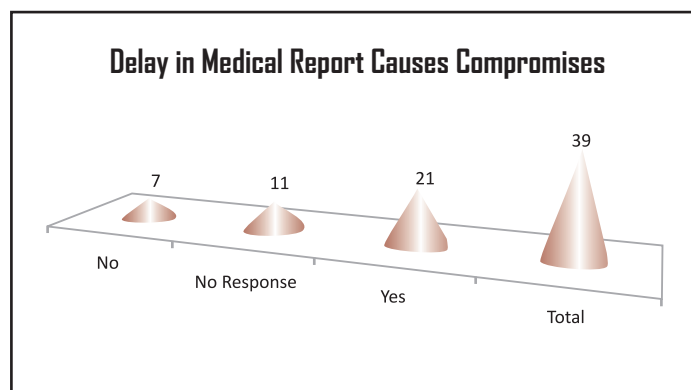
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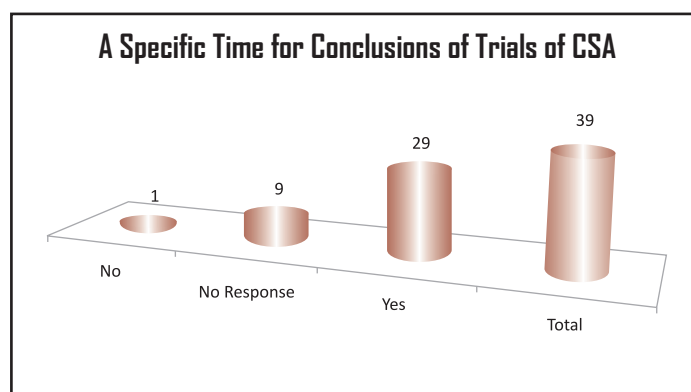
**GRAPH 21** - Can children who have been sexually abused have difficulties with details?**GRAPH 22** - Will these difficulties mean that the abuse is fabricated?**GRAPH 23**- Do you think that results of samples for medical examination are reliable?

Even though 22 respondents think medical results are reliable, 6 disagree, and 11 did not respond to the question.

**GRAPH 24** - Does the delay in submission of Chemical Examination Report force the victim party to think about compromise with the accused?



**GRAPH 25** - Do you think that there should be some specific time period for conclusion of the trials of CSA cases?

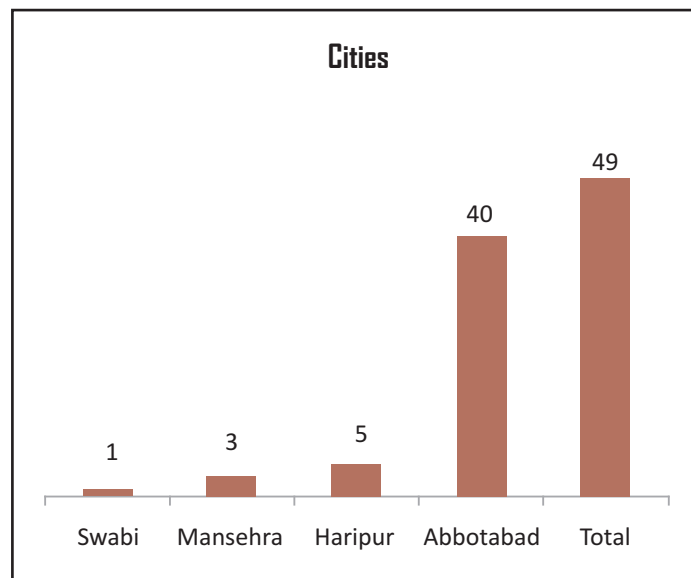




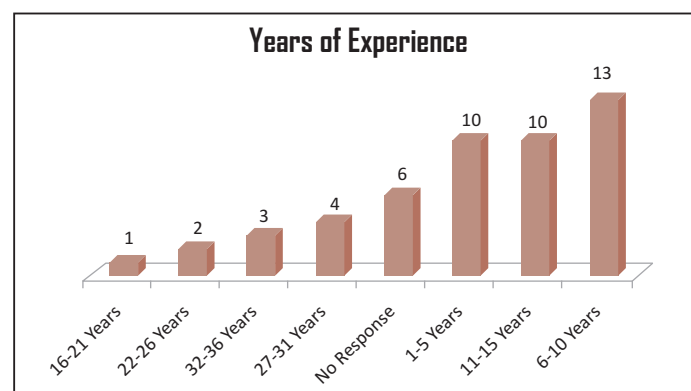
## Khyber Pakhtunkhwa

### Demographics

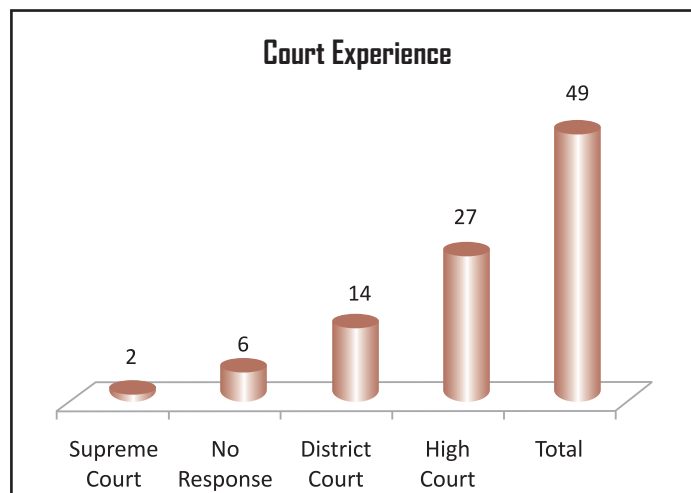
**GRAPH 1 – Cities**



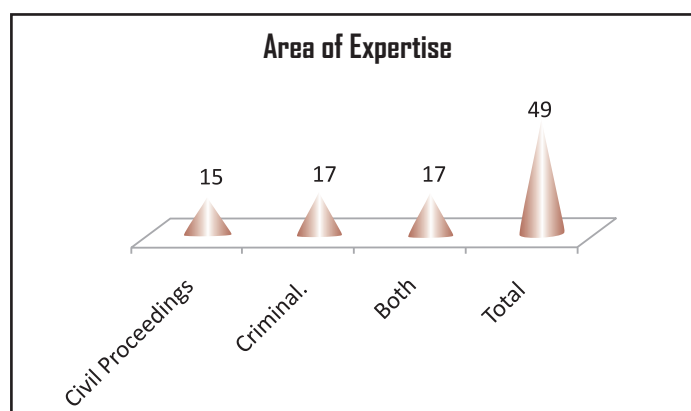
**GRAPH 2- Years of practice**



**GRAPH 3 - Court experience**

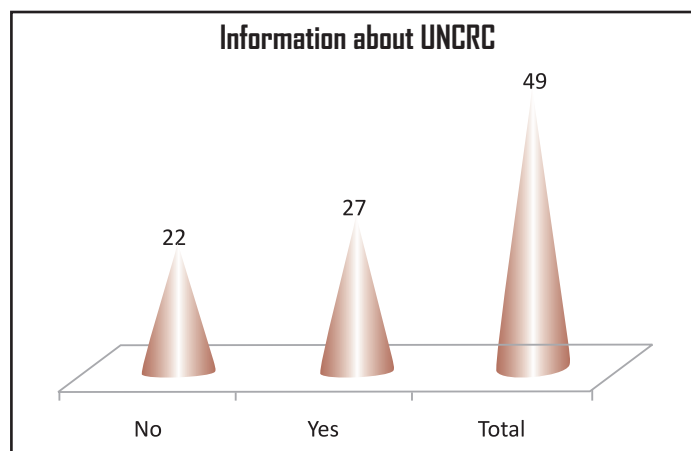


**GRAPH 4 - Area of expertise**

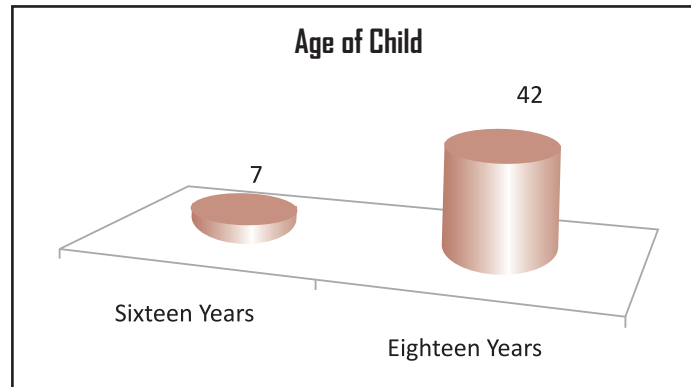


Responses to Questions

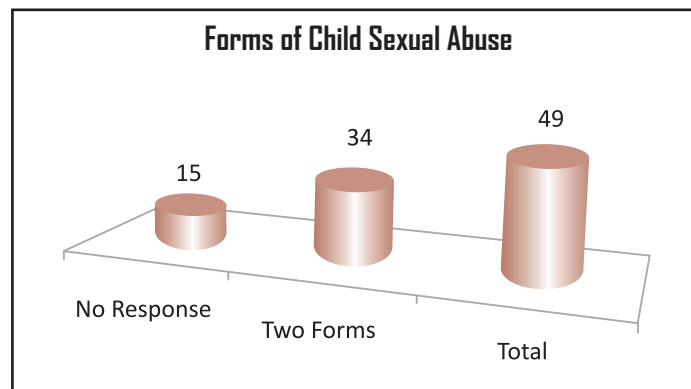
**GRAPH 5 - Do you know about the UN Convention on the Rights of the Child?**



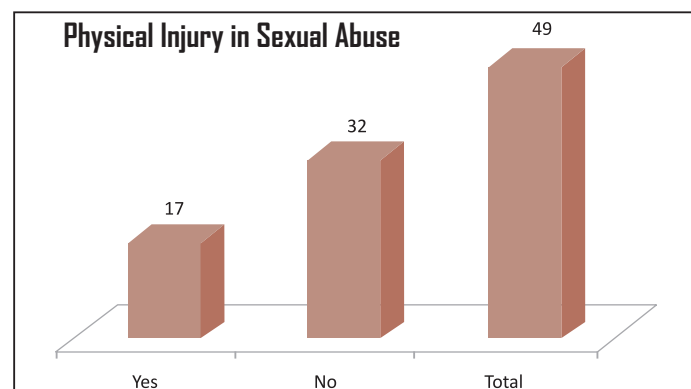
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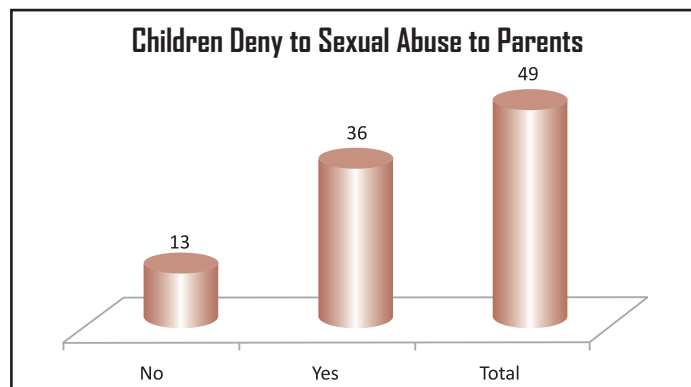
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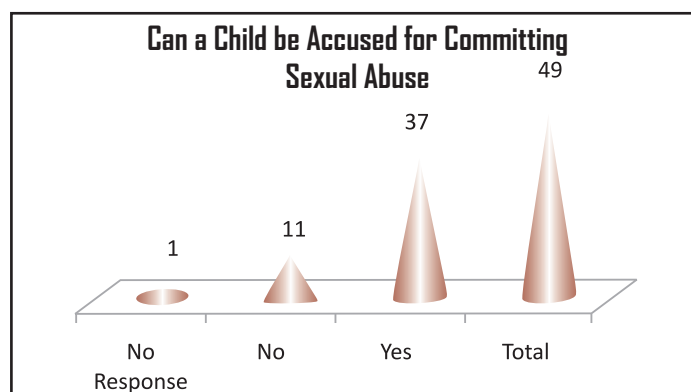
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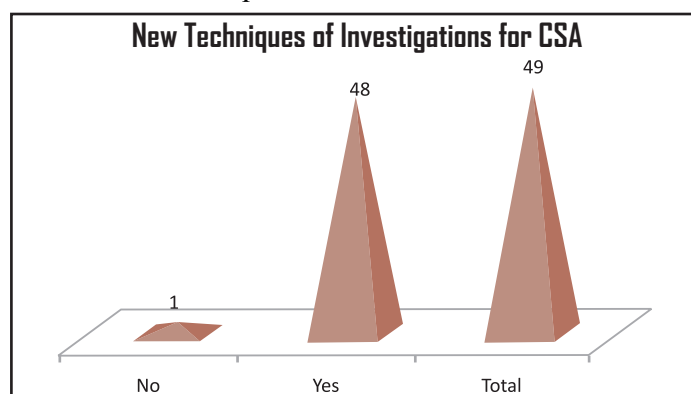
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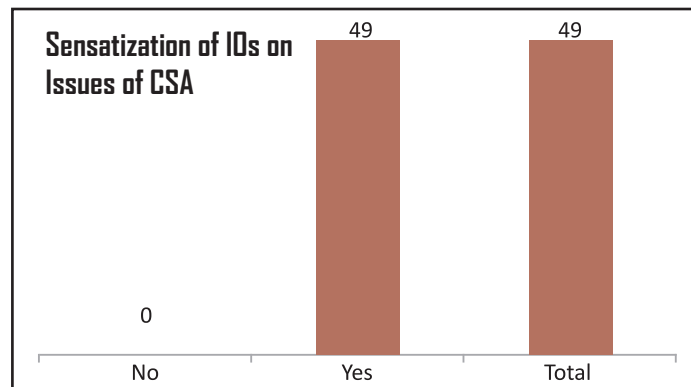
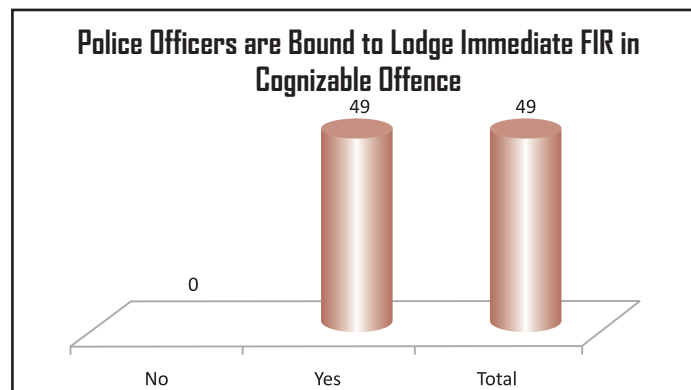
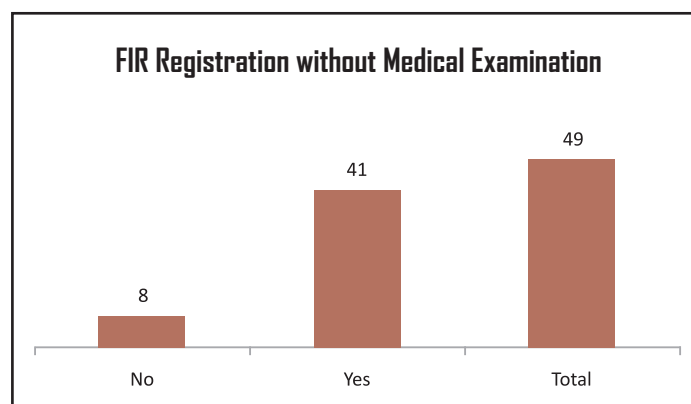


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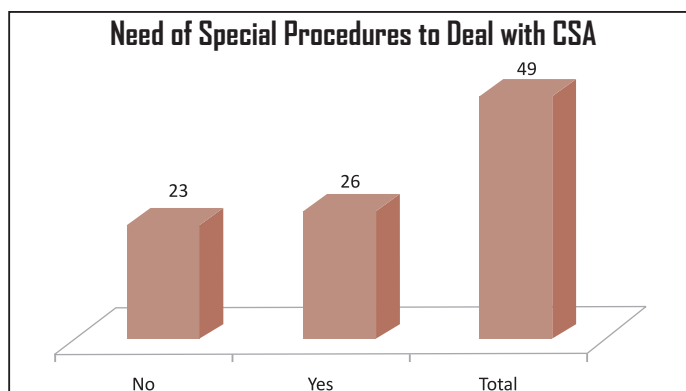


**GRAPH 11-** Do you think that CSA cases require more new and advanced techniques of investigation?

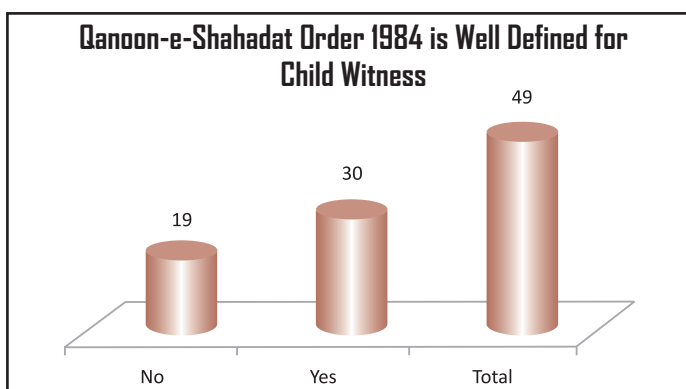


**GRAPH 12-** Do you think the investigating officers (IO) should be more sensitized on the issue of CSA?**GRAPH 13-** Do you think that police officials are bound to lodge immediate FIR in a cognizable offense?**GRAPH 14-** Can an FIR for sexual abuse be registered without medical examination?

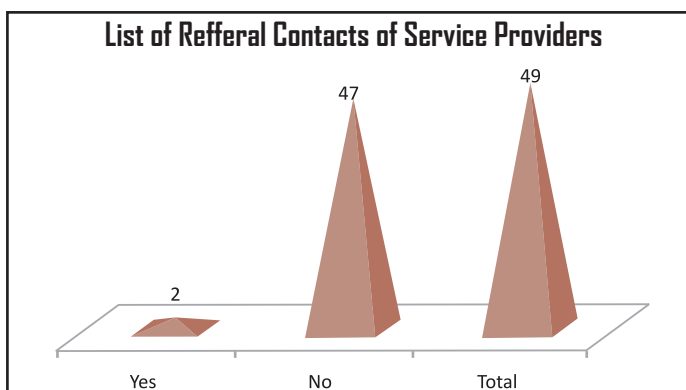
**GRAPH 15-** Do you think that special procedures in context of laws should be adopted while dealing with CSA cases?



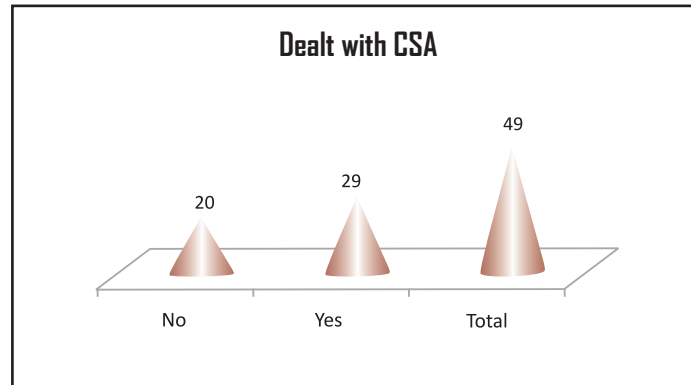
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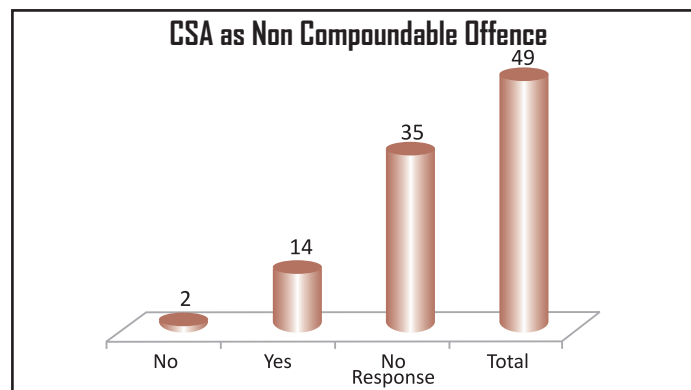
**GRAPH 16-** Do you have any list of referral contact information of service providers for child protection?



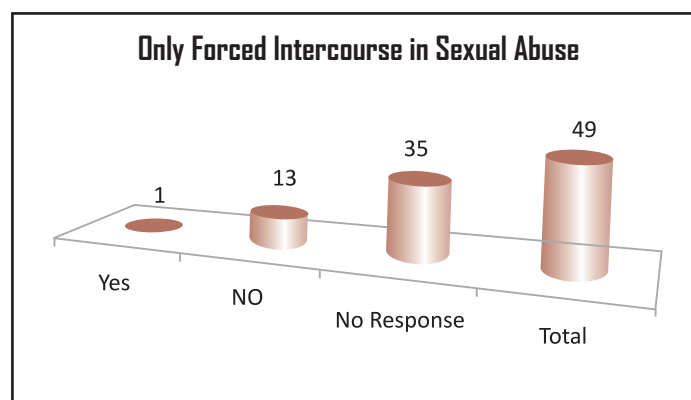
**GRAPH 17-** Have you handled any case of child sexual abuse (CSA)?



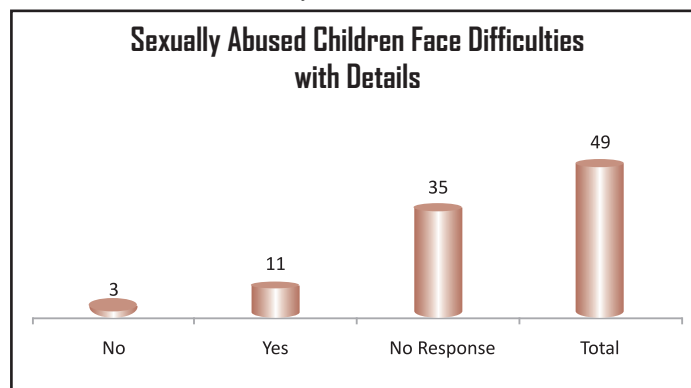
**GRAPH 18-** Is child sexual abuse a non-compoundable offence?



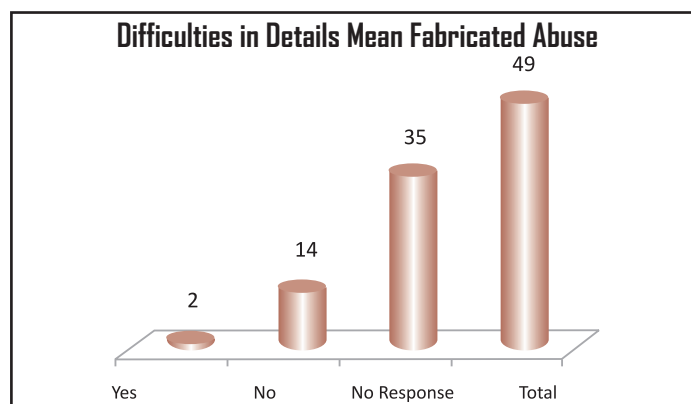
**GRAPH 19-** Is child sexual abuse only forced sexual intercourse



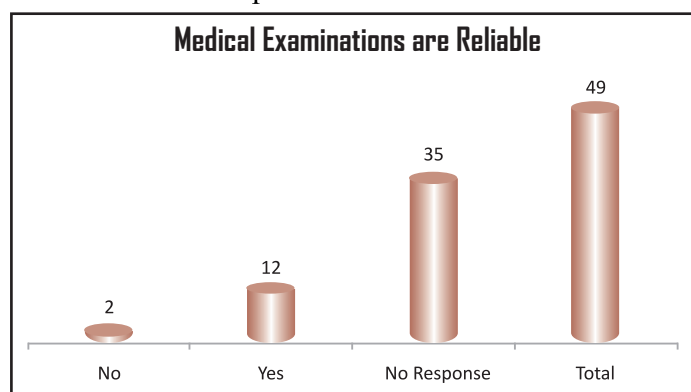
**GRAPH 20-** Can children who have been sexually abused have difficulties with details?



**GRAPH 21 -** Will these difficulties mean that the abuse is fabricated?

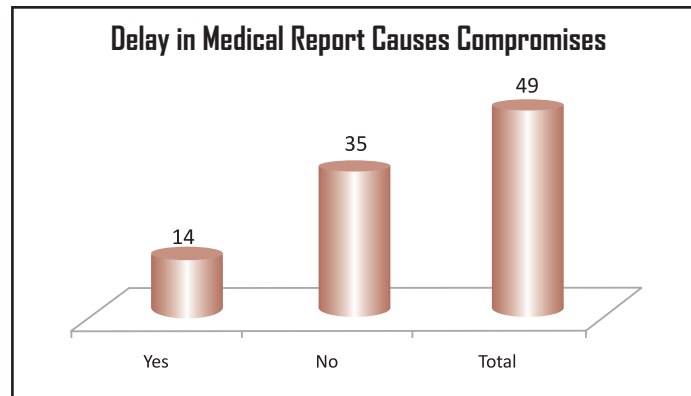


**GRAPH 22-** Do you think that results of samples for medical examination are reliable?

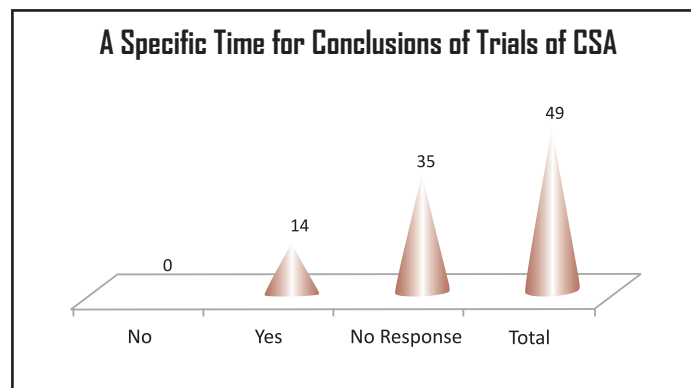




**GRAPH 23** - Does the delay in submission of Chemical Examination Report force the victim party to think about compromise with the accused?



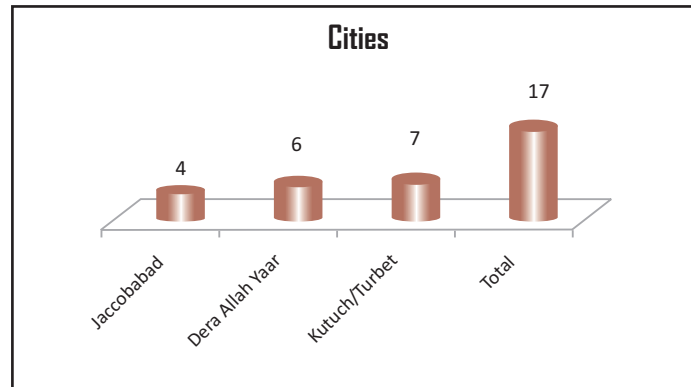
**GRAPH 24** - Do you think that there should be some specific time period for conclusion of the trials of CSA cases?



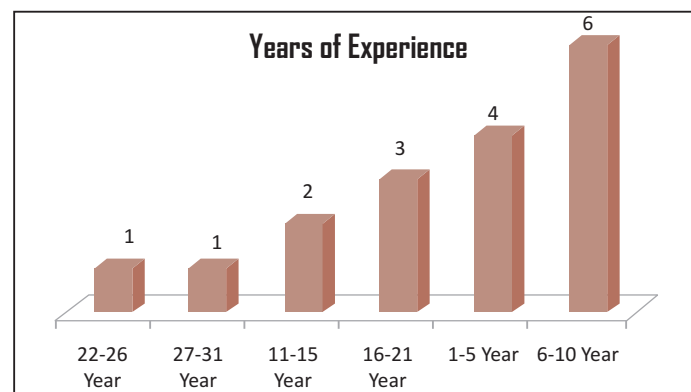
## Balochistan

### Demographics

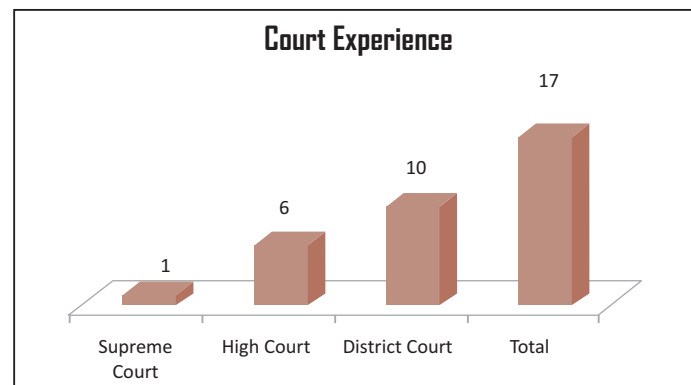
**GRAPH 1** – Total 17 lawyers from 3 cities in Balochistan

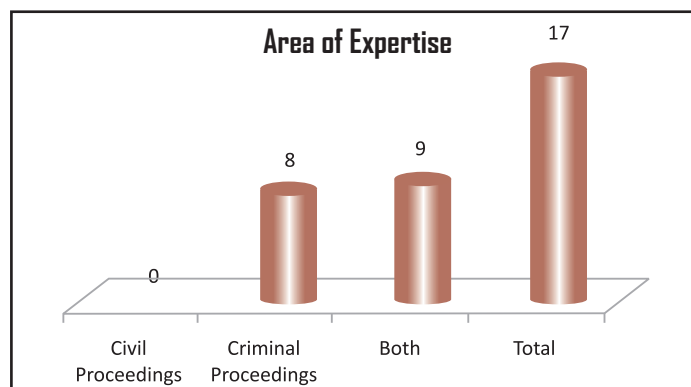


**GRAPH 2**- Years of practice

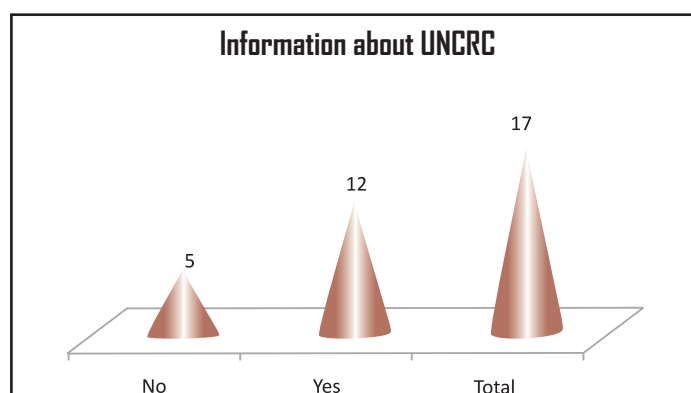
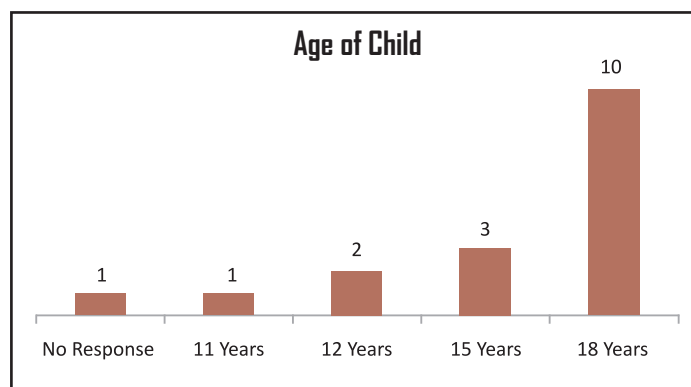


**GRAPH 3**- Court experience

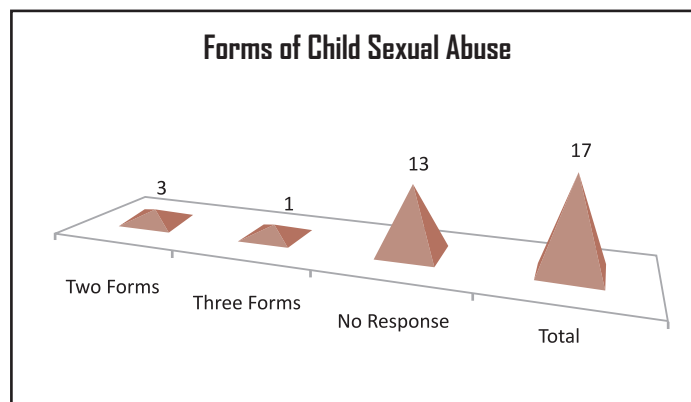


**GRAPH 4 - Area of expertise**

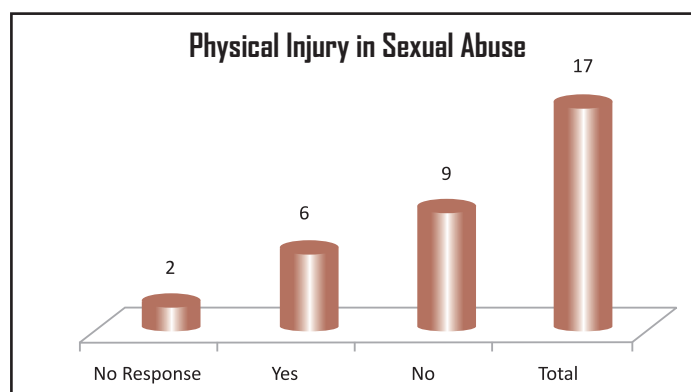
Responses to Questionnaire

**GRAPH 5 - Do you know about the UN Convention on the Rights of the Child?****GRAPH 6 - According to you, what is the age that defines a child?**

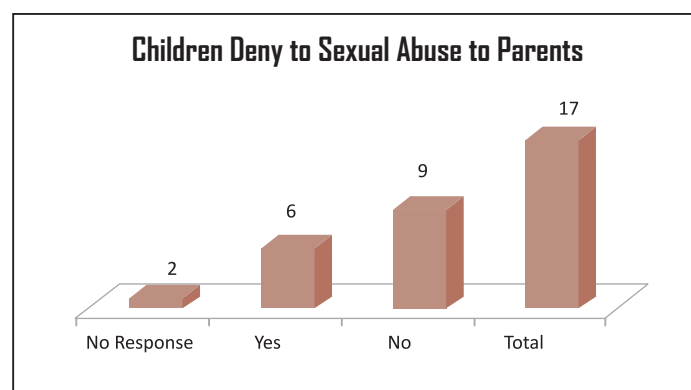
**GRAPH 7-** How many forms are there of child sexual abuse?

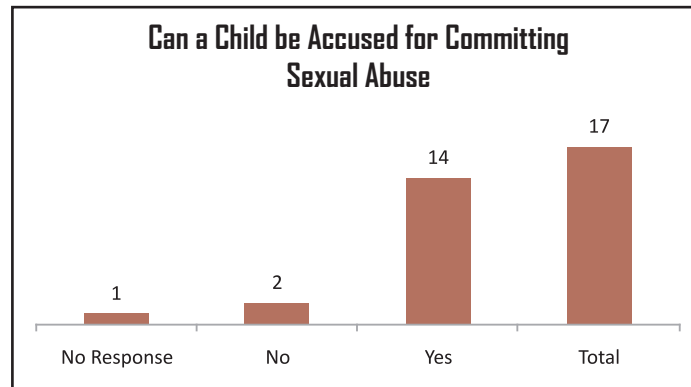
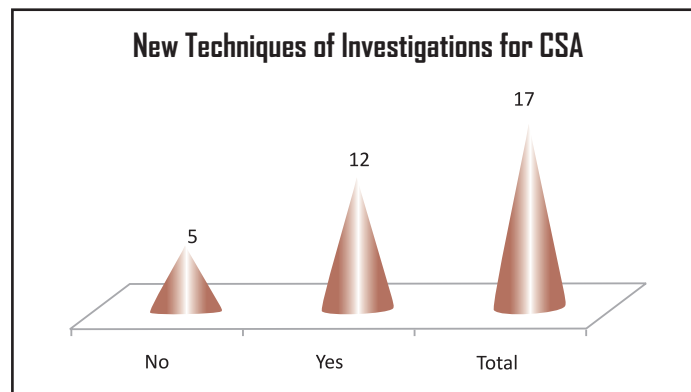
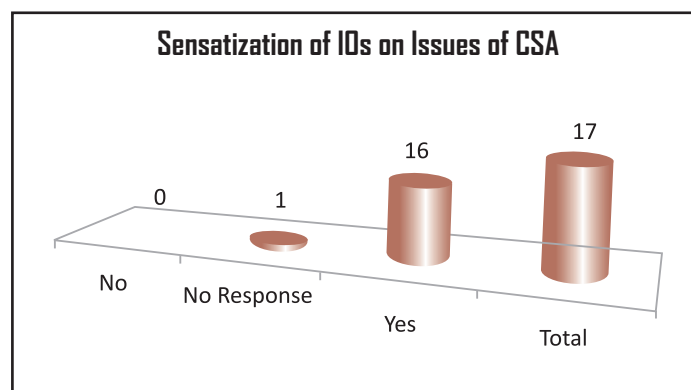


**GRAPH 8-** Is physical injury necessary during an incident of sexual abuse?

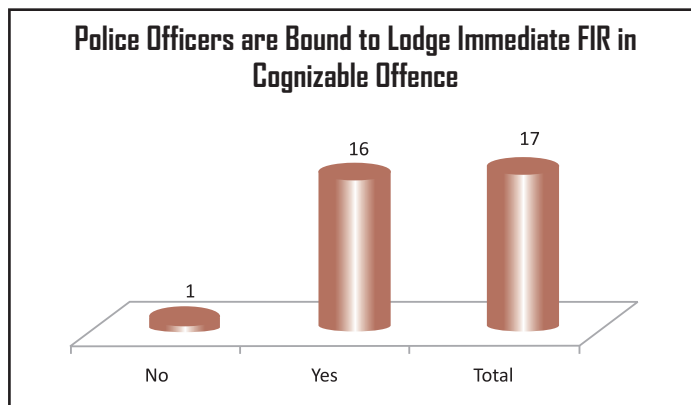


**GRAPH 9-** Can children deny sexual abuse to parents

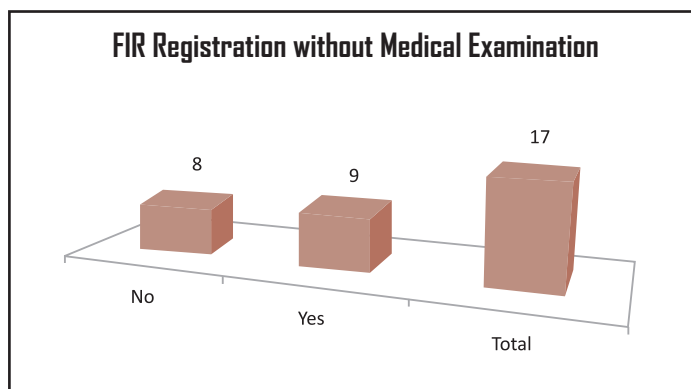


**GRAPH 10-** Can a child be accused of committing sexual abuse?**GRAPH 11-** Do you think that CSA cases require more new and advanced techniques of investigation**GRAPH 12-** Do you think the investigating officers (IO) should be more sensitized on the issue of CSA?

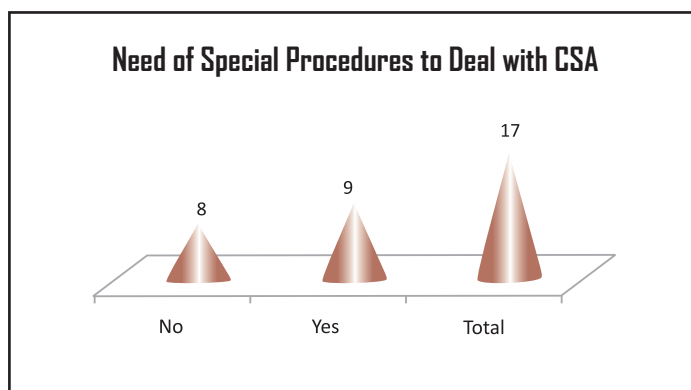
**GRAPH 13-** Do you think that police officials are bound to lodge immediate FIR in a cognizable offense?



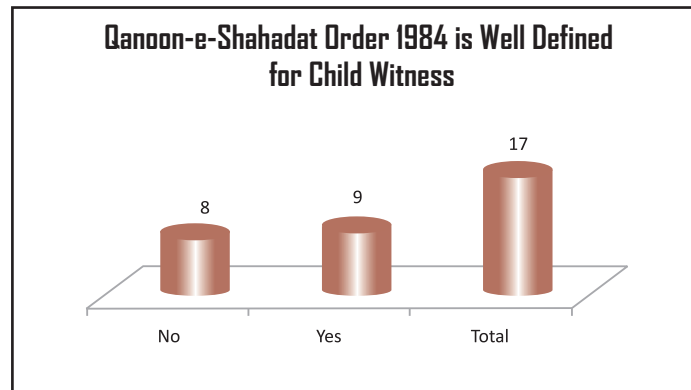
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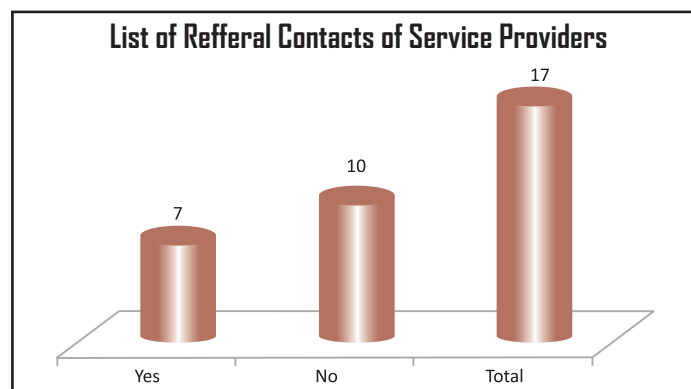
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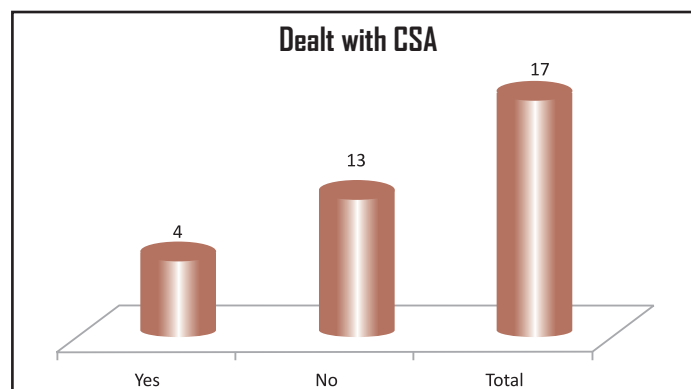
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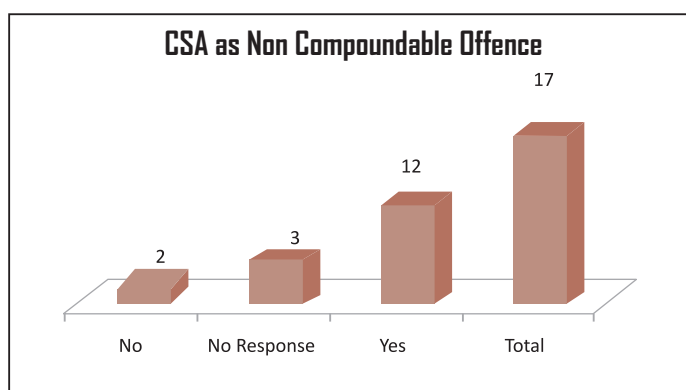
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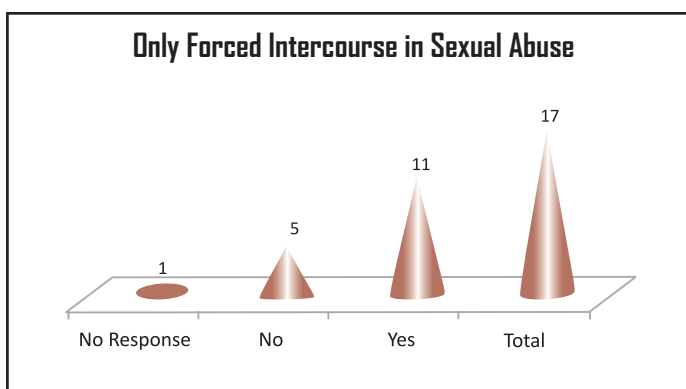
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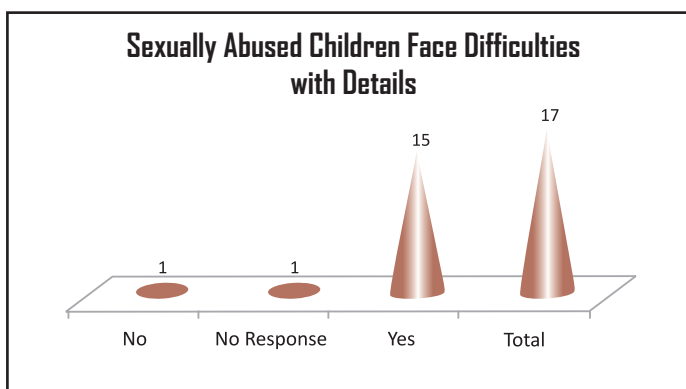
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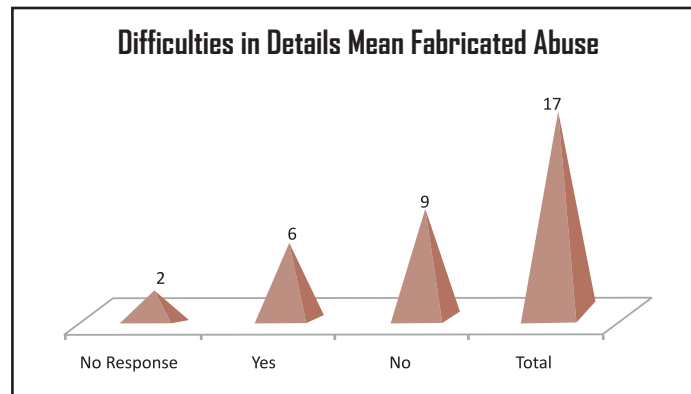
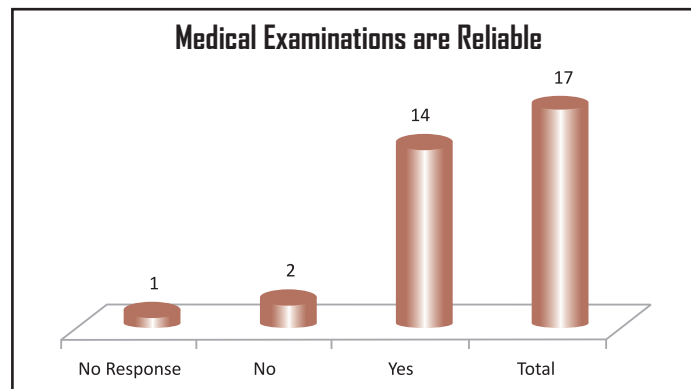
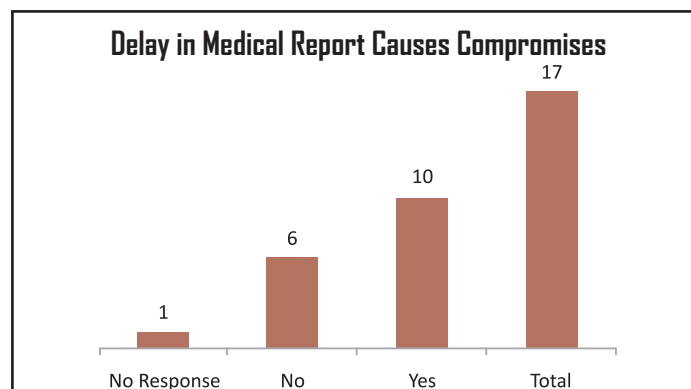
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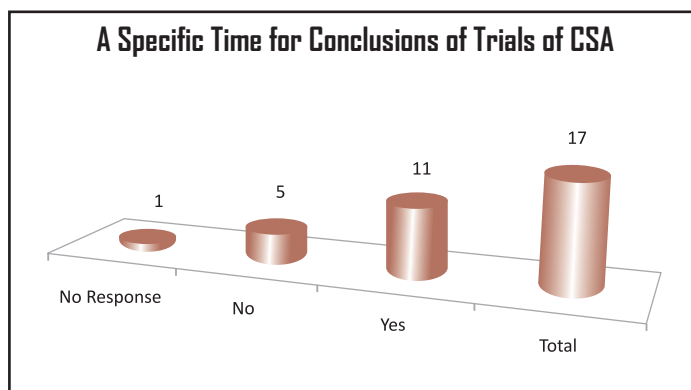
**GRAPH 21-** Can children who have been sexually abused have difficulties with details?





**GRAPH 22** - Will these difficulties mean that the abuse is fabricated?**GRAPH 23**- Do you think that results of samples for medical examination are reliable?**GRAPH 24** - Does the delay in submission of Chemical Examination Report force the victim party to think about compromise with the accused?

**GRAPH 25** - Do you think that there should be some specific time period for conclusion of the trials of CSA cases?



## Annexure I

## Sample Questionnaire for Lawyers

Child Sexual Abuse(CSA) includes all the cases in which the minors(not attained the age of 18 years) males or females are subjected to sexual abuse or attempt to sexual abuse as punishable under Pakistan penal code under rape, sodomy and attempts of these offences.

Demographic Data Information of Respondent:

Name:

Designation:

City:

Years of practice:

**Area of expertise:** Civil proceedings. 11 Criminal Proceedings. 09 Both. 32

**Working Experience:** Supreme Court. 05 High Court. 40 District Court. 07

### Questions:

Q NO 1: Do you know about the UN Convention on the Rights of the Children?

YES: 42 NO: 09 No Response. 01

Q NO 2: According to you, what is the age that defines a child?

\_\_\_15 yrs. 09 / 17 yrs. 02 / 18 yrs. 34 / No Response. 08

Q NO 3: How many forms are there of child sexual abuse?

Two Forms. 29 No Response.23.

Q NO 4: Is physical injury necessary during an incident of sexual abuse?

YES: 20 NO: 30 No Response. 02

Q NO 5: Can children deny sexual abuse to parents?

YES: 42

NO: 06

No Response. 04

Q NO 6 Can a child be accused of committing sexual abuse?

YES: 43

NO: 08

No Response. 01

Q No 7: Do you think that CSA cases require more new and advanced techniques of investigation?

YES: 49

NO: 03

Q No 8: Do you think the investigating officers should be more sensitized on the issue of CSA?

YES: 49

NO: 02

No Response. 01

Q NO 9: Do you think that police officials are bound to lodge immediate FIR in a cognizable offense?

YES: 51

NO: 01

Q NO 10: Can an FIR for sexual abuse be registered without medical examination?

YES: 24

NO: 28

Q NO 11: Do you think that special procedures in context of laws should be adopted while dealing CSA cases?

YES: 43

NO: 09

Q NO 12: Do you think the Article 3 of Qanun-e-Shahadat Order, 1984, which deals with the competency of witnesses, requires more interpretations and explanations categorically with regard to child witness, including when he or she is a victim?

YES: 39

NO: 13

Q NO 13: Do you have any list of referral contact information of service providers for child protection?

YES: 20

NO: 29

No Response. 03

Q NO 14: Have you handled any case of child sexual abuse (CSA)?

YES: 20

NO: 32

Q NO 15: Is child sexual abuse a non-compoundable offence?

YES: 42

NO: 09

No Response. 01

Q NO 16:	Is sexual abuse only forced sexual intercourse?		
	YES: 24	NO: 27	No Response. 01
Q NO 17:	Can children who have been sexually abused have difficulties with details?		
	YES: 42	NO: 09	No Response. 01
Q NO 18:	Will either of these difficulties mean that the abuse is fabricated?		
	YES: 32	NO: 17	No Response. 03
Q NO 19:	Do you think that results of samples for medical examination are reliable?		
	YES: 41	NO: 11	
Q NO 20:	Does the delay in submission of Chemical Examination Report force the victim party to think about compromise with the accused?		
	YES: 39	NO: 13	
Q No 21:	Do you think that there should be some specific time period for conclusion of the trials of CSA cases?		
	YES: 50	NO: 02	

## A Bill

## Annexure II

Further to amend the Pakistan Penal Code, 1860 and the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Pakistan Penal Code, 1860 (Act XLV of 1860) and the Code of Criminal Procedure, 1898 (Act V of 1898) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.-

(1) This Act may be called the Criminal Law (Amendment) Act, 2009.

(2) It shall come into force at once.

2. Insertion of new sections 292 a, 292 B and 292 C, Act XLV of 1860. - In the Pakistan Penal Code, 1860 (Act XLV of 1860) hereinafter referred to as the said Act, after section 292, the following new sections shall be added, namely:-

“292 A. Exposure to seduction.- Whoever seduces a child by any means whatsoever with an intent to involve him in any sexual activity or exposes him to obscene and sexually explicit material, document, a film, video or a computer generated image or attempts to do any or all of the aforementioned acts, shall be punished with imprisonment of either description for a term which may extend to five years or with fine which may extend to one hundred thousand rupees, or with both.

292 B. Child Pornography.- (1) Whoever takes, permits to be taken, with or without the consent of the child, any photograph, film, video, picture or representation, portrait, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of obscene or sexually explicit conduct, where—

- (a) the production of such visual depiction involves the use of a minor engaging in obscene or sexually explicit conduct;
- (b) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in obscene or sexually explicit conduct; or
- (c) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in obscene or sexually explicit conduct;

is said to have committed an offence of child pornography:

- (2) The preparation, possession or distribution of any data stored on a computer disk or any other modern gadget, shall also be an offence under this section.

292 C. Punishment for Child Pornography. - Whoever commits an offence of child pornography shall be punished with imprisonment of either description for a term which may extend to seven years and liable to fine which may extend to five hundred thousand rupees, or with both.”.

3. Insertion of new section 328 A, Act XLV of 1860. - In the Penal Code after section 328, the following new section shall be added, namely:-

“328 A. Cruelty to a Child. - Whoever willfully assaults, ill-treats, neglects, abandons or does an act of omission or commission, that results in or have potential to harm or injure the child causing physical or psychological injury to a child shall be punished with imprisonment of either description for a term which may extend to three years or with fine which may extend to fifty thousand rupees, or with both.”.

4. Insertion of new section 369 A, Act XLV of 1860. - In the Penal Code after Section 369, the following new section shall be added, namely:-

“369 A. Trafficking of human beings.- Whoever involves himself in human trafficking within Pakistan shall be punished with imprisonment for a term which shall not be less than five years nor more than ten years and shall also be liable to fine which shall not be less than one hundred thousand rupees.

Explanation:- The word human trafficking, in this section, shall have the same meaning as assigned to it in the Prevention and Control of Human Trafficking Ordinance, 2002 (LIX of 2002).”.

5. Insertion of new sections 377 a and 377 B, Act XLV of 1860. - In the Penal Code after section 377, the following new sections shall be added, namely:-

“377 A. Sexual Abuse. - Whoever employs, uses, forces, persuades, induces, entices, or coerces any person to engage in, or assist any other person to engage in fondling, stroking, caressing, exhibitionism, voyeurism or any obscene or sexually explicit conduct or simulation of such conduct either independently or in conjunction with other acts, with or without the consent, is said to commit the offence of sexual abuse.

377 B. Punishment. - Whoever commits an offence of sexual abuse shall be punished with imprisonment of either description for a term which may extend to life imprisonment and liable to fine which shall not be less than one hundred thousand rupees.”.

6. Amendment of Schedule II, Act V of 1898. - In the Code of Criminal Procedure, 1898 (Act V of 1898), in Schedule II,-

(a) After the entries relating to section 292, the following shall be added, namely:-

1	2	3	4	5	6	7	8
"292 A	Exposure to seduction	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of either description for which may extend to five years or with fine which may extend to one hundred thousand rupees or with both	Court of Sessions
292 C	Punishment for child pornography	Ditto	Ditto	Ditto	Ditto	Imprisonment which may extend to seven years and with fine which may extend to five hundred thousand rupees	Ditto.”;

(b) after the entries relating to section 328, the following shall be added, namely:-

1	2	3	4	5	6	7	8
"328 A	Cruelty to a Child	May arrest without warrant	Warrant	Bailable	Compoundable	Imprisonment which may extend to three years or with fine which may extend to fifty thousand rupees or with both	Magistrate of the first class.”;

(c) after the entries relating to section 369, the following shall be added, namely:-

1	2	3	4	5	6	7	8
"369 A	Trafficking of human beings	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for a term which shall neither be less than five years nor more than ten years and liable to fine which shall not be less than one hundred thousand years	Court of Sessions.”;

(d) After the entries relating to Section 377, the following shall be inserted, namely:-

1	2	3	4	5	6	7	8
"377 B	Punishment	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for life and with fine which may not be less than one hundred thousand rupees	Court of Sessions.”.



## Statement Of Objects And Reasons

1. Pakistan ratified the United Nations' Convention on the Rights of the Child (UNCRC) in 1990, and is under obligation to implement its provisions by harmonizing national policies, legislations, programmes, plans of action with it and report progress to the UN Committee on the Rights of the Child, Geneva after every five years. To undertake this task, existing laws are required to be harmonized with the UNCRC to effectively initiate requisite actions for meeting the standards set fourth under the UNCRC.
2. The provisions provided in our criminal law statutes fail to cover number of very serious offence against the person of a child like; child pornography, exposure to seduction, sexual abuse, cruelty to a child and trafficking in human beings within Pakistan. The amendments in the Pakistan Penal Code and Code of Criminal Procedure have been proposed while keeping in mind the international obligations and domestic realities. The Criminal Law (Amendment) Bill 2009 is therefore proposed to be promulgated as an effort to harmonize our laws with the provisions of the UNCRC.
3. The salient features of the proposed Act are:-
  - (a) The minimum age of criminal responsibility has been raised from 7 years to 10 years.
  - (b) It provides for the protection of children from corporal punishment.
  - (c) The act of exposing children to obscene and sexually explicit material has been criminalised with punishment.
  - (d) It criminalises child pornography and proposes punishments.
  - (e) It provides for punishments for internal trafficking of human beings.
4. The safeguards provided in this act will go a long way in protection of all children. This Act not only complies with the constitutional provisions but also fulfils our obligations under different international conventions in general and the UNCRC in particular.

**(Ms. Samina Khalid Ghurki)**

Minister for Social Welfare and Special Education

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