

Sexual Offences against Female Child in India

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Abstract

When it comes to "Sexual Offences" like rape and unnatural crimes, a twisted mind is to blame. Rape or homosexuality is two possible outcomes of this perversion. People who commit these crimes are sadistic in their nature, as seen by their use of force in rape. Statutory provisions have been analyzed and the courts' attitudes towards such offences have been severely evaluated. In India, female children are subjected to a wide variety of forms of sexual assault, and the number of such crimes has grown pandemic proportions. According to the number of reported child rape incidents, the female kid is being sexually assaulted.

Keywords: *Sexual Offences, female child, Crime, Courts.*

1. INTRODUCTION

As a society, we are all victims of crime, not just the perpetrators. Children are particularly vulnerable to crime in today's society, so the state must take extra precautions to safeguard the lives and liberties of all its citizens, but this is especially true for the most vulnerable. There are some who believe that a lack of success in dealing with child abuse is harming the rule of law. During the investigation and subsequent prosecution, the perpetrators benefit from the lack of attention and apathy shown to them. Increasing acquittal rates for crimes against children suggest that judicial reactions to child victims are insensitive." The same legal restrictions that apply to adult women's sexual assault also apply to children's abuse. Several additional types of sexual assault and abuse that can harm children's bodies and brains are not included in the legal definition of rape. The most vulnerable among the poor are children and women, particularly those who are female.

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2. LITERATURE REVIEW

LAURA M. STEVENS (2021) According to the most recent findings, children in Kenya are now at increased risk of sexual violence as a result of the COVID-19 pandemic. For example, lockdowns, curfews and school closures appear to have had an effect on sexual offending patterns against children. Child victims are younger, more likely to be targeted by a neighbor, and more likely to be targeted during the daylight in Kenya compared to pre-pandemic times. Situational crime prevention techniques that focus on offering alternative safe venues to limit offending possibilities must be a fundamental aspect of a public health approach to lessen children's vulnerability during crisis like COVID-19.

ANDREW M.CAMPBELL(2020) Though important to halt the spread of the new Corona virus (Covid-19), steps such as social-distancing, sheltering in-place, restricted travel, and closures of vital community foundations are anticipated to drastically raise the risk for family violence over the globe. Domestic violence is on the rise in a number of countries, including the United States. Research on how natural disasters affect family violence reports may provide valuable insight for professionals who serve victims of family violence, but no parallel for the current issue exists in academic research.

Animal welfare and human welfare authorities need to work more closely together, as well as educate the public about the necessity of reporting any concerns of abuse, at this time.

UNFPA, WITH CONTRIBUTIONS FROM AVENIR HEALTH (2020) In order to meet the Sustainable Development Goals by 2030, the United Nations Population Fund (UNFPA) has set a three-year target. Gender-based violence, including harmful practices like female genital mutilation (FGM) and child marriage, must be eradicated. All maternal fatalities that may be prevented must also be eliminated. The COVID-19 pandemic could have a significant impact on these aspirations.

GIULIA MAROTTA (2021) a summary of the most recent findings on child sex abuse by Catholic Church members in Italy and France will be presented here. They have been chosen as a representative sample of current trends in the area. To highlight contemporary studies on child sex abuse in mono-confessional Catholic culture places that have not yet been afflicted by large-scale scandals, the following examples are provided: Findings from a literature study over the past two decades demonstrate a regional trend with regard to abuse, the cover-up method, and the responses from both religious and civil organizations.

MARY-ANNE KATE (2021) There are clinical levels of dissociation and DDs when a person reports having been sexually abused as a child, particularly when the abuse occurred in the form of choking, smothering or other potentially life-threatening incidents. These include physical injuries that break bones and teeth, and threats of abandonment and deprivation of basic needs. There was a 106-fold increase in the probability of clinical dissociation in women who reported sexual abuse in addition to being choked or suffocated. Amnesia was frequent in the dissociative groups, as expected. One-third of survivors of sexual abuse in the comparison group also reported having trouble recalling the abuse. The clinical sample and those in the university sample with clinical degrees of dissociation shared a wide range of abuse experiences (which is unlikely to have previously been diagnosed). The abusers in the dissociative subgroups were more likely to be able to corroborate their stories. Dissociation is linked to trauma, according to the research.

3. SEXUAL OFFENCES AGAINST FEMALE CHILD

Sexual Abuse:-

It is a crime to engage in sexual activity with a minor in a way that the minor is unable or unwilling to consent to, or in any other way that breaches the law or societal taboos. For the most part, it's not the actual act of sexual intercourse that is the most common type of abuse; it's the other kinds of abuse that do happen all the time. In children, the use of force is not a necessary aspect of the abuse, as it is for adults. The willingness of children has little significance because they are unable to comprehend the consequences of their actions. When she's being abused, she often doesn't even know it's happening and thinks it's fun. There are several examples of elderly relatives making sexual advances on children, particularly girls, who are not aware of it. Often, these incidents are not even recognized as such, much less recorded. Adolescent boys playing with younger girls, even in socially sanctioned play, can engage in such activities. The most prevalent offenders are male and female servants who are placed in charge of tiny children.

Sexual Assault:-

Of all forms of abuse, sexual assault is by far the most prevalent. Our acquisitive jurisdiction tends to be liberal to the accused on the grounds of 'benefits of doubt,' or rather, that the extent of proof is not beyond reasonable doubt, and flimsy excuses like injury not on a particular part, relationship with the victim, etc. are used as grounds for acquittal even if there is sufficient medical evidence corroborating the occurrence of sexual assault. 'Beyond reasonable doubt' is a fundamental premise of criminal law, and it must be shown. As a matter of long-standing legal precedent, the defendant is entitled to a reasonable doubt if there are two possible outcomes, one in favor of the prosecution and the other in favor of the defendant, in light of the evidence. Many rapists have been acquitted because of the liberal application of this fundamental and basic tenet of law and the tremendous handicaps encountered by victims of rape.

Rape:-

Rape laws for female minors are severely lacking in a number of areas, including: The IPC does not consider sexual abuse of male children to be "rape." Sexual offences against boys are lumped together under the provision of "unnatural offences". The criminal law's most pressing concerns and difficulties necessitate a thorough investigation.

No specific provision dealing with child rape:

Children and adults alike are handled equally when it comes to sexual offences. Until recently, sexual abuse of a child has not been classified as a separate criminal offence. All of the same laws that govern sexual assault against adult women also apply to minor sex crimes. Child rape and other forms of sexual abuse are not specifically addressed in the IPC in any chapter or provision. Section 375 of the Indian Penal Code (IPC) defines rape as raping an adult woman or a girl-child/minor.

Meaning of the term "sexual intercourse":

Despite the use of the term "sexual intercourse" in Section 375, the IPC does not provide a definition for it. The judicial approach to interpreting Section 375 has been to adhere to the preceding definition of "Sexual intercourse." This means that the crime of rape under section 375 of the IPC does not include forced oral sex or anal sex.

Meaning of the term "penetration":

In most situations of child sexual abuse, the term "penetration," which is widely understood to denote only penetration of the penis into the vagina, is superfluous. Child sex abuse is more common than you might think if the penetration is not penile-vaginal. Penile vaginal penetration is impossible for children, especially those of a young age.

Proof of penetration:

While the rape laws stipulate that 'penetration' be shown in cases of child sexual abuse, it is possible that no penetration occurred. By claiming the case is one of molestation, the accused might get a seven-year prison sentence and a fine of Rs. 25,000/- (to be paid to the victim).

When it comes to sexual (Section 376) and non-sexual (Section 354) offences, this is a frightening example of how the facts are construed by the court. A comprehensive revision of the rules governing sexual offences against minors is consequently required.

4. LAWS RELATING TO SEXUAL OFFENCES AGAINST FEMALE CHILD

Sexual offences against female children and commercial sexual exploitation of youngsters are covered by this law.

- Female child & Adult Women (Categorization)
- Outraging Modesty of a women,
- Kidnapping; and Child Trafficking
- Selling and Buying of minor girls for prostitution;
- Rape;

Child and Adult victims-wise categorization:

The Indian Penal Code does not include all sorts of sexual offences against children and, more importantly, does not distinguish between adult and child victims, according to Section 1 of the Protection of Children for Sexual Offences Act, 2012.

A girl is typically referred to as a "woman" under Section 3 of this act, but the term "woman" is typically reserved for an adult. As an example, the phrase "women's rights" uses the term "woman" to refer to any female human being, regardless of age. Older women and certain intersex women are unable to give birth, although most women are able to do so.

Indian Penal Code Section 10 defines a "man" and a "woman" to mean a living human being, but not one who is still in the womb. The section's scope is broad. For example, a 4-year-old boy and 3-year-old girl are both men and women under this section's definition.⁵ The word "woman" signifies a female human being of any age, regardless of gender identity.

For the purposes of Section 354, IPC, a six-year-old girl has been deemed to be a 'woman' for purposes of the IPC's definition of sexual assault under Section 375.⁶

Kidnapping:

According to the Oxford English Dictionary, kidnapping is defined as the act of taking an innocent child by force or fraud. And the term "kidnapper" was initially used to describe a person who kidnapped children and other people to serve as servants and laborers on the American plantation in the 17th century..

Child Trafficking:

An amendment to the Indian Penal Code (Amendment) Act, 20 of 1923, section 3 included sections 366 A and 366 B, IPC to implement certain articles from the International Convention for Suppression of Traffic in Women and Children. These sections were enacted on May 1st, 1924, and are meant to penalize the import or export of girls for prostitution purposes. Section 366-A of the Indian Penal Code (IPC) comes into play when someone lures a youngster under the age of 18 into doing something with the knowledge or intent that the minor will be compelled or persuaded into having illegal sexual relations with another person. In order to protect the public interest in morality, rather than the chastity of the individual lady, the section has been framed

Selling and Buying minor for prostitution:

Sections 372 and 373 of the Indian Penal Code (IPC) prohibit the sale and purchase of minors for prostitution. Article 23 of the Constitution forbids human trafficking and punishes those who engage in it, and these sections are in accordance with that prohibition.

Brothel owners that permitted prostitutes to stay at their establishments for two or three hours a night and let customers to pay for their services constitute a violation of the Act. It was also assumed that any female under the age of 18 in the care of a brothel management would be utilized for prostitution.

Rape:

As the Latin term *rapere* translates to "seize," rape refers to the act of grabbing. 'Rape,' thus, refers to the act of inducing a seizure under duress. To use common terminology, it means "the ravishment of a female child under the age of eighteen without her consent, by force, terror, or deception" or "the carnal knowledge of a female kid under the age of eighteen by force against her will. In other words, rape is any act of aggression against a woman's private person, which is abhorrent in the extreme.

Rape is only a crime if the accused had no intention of keeping their commitment at the outset of intercourse. Only if the court concludes that the accused had malices and hidden motives can an accused be convicted of rape; *Deepak Gulati v. State of Haryana*, AIR 2013 SC 2071. Under section 377 of the Indian Penal Code, the IPC has dealt with sexual offences and other unnatural offences. Rape was one of the crimes listed in Section 375 of the Penal Code.

5. CONCLUSION

As a society, we are all affected by the actions of criminals. When a child is involved in sexual activity that he or she does not fully understand, cannot give informed consent to, is not prepared for, or otherwise violates the law or social taboos of society, it is considered sexual abuse. The Indian Penal Code does not include all sorts of sexual offences against children and, more importantly, does not distinguish between adult and child victims, according to Section 1 of the Protection of Children for Sexual Offences Act, 2012.

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