

# SEXUAL OFFENSES CONCERNING FEMALE CHILDREN IN INDIA

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**ABSTRACT:** Individuals with twisted minds are responsible for "Sexual Offenses" like rape and unnatural crimes, with rape and homosexuality as two possible outcomes. The perpetrators of these crimes are sadistic by nature, as evidenced by their use of force in rape. The judicial system and its stance on these crimes have been evaluated critically.

**KEYWORDS:** Sexual Offences, female child, Crime, Courts

## INTRODUCTION

All members of society, not only those who commit crimes, are affected by criminal activity. The state must take additional measures to protect the lives and freedoms of all its residents, but particularly so for the most vulnerable, who are children in today's society. Some people worry that the rule of law is suffering because of the difficulty in stopping child abuse. Perpetrators get an advantage from the lack of interest and indifference exhibited to them throughout the inquiry and subsequent prosecution. Increasing percentages of acquittal for crimes committed against children are indicative of callous judicial responses to child victims." Sexual assault on minors is subject to the same legal restrictions as attack against an adult woman. The legal definition of rape does not cover certain other forms of sexual assault and abuse that may cause significant physical and mental damage to minors. Among the impoverished, children and women, and especially women, are at the greatest risk.

A warped mentality is to fault for "Sexual Offenses" like rape and other abnormal crimes. The perversion might lead to rape or homosexuality. The use of physical force in rape is indicative of a sadistic personality in those who perpetrate these crimes.

## LITERATURE REVIEW

**LAURA M. STEVENS (2021)** Recent research indicates that the COVID-19 epidemic has raised the likelihood of sexual abuse against minors in Kenya. For instance, it seems that sexual assaults on minors have decreased as a

result of lockdowns, curfews, and school closures. In Kenya, the children who fall prey to the epidemic are younger, more likely to have been attacked by a neighbor, and more likely to have been attacked during the day. A public health strategy to reducing children's susceptibility during crises like COVID-19 should prioritize situational crime prevention strategies that concentrate on providing alternative safe venues to restrict offending possibilities.

**ANDREW M.CAMPBELL(2020)** Steps like social-distancing, sheltering-in-place, limited travel, and closures of essential community foundations are expected to dramatically increase the danger for family violence around the world, but are necessary to stop the spread of the new Corona virus (Covid-19). The United States is only one of many nations where incidents of domestic violence have recently increased. Professionals who work with victims of family violence may benefit from studies examining the impact of natural disasters on reports of domestic abuse, but there is currently no academic study that is analogous to the present situation. Now is the moment for increased collaboration between animal welfare and human welfare agencies and for public education on the need of reporting suspicions of abuse.

**UNFPA, WITH CONTRIBUTIONS FROM AVENIR HEALTH (2020)** The United Nations Population Fund (UNFPA) has established a deadline of three years to achieve the Sustainable Development Goals. It is imperative that all forms of gender-based violence, including female genital mutilation (FGM) and child marriage, be stopped immediately. Preventable maternal mortality of any kind must be eradicated. These goals may be severely hindered by the widespread spread of COVID-19.

**GIULIA MAROTTA (2021)** This article will provide a synopsis of the most current discoveries on sexual abuse of children by members of the Catholic Church in Italy and France. They are a sampling that we believe accurately reflects recent developments in the field. Here are some recent case studies of research into sexual abuse of children in societies with a mostly Catholic population that have not been rocked by widespread scandals. The results of a literature review covering the last twenty years reveal a

geographical pattern in terms of abuse, cover-up strategies, and the reactions of religious and secular institutions.

**MARY-ANNE KATE (2021)** People who describe experiencing severe sexual abuse as children, such as choking, suffocating, or other potentially fatal forms of abuse, may suffer from clinical degrees of dissociation and DDs. Breaking bones and teeth, threats of desertion, and denial of basic necessities are all examples of abuse. Those who reported both sexual and physical abuse were 106 times more likely to develop clinical dissociation than those who just reported physical abuse. As predicted, members in the dissociative groups had a high rate of amnesia. One-third of the control group's sexual abuse survivors also expressed difficulty remembering the abuse. Abuse experiences (unlikely to have been previously identified) were common to both the clinical sample and the university sample among individuals with clinical degrees of dissociation. In dissociative subgroups, abusers were more likely to have witnesses who could back up their accounts. Studies have shown that traumatic experiences may lead to dissociation.

## SEXUAL OFFENCES AGAINST FEMALE CHILD

### Sexual Abuse:-

Engaging in sexual intercourse with a juvenile in a manner that violates the law or cultural taboos, or in which the child is unable or unwilling to provide informed permission, is a crime. The most prevalent kind of abuse, by far, is not direct sexual contact, but rather the more subtle forms of manipulation and control that often precede it. The use of physical force is not a required component of child abuse in the same way that it is in adult abuse. Given their limited cognitive development, children's willingness is mostly irrelevant. She enjoys being mistreated since she usually doesn't realize it's happening to her. Numerous cases exist of older relatives making unwanted sexual attempts toward young children, usually females. These occurrences are often not even identified as such, much alone documented. Even in socially sanctioned play, adolescent guys with younger girls might engage in inappropriate behavior. Male and female servants who are trusted with young children have a disproportionately high incidence of criminal behavior.

### Sexual Assault:-

Sexual assault occurs more often than any other kind of maltreatment. Even if there is sufficient medical evidence corroborating the occurrence of sexual assault, our acquisitive jurisdiction has a tendency 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. In criminal proceedings, the standard of proof is "beyond reasonable doubt." If the evidence may be interpreted in two ways, one favoring the prosecution and the other favoring the defendant, then the defendant is entitled to a reasonable doubt under established law. Because of the extreme difficulties experienced by rape victims and the liberal interpretation of this core principle of law, many rapists have been exonerated.

### Rape:-

There are several gaps in the legislation regarding the protection of underage females from rape. According to the IPC, rape does not include sexual abuse of male minors. The provision of "unnatural offences" includes sexual offenses committed against boys. The most important issues and challenges in criminal law today need an exhaustive analysis.

### No specific provision dealing with child rape:

In cases of sexual assault, both minors and adults get the same treatment. Child sexual abuse has only lately been recognized as a distinct criminal offense. The rules that apply to sexual assaults on adult women also apply to those committed by minors. No chapter or provision of the IPC deals explicitly with sexual abuse of children. Rape is defined as the sexual assault of a woman, regardless of her age, per Section 375 of the Indian Penal Code (IPC).

### Meaning of the term "sexual intercourse":

Despite its usage in Section 375, the phrase "sexual intercourse" is not defined in the IPC. When interpreting Section 375, the courts have generally stuck to the previously established meaning of "Sexual intercourse." This implies that section 375 of the IPC does not consider oral or anal coercion to be the crime of rape.

### Meaning of the term "penetration":

The word "penetration," which is often used to describe sexual assault on children, is unnecessary unless to describe when the penis is inserted into the vagina. If the penetration is not penile-vaginal, child sex abuse is more prevalent than you may believe. Young children, in particular, are unable to perform penile vaginal penetration.

### Proof of penetration:

Rape rules need 'penetration' to be proven in situations of child sexual abuse, yet it's conceivable that nothing really happened. The culprit may get a seven-year jail term and a fine of Rs. 25,000/- (to be paid to the victim) if he or she successfully pleads guilty to molestation.

This is a terrifying illustration of how the court interprets the facts in cases involving both sexual (Section 376) and non-sexual (Section 354) offenses. This calls for a thorough review and possible overhaul of the laws regarding sexual misconduct by minors.

### **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:**

According to Section 1 of the Protection of minors from Sexual Offences Act of 2012, not all sexual offenses committed against minors are covered by the Indian Penal Code, and the Code does not make any distinction between the ages of the perpetrator and the victims.

In Section 3 of this Act, a girl has the same legal protections as an adult woman, however the word "woman" is more often used to refer to an older female. Regardless of age, the word "woman" is used in the phrase "women's rights" to refer to all female humans. Most women are able to give birth, while older women and certain intersex people are unable.

Both "man" and "woman" under Section 10 of the Indian Penal Code refer to an adult human being, not an unborn child. The section covers a lot of ground. According to this provision, a 3-year-old girl and a 4-year-old male are both considered adults.<sup>5</sup> A "woman" is any human being who identifies as feminine, regardless of age.

To apply the IPC's definition of sexual assault found in Section 375.6 to a six-year-old girl for the purposes of Section 354, IPC, is to treat her as a 'woman'

#### **Kidnapping:**

Kidnapping is described as the unlawful removal of a minor by force or deception, as stated by the Oxford English Dictionary. And the original meaning of the word "kidnapper" was someone who abducted children or other individuals to employ as slaves or indentured labour on a plantation in the Americas in the 17th century.

#### **Child Trafficking:**

In order to put into effect certain provisions from the International Convention for the Suppression of Traffic in Women and Children, the Indian Penal Code (Amendment) Act 20 of 1923, Section 3 added sections 366A and 366B to the Indian Penal Code. These provisions, which have been in place since May 1, 1924, punish those who import or export females for the purpose of prostitution. When a person under the age of 18 is lured into doing anything with the knowledge or purpose that they would be coerced or persuaded into engaging in illicit sexual intercourse with another person, that person is breaking Section 366-A of the Indian Penal Code (IPC). The portion was written with public morals in mind, rather than the purity of any one woman, in mind.

#### **Selling and Buying minor for prostitution:**

Prostitution involving children is illegal under Indian law, specifically sections 372 and 373. These provisions are in line with Article 23 of the Constitution, which criminalizes and punishes human trafficking.

It is a violation of the Act for brothel proprietors to allow prostitutes to remain for more than two or three hours each night in exchange for payment. It was also widely believed that brothel owners would use any girl under 18 for sexual services.

#### **Rape:**

Because the Latin word *rapio* means "seize," rape is a synonym for snatching. Therefore, 'rape' is causing a seizure by force. In common parlance, this refers to "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." To put it another way, rape is any kind of attack against a woman's private person.

To be guilty of rape, one must have had no intention of fulfilling their end of the agreement from the start of the encounter. *Deepak Gulati v. State of Haryana*, AIR 2013 SC 2071 states that a conviction for rape requires proof that the accused was suffering from mental illness or had ulterior motivations. Sexual and other unnatural crimes are addressed under section 377 of the Indian Penal Code. The offense of rape was included in the Penal Code's Section 375.

### **CONCLUSION**

We are all impacted by criminal behavior as a society. Sexual abuse occurs when a kid is subjected to or engages in sexual conduct that is inappropriate for him or her, against the law, or against societal norms and mores. According to Section 1 of the Protection of minors from Sexual Offences Act of 2012, not all sexual offenses committed against minors are covered by the Indian Penal

Code, and the Code does not make any distinction between the ages of the perpetrator and the victims.

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