

Sexual Abuse of Girl Child and the Law in India

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Girl is a important creation of God. She plays a important role in every aspect of her life. She is the axis of the society. The whole society revolves round her. There has been a drastic change in the status of girl from the Vedic age to the present day. Her status has stooped down from that of Goddess to just a living being. The birth of a girl child which at the ancient society was a boon has now became a curse for the society.

In ancient society i.e. Vedic period girl enjoyed all rights and powers. She played an important role in every sphere of life then whether it was religious, intellectual, proprietary, etc. In post Vedic period, girl began to lose her status in the society which she attained in the Vedic age. She lost her independence. According to Manu a girl must be kept in subordinationⁱ day and night by the males of the family without considering their age. She became a subject of protectionⁱⁱ.

Girls in Mughal India occupied a high position in the family. She led a life of respect and dignity. The welfare of the family depended on her care, love and attention. Polygamy was common among the Muslims. In some cases, the Hindus also married a number of wives. Talaq or divorce and remarriage were common among the Muslims. It is worth mentioning that except those belonging to the lower classes, Hindu girls generally did not move out of their houses in public. Monogamy was the rule with the Hindus on account of habit and economic necessity. Sati was a widely prevalent practice among the Hindus. Child marriage also prevailed almost everywhere. Child marriage, Polygamy, Sati, Jauhar and Purdah system made the conditions of girls deplorable in the society. However, there were many influential and learned girls of outstanding ability like Nurjahan, Mumtaz Mahal, Jahanara, Roshanara, Tara Bai, Jodha Bai, Rupmoti, etc who exercised a great influence in contemporary society and politics. But they were royal girls who enjoyed special place in society. Girls in general who were deprived of education and fundamental rights suffered a lot during this period. Akbar endeavored to restrict child marriage by fixing the age of marriage. He also tried to prohibit sati and encourage female education. But his success here was only partial.ⁱⁱⁱ

British period

During the British rule, a number of changes were made in the economic and social structures of Indian society, and some substantial progress was achieved in elimination of inequalities between men and girls, in education, employment, social rights etc. Prior to this period, the status of girls was in an unpromising state.

At the end of the Nineteenth Century girls in India suffered from disabilities like, *child-marriage*, practice of *polygamy*, sale of girls for marriage purposes, severe restrictions on widows, non-access to education and restricting oneself to domestic and child-bearing functions. The *Indian National Conference* started in 1885 by *Justice Ranade* contained these disabilities.

Some girls organizations like the *Banga Mahila Samaj*, and the *Ladies Theosophical Society* functioned at local levels to promote modern ideas for girls. These organizations took up issues like girls's education, abolition of social evils like *Burdah* and *Child marriage*, *Hindu law* reform, moral and material progress of girls, equality of rights and opportunities, etc. It can be said that, the Indian girls's movement worked for two goals.

(i) *Uplift of girls.*

(ii) *Equal rights for both men and girls.*

Girls in Modern India

The Constitution of India has provided equal rights and status to both men and girls. *The number of girls participating in Public and Social life of the country is far greater today than it was in the past.* Girls in greater numbers are occupying responsible posts as scientists, doctors, educationists, artists, legislators, ministers and governors, etc. Girls are now employed even in sectors which were earlier regarded as male line of work, like pilots, para-military, and security agencies. They have taken to physically arduous filed like, police, armed forces and other adventurous occupations, thereby, doing away with the myth that, they belong to a weaker category. Life of a nuclear family of the present times has become a more co-operative venture. Many of the more important family decisions as well as the assertion of parental authority are taken by the mother.

Sexual Abuse Of girl child

Sexual abuse is inappropriate sexual behaviour with a child. It includes fondling a child's genitals, making the child fondle the adult's genitals, intercourse, incest, rape, sodomy, exhibitionism and sexual exploitation. To be considered 'child abuse', these acts have to be committed by a person responsible for the care of a child (for example a baby-sitter, a parent, or a daycare provider), or related to the child. If a stranger commits these acts, it would be considered sexual assault and handled solely by the police and criminal courts.

The subject of child sexual abuse is still a taboo in India. There is a conspiracy of silence around the subject and a very large percentage of people feel that this is a largely western problem and that child sexual abuse does not happen in India. Part of the reason of course lies in a traditional conservative family and community structure that does not talk about sex and sexuality at all. Parents do not speak to children about sexuality as well as physical and emotional changes that take place during their growing years. As a result of this,

all forms of sexual abuse that a child faces do not get reported to anyone. The girl, whose mother has not spoken to her even about a basic issue like menstruation, is unable to tell her mother about the uncle or neighbour who has made sexual advances towards her. This silence encourages the abuser so that he is emboldened to continue the abuse and to press his advantage to subject the child to more severe forms of sexual abuse. Very often children do not even realize that they are being abused.

A study on Child Sexual Abuse carried out by Save the Children and Tulir in 2006 looked at the prevalence and dynamics of child sexual abuse among school going children in Chennai. The study was conducted with a view to add to the scarce indigenous body of knowledge on child sexual abuse and with the aim of 74 Sexual Abuse

The WHO estimates that 150 million girls and 73 million boys under 18 have experienced forced sexual intercourse or other forms of sexual violence involving physical contact, though this is certainly an underestimate. Much of this sexual violence is inflicted by family members or other people residing in or visiting a child's family home- people normally trusted by children and often responsible for their care.

Few incident of sexual abuse in India

1. The five-year-old who was kept captive and raped in a room below where her family lives One of the two men has allegedly provided the police with chilling details of how she was assaulted. The police say that Manoj Kumar, who rented the room was drinking and watching porn on a mobile phone at the home of his friend Pradeep Kumar, 19, also from Bihar. The two men then travelled to where Manoj had recently rented a room in East Delhi. They spotted the child playing there and bought a chocolate to lure her into Manoj's room, according to the police. They then took turns raping her. The police say that Manoj asked Pradeep to strangle the girl. Manoj reportedly waited outside while Pradeep went into the room to kill her. When he emerged, Pradeep said the child had died and the two men caught a train to Bihar. The child lay bleeding and without food or water in the locked room till Wednesday evening, when her mother heard her cries and summoned the police. Her husband claims that the police, who had been reluctant to help him, then offered him a bribe of Rs 2,000 to buy his silence about his daughter's ordeal.
2. Haryana: Neither safe at home nor at school' is the condition of pre-teen girls in the state as of now. While the country raises protesting for the cause of crimes against girls, a large number of pre-teen girls studying in Haryana schools have reported sexual harassment. The startling revelations have come to the fore through a survey conducted by teachers of government schools in the state's Rewari district. It revealed that the girls were not safe either at home or school. The Study was conducted by 60 teachers deployed by the education department. These girls teachers spoke to about 30,000 girls between the age group of 5 and 12 who confessed to having been the victims of sexual harassment.^{iv}
3. Mumbai: The founder of an orphanage near Mumbai was sentenced to death by a local court, which held him guilty for the death of a differently abled teenage girl and sexual abuse of five other inmates. Five employees of the institution were handed tough jail terms. Ramchandra Karanjule, who runs the orphanage in Panvel, was given death penalty. He had been charged with murder as one of the girls at the orphanage died after she was gang-raped.

Prakash Khadke, a teacher at the orphanage, and Khandu Kasbe, who runs a similar home in Shirdi, were sentenced to life imprisonment. The court slapped 10-year jail terms on Sonali Badade, superintendent of the orphanage, and Parvati Mavle, the caretaker. Another accused, Nanabhau Karanjule, was convicted for molestation and will serve two years in prison. The horrific saga of sexual and physical abuse of the girls, aged 14 to 18, came to light in 2011 during an inspection of 25 homes for differently abled children under the instructions of the Bombay High Court. The police made arrests in March 2011. A medical report revealed the girls had been repeatedly raped. The court convicted the six people^v

4. **DIBRUGARH:** Five army jawans were arrested by police on Friday for helping another jawan, who allegedly sexually assaulted a teenaged girl at Dibrugarh Railway Station on Thursday night, to escape. According to police, the 18-year-old girl and her brother had arrived at the Dibrugarh station by the Kamakhya Express from Guwahati and were on their way home to Dhakuakhana in Lakhimpur district.^{vi}
5. **JAIPUR:** The rape of a four-year-old by a teenager in Bundi district on Saturday sent shockwaves across the state. A couple of days ago, a teen aged girl complained of being allegedly raped by five youths for 20 days. The rise in the number of rape incidents in the state has exposed the dark underbelly of a state that till sometime ago was seen 'relatively safe' compared to other neighboring states.
6. In 2011, as per the police records, nearly 26 girls aged up to 10 years were raped in the state. However, this year, going by the spate of such incidents, the numbers could be frightening. The number of cases of child abuse, especially rape of girls under 10, over the past one week has been alarming. At least four girl children aged upto nine years were raped in a week. Apart from arresting the accused, who in most cases are neighbours or distant relatives, police seem clueless on checking the trend.^{vii}

Laws for the protection of Girls from sexual abuse

During recent time the impact of criminal justice system on victims of sexual abuse (rape and other sexual offences) have receives considerable attention both in legal circle and amongst organizations and individuals connected with the welfare of female in the field of criminology and increasing interest is being shown in the victim and her position in the criminal justice system. In consequence the greater attention is now being paid to the female victim of the sexual abuse and sexual offences.

Protection to girl child has been provided under various laws and Acts of the country. They can be enumerated as follows:-

INTERNATIONAL CONVENTIONS AND DECLARATIONS

India is signatory to a number of international instruments and declarations pertaining to the rights of children to protection, security and dignity. It acceded to the United Nations Convention on the Rights of the Child (UNCRC) in 1992, reaffirming its earlier acceptance of the 1959 UN Declaration on the Rights of the Child, and is fully committed to implementation of all provisions of the UN CRC. In 2005, the Government of India accepted the two Optional Protocols to the UNCRC, addressing the involvement of children in armed conflict and the sale of children, child prostitution and child pornography. India is

strengthening its national policy and measures to protect children from these dangerous forms of violence and exploitation. India is also a signatory to the International Conventions on Civil and Political Rights, and on Economic, Social and Cultural Rights which apply to the human rights of children as much as adults. Three important International Instruments for the protection of Child Rights that India is signatory to, are:

Convention on the Rights of the Child (CRC) adopted by the UN General Assembly in 1989, is the widely accepted UN instrument ratified by most of the developed as well as developing countries, including India. The Convention prescribes standards to be adhered to by all State parties in securing the best interest of the child and outlines the fundamental rights of children, including the right to be protected from economic exploitation and harmful work, from all forms of sexual exploitation and abuse and from physical or mental violence, as well as ensuring that children will not be separated from their families against their will.

Convention on the Elimination of All Forms of Discrimination against Girls (CEDAW) is also applicable to girls under 18 years of age. Article 16.2 of the Convention lays special emphasis on the prevention of child marriages and states that the betrothal and marriage of a child shall have no legal effect and that legislative action shall be taken by States to specify a minimum age for marriage.

SAARC Convention on Prevention and Combating Trafficking in Girls and Children for Prostitution emphasizes that the evil of trafficking in girls and children for the purpose of prostitution is incompatible with the dignity and honor of human beings and is a violation of basic human rights of girls and children.

Reference

- [1] Manusmriti, IX,2
- [2] Ibid,IX,3
- [3] http://www.kkhsou.in/main/history/economy_mughal.html)
- [4] <http://news.oneindia.in/2013/06/03/over-1000-school-girls-sexually-abused-1230504.html>
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