

VIOLENCE AGAINST CHILDREN

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Abstract

Violence against children is mainly caused because of their weakness and unawareness of those crimes. The main root of crime against children is their maturity. Children are mainly affected by offences like cruelty, sexual abuse, child labour, kidnapping abduction, intoxication etc. Children are affected mentally physically and sexually. Many laws have been enacted to prevent the child from causing such types of offences. Most of the offences against children are happening to the child who is adopted and not liked by their own parents. Violence against children can be prevented. This article speaks about the types of violence against children and some of the impacts which they are facing. And also this article gives some preventive measures to prevent the children from that violence. Violence against children is said to be the violence that is committed against a person under eighteen years of age. Such types of violence are neglect of children, infants and adolescents by their parents and other people. Offences like bullying involve repeated social harm. Sexual violence will psychologically affect children. Mostly psychological violence is made by the parents who behave very rudely. Sexual violence is mostly committed by the person who clearly notes the child. Physical violence is violence like beating, punching, kicking etc. This article contains how to prevent the child from making such types of offences.

Keywords: violence, cruelty, kidnapping, abduction, intoxication

Introduction

Children are merely considered to be god. Many poets have described children in many aspects which are relating to god. Some say children are beautiful flowers given by god. But in those beautiful flowers, some are brutally forced under cruelty and have been the victims of criminal offences and they are losing their childhood. In our country from birth even before birth children are facing many problems. The first stage of crime against children is when the baby is in the mother's womb it faces abortion and refusing the baby to see the world. Next, they kill the newborn girl child in the name of mercy killing. These types of crimes are mostly done by those who have the mindset of refusing the girl baby. These people do not hesitate to such types of crimes. Recently during the time of lockdown during the pandemic situations, children are facing a lot of violence and even some children stopped their studies due to poor conditions. Even after making new laws and amendments, punishment for cruelty against children does not come to an end. The main reason for violence against children is their age and level of maturity. This article explains the crimes against children and some measures to prevent children from such crimes.

Definition of Child

Section 2(ii) of the Child Labour (Prohibition and Regulation) Act, 1969 says that "child" means a person below the fourteenth year of age.

The explanation for Offences against Children

Crime against children includes both physical and emotional abuse. First of all, before knowing the various forms of crimes that are happening against children we must know the concept of crimes happening against juveniles. These kinds of crimes are ranging from a newly born baby to a person below the age of eighteen years of age. Any offence or offences or any criminal activity committed against a child or children is considered as crimes against children.

Types of Offences against Children

Offences against Children

- Abuse
- Neglect
- Exploitation

- Physical
- Mental
- Sexual

Some of the various kinds of offences which are committed against the children are given below:

- Cruelty (Section 351 of IPC)
- Child Abandonment
- Child Pornography
- Murder
- Sexual Harassment (Section 354A IPC)
- Voyeurism (354C IPC)
- Stalking (Section 354D IPC)
- Infanticide and Foeticide (Section 315 and 316 IPC)
- Kidnapping and Abduction of Children
- Intoxicating a Child
- Sale and Procurement

Cruelty (Section 351 of IPC)

Section 351 of the Indian Penal Code speaks about cruelty. In our society people have the least idea of child cruelty. Shouting at a child for scaring him or her is also a form of cruelty. Cruelty also includes beating him or her or creating mental pressure by threatening with physical harm. Cruelty means it is an act or omission which physically and mentally affects a person depending upon age, gender and mentality etc. In simple words, our society has thought that unless the parent or guardian behaves like a martinet with the child, that child will never be disciplined in life. Apart from parents, educational institutions also have the same thought that physical punishment is only the solution for mistakes of the child. This type of cruelty is accepted by most people. But recently many new strict legislation and amendments have been enacted to prevent such types of child cruelty in educational institutions. But domestic violence does not come to an end because the children themselves do not know their own rights, Apart from that cruelty from educational institutions home cruelty is also in the form of bullying. Bullying is also a form of cruelty by abusing and mistreating a person by someone strong or with power etc.

Punishment for cruelty on a child

According to Section 75, any person who assaults, deserts, abuses, exposes or willfully negligent towards is said to be cruelty. Such kinds of cruelty shall be punishable for a term extending up to 3 years or with a fine of 1 lakh rupees or both. It is said that such kinds of cruelty cause the child to mentally ill and makes him or her incapable of performing the regular activities of a normal child. Then such types of offences shall be punishable with rigorous imprisonment, with a minimum period of 3 years and it can be also extended up to 10 years and also shall be liable to a fine of 5 lakhs.

Exposure and Child Abandonment (317 IPC)

Child abandonment commonly means when a parent or guardian leaves a child with the intention of deserting him or her without any regard for the child's physical or mental health, safety and welfare or intentionally abandoning a child or fails to provide proper care for that child. This law varies from state to state. When the parent or legal guardian decides to leave the child and chooses not to have any contact with the child and also refuses to support the child financially and mentally is said to be Child abandonment.

Some examples of Child Abandonment is given below:

- Leaving the child alone in the home for a longer period of time harms the child mentally.
- Leaving the child caretaker or guardian for a longer period of time without providing any financial support and communication.

Punishment for Abandonment

Punishment for those offences varies from state to state. Penalties for these offences include fines, termination of rights, supervised access to the child, and imprisonment.

Cases under Child Abandonment**Mukesh Krishnan Vs. The State Of Rajasthan & ANR¹**

In this case, a girl baby was born and she was deserted and thrown into a field. That fatherless and motherless child was staying in an orphanage. Nobody came forward to take care of the child. Under Section 317 IPC it is said that exposure and abandonment of the child under 12 years by their own parent or the respected guardian shall be punished with imprisonment which may extend up to 7 years or with fine or both.

Child Pornography

Child Pornography is said that it is a form of a sexual offence. It refers to a branch of pornography that showcases the children to create a sexual desire of the viewers. While watching these videos people think the best part is the children in the pain. The person committing these types of offences takes those photographs of the child with the minimum part of the dress or without any clothes and then they record the sound of the children making the sexual sound and also they record these showing that the child was involved in the sexual activities. This type of offences affects the children totally. The real solutions to these problems are still pending.

Precedent**Kamlesh Vaswani vs. Union of India²**

In this case lawyer Kamlesh Vaswani has filed a case under section 66,67,69,71,72,75,79,80 and 85 of the Information Technology Act,2000 and also he filed to seek for banning all online pornography. During the case, the petitioner approached the Department of Telecommunications and at last, all the 800 websites were blocked without even any single verification but it was revoked after a lot of criticism.

Sexual Harassment (Section 354 IPC)

The World Health Organization (WHO) says that child sexual harassment is involving a child in sexual activity without his or her consent and when they are not able to give any consent and

¹ Mukesh Krishnan V. The State of Rajasthan & ANR, S.L.P. (Criminal) Nos. 609-610 of 2017

² Kamlesh Vaswani V. Union Of India & Others, (2016) 7 SCC592

harassment of a child when he or she is not even prepared physically and mentally. In India, sexual harassment of a child has been hidden historically. Child Abuse was largely ignored by the people in public. The main victims of sexual abuse are girl child but also boys too highly in the abused rate. These types of crimes are happening in the families of economically poor background and people in the backward in the religion.

Precedent

State vs. Pankaj Choudhary³

In this case, the accused was prosecuted for the modesty of a woman for digital penetration of the anus and vagina of a 5-year-old child but under the Indian Penal Code, the digital penetration is not recognized to date. And the judgment was given under the enactment of the POCSO Act. But later the addition of the enactment of the POCSO Law increased the cover protection for children.

Punishments for Sexual Harassment of a child

Under Section 354 in The Indian Penal Code, the accused shall be punished with imprisonment of either for a term which may be extended to two years or with a fine or both.

Under Section 354A the accused shall be punishable with imprisonment for three years but may extend up to seven years and shall also be liable with the fine.

Voyeurism (Section 354C)

Child Voyeurism is defined under Section 354A of the Indian Penal Code. Voyeurism means any person who looks or captures the image of the woman who engaged in their private act. It is defined as a person undoubtedly watching or doing the videos of a child when they are undressed or naked or engaged in sexual activities. The person doing this type of crime is known as a voyeur and also they are called peeping toms. The separate Law has been enacted is the Video Voyeurism Prevention Act of 2004.

³ State V. Pankaj Choudhary, CRL. A. 813 2013, 993 2009

Punishment for Voyeurism

A person who is found guilty of doing this offence shall be punished on first conviction with imprisonment which shall not be less than one year but, it may also extend up to three years and also liable for fine.

On the second conviction shall be punishable for not less than three years and which may extend up to seven years and shall be liable with fine. This type of offence is bailable and is also triable by any first-class magistrate.

Precedent**R V Jarvis⁴**

In this case, Ryan Jarvis was a high school teacher in the Thames Valley District School in London, Ontario. He was teaching for the students of 14 to 16 years of age. He was very good at his job and not even a single allegation was claimed against either his behaviour or his teaching. But regularly he was recording female students through his pen which contained a camera inside and those videos were made without the knowledge of the students.

This was not the job that was given by the school management. Jarvis' co-worker found that and he complained to the principal of the school and later the principal complained it to the police authorities. After the cross-examinations, the police authorities found that there were 17 active videos of 30 students and that 27 of them were female students from the school. The main focus of those videos was on the chest of those girls. The judgment was that he was charged under section 162(1)(C) of the Criminal Procedure Code of Canada under Voyeurism.

Stalking a Child

Stalking a child has come up with strong penalties to deal with these types of offences. Section 345D of IPC deals with Stalking. Continuously following a person with the intention of causing harm or to create fear is known as Stalking. Cambridge Dictionary explains the crime as following or watching someone continuously for a longer period of time with the illegal intention is known as stalking. This type of sexual harassment against women was covered under section 354 and 509 of the Indian Penal Code. Later a separate law was enacted for Stalking in India.

⁴ R V. Jarvis, (2019) SCC 10

Precedent**Priya Mattoo Case⁵**

In this case, a young law student was stalked by a stalker named Mr. Santosh Singh. He was the son of a former IPS officer. He raped and murdered her in her home. During the rape, Mattoo was alone at home. Later the case was transferred to CBI. The High Court punished him with the death penalty. But the Supreme Court granted him the death penalty to life imprisonment.

Infanticide and Foeticide (Section 315 and 316)

According to research in India, 10 million girl children have been killed either before birth or immediately after birth, by their own parents. United Nations Studies says that every day there are nearly 2000 unborn girl children aborted in India. The Medical Termination of Pregnancy Act, 1971 was specifically enacted to prevent children from foeticide. Under the Indian Constitution Article 21, the Medical Termination of Pregnancy Act several conditions were imposed to the right to abortion and right to health.

Punishments for infanticide and foeticide

- Punishment for infanticide is given under section 315 of the India Penal Code, the accused shall be punished for a term which may extend to ten years and also liable with a fine or both.
- Under Section 318 of the India Penal Code, if any person who secretly buries the body of the newborn child with the intention to kill the child is punishable with a term which may extend up to two years of imprisonment, or they may be charged with a fine or both.
- This type of offence is cognizable, bailable and non-compoundable.

Precedent**K.E. Thankamani V State of Rajasthan⁶**

In this case, the appellant was convicted under section 302 for the death of her two infants for throwing them into the well. In this case, the prosecution argued that the appellant also fell into the well but had survived. According to Rule 131 of the Criminal Rules Practice if Women have

⁵ Priya Mattoo Case, (2007) CriLJ 964

⁶ K.E. Thankamani V State of Rajasthan, JT (2001) (1) SC 624

convicted of the murder of her own child the prosecution argued for a reduction of the sentence of the mother. The Supreme Court considered the matter of reduction.

Child Kidnapping and Abduction

The kidnapping usually means seizing or carrying off a minor from their legal parent or guardian. But abduction refers to forcefully carrying the away of an adult person. In the case of kidnapping the consent of the minor is not matured enough. In the case of abduction, the consent of the adult will be more matured enough. Section 362 of the Indian Penal Code, 1860 defines abduction as the act of forcefully taking away the child without the knowledge of the parent or guardian. Kidnapping may happen for the reason of money or for selling the child for different purposes.

Precedent

Villas's Case⁷

In this case, Villa is a surgeon by profession. In September 2006 from Mumbai Airport Vilas and their baby daughter was abducted by his ex-wife and taken to a small taluka in the inner place of Maharashtra. He was not able to meet or speak to his daughter for more than one year from when she was taken away from the airport. Vilas pleaded to the Mumbai court for returning his daughter. To stop him from the children his ex-wife added all sorts of criminal cases against him in the UK, New Zealand and in the Indian courts. At last, this also made his professional career come to an end. And the complaint against his ex-wife was refused by the local police in Maharashtra. And his family was threatened and was killed in the fake encounter

Intoxicating a Child

The child who is in the situation of claiming himself can end up to some racket leaders. They build the habit of intoxicating cigarettes, alcohol, drugs, etc. These types of crimes are happening because of the sellers who gain a lot by selling those things. Not only due to the racket leaders but also the children learn from their family members.

⁷ Villas Case 2018, EKSC 57

Punishment for intoxicating a child

Any person who intentionally intoxicates a child with liquor or any sort of narcotic drug or products of tobacco shall be punished with rigorous imprisonment for a term which extends up to seven years and a fine extending up to 1 lakh.

Sale and Procurement

Section 81 of the Juvenile Justice Act describes the sale and procurement of the children for any purpose. Nowadays this is a big problematic issue. Children after kidnapped are sold for employment in the beggary, to involve them in child prostitution or to hire them for household works and to involve them with illegal marriages and bad relationships.

Punishment for child procurement and sale

Under Section 81 of the Juvenile Justice (Care and Protection of Children) Act, any person who sells or buys a child for other purposes shall be punishable with rigorous imprisonment of a term which may also extend up to 5 years and shall also be liable with fine up to one lakh rupees.

Causes of Crime against child

The main reason for the crime against children is given below

1. Lack of awareness and care by parents

Mostly in the rural parts of the country, many families are under the poverty line. They all run towards their work and they mostly fail to give adequate care for their children. In some families parents of the children sell their own children for solving the problem of poverty.

2. Poverty:

Poverty is one of the main reasons for the crime against children. The family which is under the poverty line will sacrifice their own children for money.

3. Society

Society is mainly responsible for the rise in the crime rate against children. People always indulge and overlook the crime taking place. The dramatic increase in the rape rate is another related incident.

4. Corrupt and Government Officials:

There are many laws, facilities and amendments offered by the government. But this type of crime does not come to an end. This is very bitter to hear that these children fail to achieve their goals.

Impacts of Violence against Children

Crime against children affects their whole life involving health, family, communities, and nation. Some of the impacts of children which happens day to day life are given below:

1. Severe injuries to health

Many children are injured by severe health injuries. Mostly crime against children affects their health. They are affected by many health issues. Hundreds of predominant male and females are affected by lots of injuries.

2. Death

Crimes involving weapons like knives and dangerous weapons will lead to death. 80% of crimes are leading to death.

3. Mental Disorder and nervous system problems

Violence against children can negatively affect the child's mental health and nervous problem. Crimes that are severely affected can affect mental health. The brain effects due to such types of severe crime. If the brain damages other parts it will also affect nervous disorders.

4. Unplanned and unwanted pregnancy

Sexually transmitted infections can cause unwanted pregnancies. This unwanted pregnancy can cause HIV, AIDS and some other infections.

5. Prohibits opportunities for future generations

Due to crime against children the victims are affected mentally and physically, this can stop the children to grow to the next level.

Some of the acts are enacted to prevent and to punish the Violence against children

Protection of Children from Sexual Offences (POCSO) Act

The Protection of Children from Sexual Offences Act, 2012 (POSCO) was enacted in 2012. It was mainly enacted to prevent the children from offences like sexual assault, sexual harassment, and pornography. This was mainly prior to the children and it was mainly to the child-friendly reporting. This enactment provides more severe penalties for doing such offences. This act recognizes various sexual offences which are committed against children. This act is for both male and female children and especially to punish the person who has committed the offence.

Information and Technology Act

Punishments for the offences like child pornography have given under Section 67B of the Information of Technology Act, 2000.

Under this section, any person who publishes or transfers in electronic which children are engaged and person who transfers, downloads, browses or promotes child types of videos are severely punished with imprisonment extending up to 5 years accompanied up to 10 lakhs fine.

Under Section 67A, shall exclude any:

1. Book
2. Paper
3. Writing
4. Drawing
5. Electronic representation.

Preventive Measures

Some of the preventive measures are given below to stop violence against children:

1. Research says that first, the parents of the children should understand their behaviour. They should have cared for their child and must keep their children healthy.

2. The families of the children should be economically supported. Giving support to household financial problems.
3. Should provide extra care over the children from the beginning and in the educational institutions also.
4. Parents should always note how others approach their child.
5. Children should have behavioural training in their educational institutions.
6. Children are counselled about being safe.
7. Treatment should be given to avoid future risk.

Conclusion

Crime against children not only affects the health of the children but also affects them emotionally. Violence against children is spreading quickly. 64 percent of crimes are mostly happening in South Asia. Violence against children occurs in the home, school, workplaces and in communities. Our government should take extra measures to prevent children from violence. Governments, policymakers and organizations which are focusing on children wellness are responsible for the safety of the children. However many laws are enacted but their crimes against children do not come to an end. Some more laws and amendments with a lot of safety measures should be made to prevent children from such types of offences. It is in the hands of the government and parents to safeguard the children and make a protective environment.