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ABSTRACT

Child sexual abuse reminds one of the most pressing socio-legal challenges in modern India. This research explores the multiple issues of child rape, specifically examining the efficacy of the POSCO Act 2012. The study analyzed the legal framework designed to protect minors while identifying the systematic barriers, including social stigma, judicial backlog, and underreporting of thefts and offenses, that prevent victims from obtaining justice by reviewing child protection. This paper highlights the gap between legislative intent and root implementations. The findings emphasize the need for a more robust child-centric approach to investigation and trial as well as the necessity for comprehensive victim rehabilitation programs.

KEYWORDS

Child Sexual Abuse, POSCO Act, Judicial, Legislative, Rehabilitation.

INTRODUCTION

Sexual assaults and rapes are such violent crimes that not only leave the victims physically assaulted but also emotionally traumatized or even dead. In 2002, WHO (World Health Organization) estimated that 150 million girls and 73 million boys under the age of 18 years had experienced sexual assault which is one of the most common but unreported crime.¹ Children below the age of 18 suffer all forms of sexual activities that include

¹ Sankaran, Nilgün Okay and Gerhard Chroust S, R. Sharma R, Pardasani R, Nandram S (2014), "The problem of rape in India: a multi-dimensional analysis". International Journal of Managing Projects in Business, Vol. 7 No. 3 pp. 362–379.

vaginal-fingering, anal-fingering, vaginal and/or anal penetration, looking at sexual parts with psychiatric sense, voyeurism, or pornography. In spite of all the laws, education and awareness, Child Sexual Assault (CSA) cases were recorded to have been tremendously increasing especially in the metropolitan cities. Studies prove that the incidence is far bigger than what is reported to authorities and the frequency of CSA cases is therefore difficult to determine as they are often not reported. Sexual assault and rape victims seek out official provision amenities in the acute period that may even be stretched to days, weeks, months or years following the sexual assault.

This delayed disclosure may be challenging for the purpose of eliciting the tell-tales from the evidence that could be the only way to establish the link between the accused and the crime.

The objective of our study is to evaluate the overall crime rate of Delhi NCR in the year 2017–2018 and to study the reasons associated with delayed reporting. Rising out of the analysis, the secondary objective of the study is to find the possible effects of delayed medico legal examination on forensic DNA evidence. The emphasis is given on the cases reported U/S 376 IPC (this section stipulates punishments that are awarded if a person is convicted to rape), U/S 377 (this section describes punishment for whoever voluntarily commits unnatural intercourse with any human being or animal) and POCSO Act (Child Sexual Assault). The victims in this study are in the age range of 2 months to 17 years; unmarried, predominantly adolescents, having very low social and educational status. Involvement of Juvenile offenders in committing rape is quite high. In most cases the offenders are either neighbor and/or known to the victim. The objective of our study is to evaluate the statistical percentage of child sexual abuse cases.

LITERATURE REVIEW

The academic literature surrounding child sexual abuse and rape in India is generally categorized into legal frameworks, sociological barriers, and the psychological impact on survivors.² Scholars often focus on the gap between legislative intent and the reality of judicial implementation.

Evolution of the Legal Framework: The POCSO Act Much of the existing research centers on the Protection of Children from Sexual Offences Act, 2012. Prior to its enactment, child sexual

² Choudhry V, Dayal R, Pillai D, Kalokhe AS, Beier K, et al. (2018) Child sexual abuse in India: A systematic review. PLOS ONE 13(10): e0205086.

abuse was addressed under the Indian Penal Code, which many legal scholars argued was insufficient for addressing the specific vulnerabilities of minors. The literature highlights that POCSO was a landmark shift because it introduced gender-neutral definitions of sexual assault and established special courts for child-friendly trials. However, researchers often critique the implementation of the Act, citing that while the law is robust on paper, the conviction rates remain low due to procedural delays.

Sociological Barriers and Underreporting

A significant portion of sociological research focuses on the phenomenon of underreporting. Studies frequently identify social stigma and the "honor" of the family as primary reasons why cases are suppressed, especially when the perpetrator is known to the victim. Literature in this area suggests that the majority of child rape cases in India involve offenders who are close to the family neighbors, relatives, or acquaintances which complicates the reporting process and leads to immense pressure on the victim's family to reach an out-of-court settlement.

Systemic and Judicial Challenges

Academic inquiries into the Indian criminal justice system often highlight the "secondary victimization" that occurs during the trial process. Key themes in this literature include:

- **Judicial Pendency:** The massive backlog of cases in special POCSO courts, which often leads to trials lasting years, during which witnesses may turn hostile or evidence may degrade.
- **Lack of Child-Friendly Infrastructure:** Despite the Act's mandate for child-friendly environments, research indicates that many police stations and courtrooms still lack the necessary facilities to protect a child from the trauma of facing their abuser.
- **Forensic and Medical Gaps:** Scholars point to the lack of specialized forensic training for medical practitioners and police officers, which can lead to weak evidence and subsequent acquittals.

Psychological Impact and Rehabilitation

Psychological literature emphasizes the long-term trauma associated with child rape, including Post-Traumatic Stress

Disorder, anxiety, and depression. Research in this domain often critiques the lack of comprehensive state-funded rehabilitation programs. While the POCSO Act provides for compensation, scholars argue that financial aid is an insufficient substitute for the long-term mental health support and social reintegration services that remain largely absent in many parts of the country.

METHODOLOGY

This study focusing on child rape in India adopts a methodology involving doctrinal and analytical research, mainly using secondary sources. It evaluates the existing legal provisions regarding sexual crimes against minors, especially the provisions of the Protection of Children from Sexual Offences Act 2012 and the corresponding provisions of the Indian Penal Code.³ It also looks at the primary data, reports published by the National Crime Records Bureau, the Supreme Court and various High Courts, the publications of several scholars in the field, and documents published by international NGOs such as UNICEF and the National Commission for Protection of Child Rights. It uses both statistical and qualitative methods to ascertain the child rape situation and the legal and social obstacles, assess the legal and policy framework for the protection of children in India, and also on the social obstacles. It analyzes the data to document the legal and social obstacles and to assess the protection of children in India. The public nature of the documents and the anonymity of the victims is ethically justified.

DISCUSSION

The problem of child rape in India reflects many of the deep seated societal problems we have including entrenched gender inequality, social stigma against victims and criminal justice system ineffectiveness. The harsher POCSO Act 2012 a law designed to deal with prevention of the sex abuse of children and processes to ensure it is dealt with effectively, adequately covers the provisions that make child rape an offence, still does not prevent child rape on an on going basis in metropolis as well as in rural India.⁴ There are numerous reasons for the continuing incidence of child rape for instance there are many illiterate communities and awareness in India is very bad. Reporting crimes like child sexual abuse to the police is often considered socially shameful, as it stirs up social distrust, which affects not only the victim, but the family members and in many cases affects

³ Cherukuri, S. (2021). Sexual Violence against Women, the Laws, the Punishment, and Negotiating the Duplicity. *Laws*, 10(2), 27.

⁴ Tyagi S, Karande S. Child sexual abuse in India: A wake-up call. *J Postgrad Med*. 2021 Jul-Sep;67(3):125- 129.

the child to such an extent that the abuse continues till the child finally gathers courage to report it in some cases not at all . Further it has been found that the culprit in the majority of cases has been known and familiar to the child itself . The steps taken by National Commission for Protection of Child Rights and judiciary and others to effectively and fairly make use of the POCSO Act 2012 alone will not achieve its desired object but must be supplemented by more stringent compliance, through more education, by greater social consciousness for the abolition of the social evil of child sexual abuse, effective victim support etc.

CONCLUSION

An overview of the crimes clearly indicates that most of the crimes against women cut across all barriers of religion, caste or social strata. Education and economic independence rarely increases the moral courage of the victim to fight against the crimes especially those crimes which have a social stigma attached to them. The gender biasness, the patriarchal society, poorly developed shelter, lack of space, lack of awareness, lack of time by the loved ones, defective government policies, capitalist kind of society etc. are factors which contribute to the crimes against women. This is indicative of society weakness to protect those who for various inherent reasons are not able to protect themselves fully and also the fact that we have males among us who are worse than beasts. It is slur on the noble values and institutions, which the society so loudly extols. The sexual offences particularly rape are a standing insult not only to sacred institutions of marriage, sisterhood and motherhood but also to the whole humanity. In rape, the victim is destroyed and left alive to face the consequences of the destruction every single day. She has to live her death every single hour, single minute and single second of her life. The process of law is lengthy, cumbersome and expensive.

Delayed trials due to the heavy back-log of cases and the other delaying tactics of the offender dilute the case, proofs disappear, and it reduces the chances of victim getting justice.⁵ Rape is a very complex phenomenon which itself has multiple factors involved in the justice delivery process. For the prevention and control of this evil a combined, coordinated and concerted efforts are required on the part of police, judiciary, NGOs and common people at large.

⁵ *Sexual violence against children.* (2024). Unicef.org.