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AN OVERVIEW ON VIOLENCE AND CRIME AGAINST CHILDREN
IN INDIA

Abstract –

The crime against children is one of the most heinous crimes of all. The children are exploited, tortured and suffer because of some insensitive elements of the society who care just to satisfy their greed, lust or selfish interest. This harms their physical, mental, cognitive and socializing ability which ultimately deprives them from a bright future and ultimately the future of a society and country at large is supposed to be in dark. Dave Pelzer rightly said that “childhood should be carefree, playing in the sun; not giving a nightmare in the darkness of the soul”.

Keywords – Physical, mental, cognitive, socializing ability.

Introduction –

As per section 2(12) of The Juvenile Justice (Care and Protection of Children) Act, 2015, “child” means a person who has not completed eighteen years of age. Therefore, an offence which is committed on a victim who is below the age of eighteen years is considered as offence against children. The children are the building block of a society and a country, they are the future of a nation but when something is committed on them because of their innocence and gullible nature then it is a blot on that nation and it as a result harm the future of a country. The exploitation and violence against children are seen and heard in news everyday and the covid 19 pandemic has further aggravated this situation. Because of the nationwide lockdown, everyone is restricted to his/her own house with his family or other relatives and still the cases of violence against children rose which shows that the family members, close relative and

friends are largely responsible for it. As per the data of an NGO which analysed the data of National Crime Records Bureau, a total of 1,28,531 crimes against children were recorded in India in 2020 implying that an average of 350 such cases were reported each day during the pandemic. However, as per the analysis of a child rights NGO Child Rights and You (CRY) when compared with figures from the National Crime Records Bureau in 2019, there has been a drop of 13.3 percent in the total number of such cases¹.

Types Of Exploitation And Crimes Against Children –

Crime is that act which is illegal and for which people are punished if committed such types of acts. There are various types of crimes and exploitation which the children face in their life. Some of them are –

- *Sexual exploitation* – this is one of the gravest and heinous crimes of all because it has both physical and psychological impact on them. Because of increased use of technology and online presence of children, these activities have further increased. Children are lured and enticed virtually and they easily fall in this trap after which it becomes difficult for them to overcome from that danger. According to a report by CRY, sexual offence is committed against a child in India every 15 minutes and there has been an increase of more than 500 percent over the past 10 years in crime against minors. As per NCRB statistics on rape of women and children, 94% of the rapists are known to the victim and almost half are a close relative and neighbours. The conviction rate of these crimes is very low, only to 3 % of the total number of cases, according to the 2016 NCRB report. One of the chief causes of low conviction rate is lack of manpower and infrastructure in the criminal justice system².
- *Armed violence* – the current example of it can be seen in the case of Jammu & Kashmir where children were used as shield by various rogue elements to protect themselves from the security forces. Children were easily brain washed and forced to participate in the protest by providing stones in their hands after which they become very prone to any kind of armed violence.
- *Trafficking* – it is done in the form of forced child labour, sex trafficking, illegal employment in brick kilns, construction sites, engaged in begging rackets etc. Disadvantaged communities like Dalits, tribals, religious minorities etc. are most

¹ Available at: www.firstpost.com (last visited on 21 Nov,2021)

² Available at: www.byjus.com (last visited on 22 Nov, 2021)

vulnerable to trafficking. NCRB 2018 highlights that 51% of all trafficking victims were children, of which more than 80% were girls³. This denies children their basic rights to good health, nutrition, education and freedom from violence and exploitation. All children have a right to care and protection, develop and grow to his/her full potential, regardless of their social and economic situation⁴. Article 23 of the Indian constitution prohibits trafficking in human being and forced labour and Article 24 prohibits employment of children in factories etc. Above all this, Article 21 guarantees right to everyone of a health and dignified life which is violated if children are put to face this menace. However, the number of cases recorded under the Child Labour (Prohibition and Regulation), Act, 1986 saw a decline of around 38% from 770 cases in 2019 to 476 cases in 2020. The fact that a large number of such cases are kept unregistered has also to be kept in consideration here.

- *Gender based violence* – the violence with respect to gender is most prominent especially in relation to male and female where females suffer discrimination at various levels. They are at first denied their basic education which is their fundamental right and then they are married at an early age which is also termed as child marriage. According to Child Rights and You's analysis of NCRB data, cases under Prohibition of Child Marriage Act, 2006 saw an increase of nearly 50 percent from 525 in 2019 to 785 in 2020⁵.
- *Female Genital Mutilation* – it is a cultural or religious practice, which involves excision of external female genitalia for 'hygiene' purposes. Locally it is referred as 'khatna' or 'chaffs' which is performed by traditional women circumciser called 'Mullani', in a private setting, on girls around the age of 7. Indian government claims that there is no record of data on it but since it is also not banned in India so no concrete record on the number of cases can be found. In an online survey conducted by a Non-Governmental Organisation Sahiyo among Dawoodi Bohra Community women, it was found out that 80% of the women had undergone through it⁶. So, this activity also is seen to be pervasive in India.
- *Physical and emotional violence on child* – this violence is largely seen in families where parents and relatives on the name of discipline use violence against their

³ Available at: www.cry.org.in (last visited on 23 Nov, 2021)

⁴ Supra 2

⁵ Supra 1

⁶ Available at: www.lawctopus.com (last visited on 22 Nov, 2021)

children. This violence can either be physical where they hurt them by beating them or mental which is done by uttering bad words or teasing the sarcastically. Both of these violence's create negative impact on the psyche of that child which hinders their mental growth. Although discipline is very important for a person but it is a long process and takes time to get imbibed in the lifestyle of that person. It also includes restricting the movement of a child on the reason of their security. Many a times, parents because of poverty force their children to work in the field or somewhere else to earn some money and to support the family, at an age when they need to be taught in school.

- *Bullying* – this is unwanted aggressive behaviour by a person or group of persons especially of same age group on another person who is neither their sibling nor in any kind of relationship with the perpetrators. It involves repeated physical, psychological or social harm and often takes place in schools and other places where children gather⁷. This also includes bullying which takes place online which has increased a lot nowadays.

Basic Causes Of Crimes Against Children⁸ –

- Lower levels of education among parents and in society and country as a whole with lack of awareness about the present laws in the country. It is so that people are even not aware that committing a sexual act against a minor amounts to a crime
- Lower income because of which children are pushed into various dangerous money earning activities
- Lack of emotional bonding between children and parents or caregivers and poor parentage practices
- Family dysfunction and separation and emerging concept of nuclear family
- High population density and low socialization among the peoples in a society
- Easy access to alcohol and firearms and high concentration of gangs and illicit drug dealing
- A history of exposure to violence
- Inadequate social protection with weak governance and poor law enforcement.

⁷ Available at: www.who.int (last visited on 22 Nov, 2021)

⁸ Supra 7

Impact Of Crime On Children –

- Any crime against children affects their health and well being to a large extent
- Because of exposure to violence at an early age, their cognitive ability is affected which impacts their nervous system and their ability to think and innovate.
- Because of that violence at an early age, chances of getting communicable and non-communicable disease increases in them like cardiovascular disease, cancer, diabetes and other health complications
- As far as girls are concerned, any kind of sexual violence against them may lead to unwanted pregnancy which leads to abortions and gynaecological problems
- Children who are easily exposed to violence are more likely to get attracted towards drinking and smoking and it ultimately results into commission of crime by them
- It is seen many a times that those victimised children think of committing suicide and they sometime take this step. This either leads to their death or they sustain injuries because of it.
- Children who suffer violence are more likely to drop out of school which hampers their future prospects and their self confidence and interpersonal skills are also impacted

Legal Provisions For Children's Protection –

There are various legal provisions which are enacted for the protection of children from the exploitation. Some are directly involved in the protection of them and some are indirectly responsible for it. Some provisions which are directly responsible are⁹ –

- Protection of Children from Sexual Offences Act (POCSO), 2012 which has been further amended in 2019
- The Child Labour (Prohibition and Regulation) Amendment Act, 2016
- Juvenile Justice (Care and Protection of Children) Act, 2015
- National Policy for Children, 2013
- Prohibition of Child Marriage Act, 2006
- Immoral Traffic Prevention Act, 1986

Some provisions which are indirectly responsible for their protection are¹⁰ –

- The Right of Children to Free and Compulsory Education (RTE) Act, 2009

⁹ Available at: www.niua.org (last visited on 21 Nov, 2021)

¹⁰ Supra 9

- Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994
- Bonded Labour System (Abolition) Act, 1976
- Various sections in Indian Penal Code deal with their protection¹¹.
 - Foeticides (crime against a foetus) - Section 315&316 IPC
 - Infanticides (crime against new-born child) (0 to 1 year) - Section 315
 - Abetment to Suicide (abetment by other persons for the commitment of suicide by children) – Section 305
 - Exposure & Abandonment (crime against children by parents or others to expose or to leave them with the intention of abandonment) – section 317
 - Procurement of minor girls (for inducement to force or seduce to illicit intercourse) – section 366-A
 - Selling of girls for prostitution – section 372
 - Buying of girls for prostitution – section 373
 - Rape – section 376
 - Kidnapping and Abduction – sections 360, 361, 363, 366, 367, 369
- Constitution of India, Article 15(3) and Article 39 of Part IV.

Some incidents of crime against children –

1. An eight-year-old girl Asifa Bano was brutally gang raped and murdered in 2018. She belonged to a Muslim nomadic tribe of Kathua, a town in Kashmir.
2. An 11-year-old girl was raped and then burnt alive in Nagaon district of Assam where the entire village came together to help the police catch the accused
3. A four-month-old baby was raped and murdered in Rajwada area of Indore
4. An 11-year-old girl was gang raped in Chennai in 2018 in which seventeen men were charged with the offence of rape.

These incidents show that the present legal provisions and their implementation has proved to be not so affective in preventing these crimes. As a result, The Criminal Law Amendment Act, 2018 has been passed by our Parliament with various amendments in Indian Penal Code, Code

¹¹ Supra 2

of Criminal Procedure, Indian Evidence Act etc. Some of the salient features of the act which are for the preventing child abuse are –

- Person who commits offence of rape shall be punished for minimum 10 years which was earlier 7 years
- If a person rapes a girl below 17 years of age, he shall be punished for minimum 20 years
- If a person rapes a girl below 12 years, he shall be punished for rigorous imprisonment for 20 years or imprisonment for life or maybe liable for the death penalty
- In case of rape of girl below 16 years, the anticipatory bail will not be granted to the accused
- Convicted person is bound to compensate the victim and such compensation will be used for the victim's medical expenses and for rehabilitation
- If rape is committed by a police officer, he shall be punished for rigorous imprisonment which is not less than 10 years
- In rape cases, police are under compulsion to complete the investigation within the period of 2 months after the FIR is lodged
- The act inserted three sections i.e., section 376AB, section 376DA, section 376DB in IPC and amended three sections that are section 166A, 228A, 376.

Some case laws on child violence¹²

- ✓ *State of Punjab vs Gurmit Singh & Ors*¹³. – In this case the Supreme Court said that the name and address of the minor victim should not be disclosed to protect the victim from any embarrassment and discrimination. Also, the presence of camera and media may make the victim uncomfortable while giving her statement (as given under section 327 crpc).
- ✓ *Sakshi vs Union of India*¹⁴ – the court laid down the rules that the video tape of the child's interview can be used by court only in the presence of a child support person and the victim should be allowed to testify through a closed-circuit television. That minor should only be examined by the judge on the basis of written questions submitted by the defense.

¹² Available at: www.blog.ipleaders.in (last visited on 25 Nov, 2021)

¹³ 1996 AIR 1393, 1996 SCC (2) 384

¹⁴ (2004) 5 SCC 546

- ✓ *Prakash vs State of Rajasthan*¹⁵ – in this case the court observed that the trust that the child reposed on his elders is broken by the elders themselves. It causes a psychological impact on that child which stays with him throughout his life. That child might become rebel against the family, society or a country so it is the duty of the state and society to protect those children from any harm to their life, either physical or mental or psychological.

Prevention¹⁶ –

The crime against children is very important to be prevented and some of its ways are –

- We have to first understand various causes of different types of crimes against children and how they are inter related with each other
- There should be mapping and assessment of child protection policies and by building consensus among various organisations, we have to find out the strengths and weaknesses of those policies. It will lead to improvement in laws and policies and remove the loopholes in it
- There should be cooperation among government, non-governmental organisations, civil society, private sector and bodies like UNICEF to spread awareness regarding importance of childhood and protection policies
- There is a need to understand social norms and end harmful practices which leads to children's exploitation
- There should be debates and discussions on these issues and various education programmes need to run at community, district and state level
- There is a need to work with universities to improve and include importance of a child in degree courses and courses related to social services should be taught
- The parents should also be counselled with children's regarding importance of educating their child and importance of maintaining a healthy environment in the family since family is the first unit of socialization. There should be a strong relationship of authority and respect between a child and his/her parents
- The police need to handle the rape cases more sensitively and carefully and strive to provide timely justice to the victim

¹⁵ (2012) 5 SCC 201

¹⁶ Available at: www.blog.ipleaders.in & www.drishitias.com (last visited on 22 Nov, 2021)

- Gender sensitization program needs to be started in school and there should be more and more get together in the family and society

Conclusion –

A child is the future of a nation and that future needs to be protected. Target 16.2 of the 2030 Agenda for Sustainable Development Goals says to end abuse, exploitation, trafficking and all forms of violence against, and torture of children. This target can only be achieved if all the stakeholders cooperate with each other and spread awareness regarding this issue. The laws need to be implemented properly and the public infrastructure also need to be strengthened to create a protective ambience for our children so that they can prosper and live a healthy and successful life.



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