



Sexual abuse of children-legal study in relation to child pornography

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Abstract

Children are the future of any nation. It is the deep truth that in any nation where the children and youths are secured and protected that nation has different position in the entire world and also keeps on progressing on higher scales. Moreover, children are like a mud pot, they become what in which they are moulded. That's why every child needs special care and protection. Children are the flower bud if they are blossom with care they will surely prove to be the asset for the nation and if contrary, they will in any way hamper the progress of the society and also of the country. Children are most feeble and delicate being and hence they require unique consideration for protection of their rights and person. These voiceless creatures fall prey to the predators of child mishandle, informal trafficking etc.

This article deals with the factors involving the child mishandling and child pornography. Also, it relates to the international and national concerns regarding the juveniles protection from these inhuman practices along with various domestic laws and Acts legislated for the benefit of the children. Further at the end this article highlights the need to develop the multidimensional approach and focuses attention on various recommendations and structural factors to combat with these illegal practices which are derogatory to the dignity of the society and the nation and laid down the meaningful tactics to counter this social evil.

Keywords: children, sexual abuse, child pornography, child mishandle, informal trafficking

Introduction

Children being feeble, delicate and easygoing ought to be shielded from the universe of hoodlums and shady individual. They being the most voiceless require unique consideration for protection of their human rights. In any case, now and again, these defenceless children fall prey to the predators of Child mishandle, informal trafficking, informal smut, asking and so forth. They get themselves snared in the realm of disfavour, barbarism and rudeness from which they barely escape or search for a sparkle of expectation. Their psychological and also their social improvement begins to shape from an extremely youthful age. Since a Child has a weak and defenceless personality, some of the time it is troublesome for the Child to limit from the negativities. Regularly the youthful children come into contact with especially criminal disapproved individuals who with their mushy talks baits such children to go according to their impulses and likes. The universe of web and online networking bids the Child a considerable measure and on account of his/her young personality he/she doesn't give a hesitation on the dim side of that world.

There are different types of informal manhandle among which Child obscenity is straightforwardly identified with the contemporary advanced age. Child obscenity is "that outwardly delineates sexual direct underneath a predetermined age". It isn't just pedophiles who enjoy such appalling and detestable nature of wrongdoings. The porn business has turned out to be exceptionally lucrative nowadays. It keeps running over the globe in an exceptionally sorted out way. It is considered to be the multimillion dollar industry and

researches shows that the number of youthful children are turning into the most terrible casualties of this dull world.

Definition of child pornography

"Pornography or porn is the portrayal of elicit sexual subject matter for the purposes of sexual excitement and erotic satisfaction." Child erotica is any sort of portrayal of sexually express or profane pictures of a minor under 18 years of age. Children arts is characterized as "printed or visual material containing express portrayal or show of sexual organs or movement expected to empower sexual desire.

According to the Article 9 of the Cyber Crime Convention, 2001

It keeps running as under: "whoever submits deliberately and without right the accompanying behaviour creating Child obscenity with the end goal of its conveyance through computer; offering or making accessible informal erotic entertainment through computer; Distributing or transmitting informal erotica through computer; delivering informal explicit entertainment through computer is said to indulge in the crime of child pornography.

Factors that cause children to be misused

Multiple factors are responsible for pushing children into prostitution, either as a result of their trafficking, or by their own family. The factors that lead to child-prostitution may be enumerated as follows ^[1]:

- Poverty,
- Unemployment,
- Illiteracy,

- Promise of marriage,
- Promise of work,
- Cultural and religious traditions - such as those of devdasi, jogin, yellamma, and basvi. The bedia tribe of Central India (Rajasthan) also has a tradition of pushing their young girls into prostitution. The dommara tribe of Telangana follows a horrendous tradition of 'marrying' the eldest girl child of every family, at puberty to the village deity. The child is then raped for a week by elders and priests within the temple, while her family and villagers feast outside. Most of these young girls die of shock and injuries. Those who survive become prostitutes, for the village males; their income becomes the family's main livelihood ^[2].
- Industrialization and Migration. It is estimated that 80% of the total child prostitutes in India are found in the 5 major metro centres of Delhi, Mumbai, Kolkata, Chennai and Bangalore.
- Sometimes families who have migrated find it difficult to sustain themselves in the cities and they end up selling their daughters into prostitution ^[3].

Child sex is a rapidly growing business / industry in India, where nearly 5000 children enter into prostitution every year even when they are less than 15 years of age. Prostitution violates all known canons of Human Rights and dignity.

Child pornography and international law

Universally, informal mishandle and misuse is a grave issue and presumably a standout amongst the most horrifying kinds of Child sexual manhandle. The watchers of Child explicit entertainment on the Internet are countless and have a place with a wide range of foundation. There can be consistent exploitation through Child explicit entertainment which implies that the exploitation never closes. Almost every nation have contributed with respect to profanity and child pornography. The United Nations Convention on the Rights of the Child, 1989 is the principal convention which legitimately restrict report concerning Child rights ^[4]. It incorporates security of Childs from sexual abuse and other inhuman acts against the youths.

Article 34 of the Convention gives: States Parties embrace to shield the Child from all types of sexual misuse and sexual manhandle. For these reasons, States Parties might specifically take all multilateral measures to avoid:

- a. The influence on the innocent children to take part in any unlawful sexual action;
- b. The exploitative utilization of Childs in prostitution or other unlawful sexual practices;
- c. The exploitative utilization of Childs in obscene exhibitions and materials ^[5].

Likewise in Article 39, which expects States to give protection and the platform that cultivates the wellbeing, sense of pride and nobility of Child casualties of sexual misuse ^[6].

On May 25, 2000, the General Assembly of the United Nations embraced the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. The Optional Protocol criminalizes particular acts identifying with the offer of Childs, prostitution and Child explicit entertainment.

Article 2 characterizes Child obscenity as "any portrayal, by whatever methods, of a tyke occupied with genuine or reproduced unequivocal sexual exercises or any portrayal of the sexual parts of a Child for principally sexual purposes." ^[7]

Article 3 of the Optional Protocol requires States Parties to criminalize "creating, conveying, scattering, bringing in, trading, offering, offering or having for the above purposes Child explicit entertainment as characterized in Article 2 ^[8].

"The United Nations Commission on Human Rights Program of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography strengthens the United Nations Convention on the Rights of the Child and universal endeavors to punish the individuals who abuse Childs for explicit purposes." ^[9]

Fundamental concerns and challenges

The fundamental concerns and challenges that may be attributed to the problem of sexual abuse and the commercial sexual exploitation of children in India are:

- The factor of denial: that sexual abuse of girls and boys takes place both within families and outside the home of the child. This research work articulates what many have chosen to deny, minimize or rationalize; that there is a convincing case for critically re-examining the laws, policies and practices that have allowed child sexual abuse to persist virtually unchecked in India.
- Lack of comprehensive research or database: on sexual abuse and exploitation of children in their own homes and in other locations, such as on the streets, at their work-place, and by means such as child prostitution, pedophilia, child sex-tourism and child pornography.
- Absence of measures: in place to deal with child sexual abuse in institutionalized settings, such as juvenile homes, observation homes, orphanages, etc.
- Lack of comprehensive laws: with regard to sexual offences against children. There is no recognition and therefore, no provision in the criminal laws dealing with the various types of sexual abuse that may be committed against children. Additionally, intra-familial sexual abuse, especially in the form of incest, which is the severest kind of child sexual abuse, goes unrecognized and therefore unaddressed by the law.
- Lack of enforcement: and implementation of existing laws, that pertain to commercial sexual exploitation of children.
- Absence of training for sensitizing law enforcement officials towards rights of the children and the special needs of a child victim against whom sexual violence and abuse has been committed.
- Lack of social awareness and especially within families that directly impacts the perception of children who are sexually abused and exploited.
- Lack of counselling and therapeutic treatment for the child victims and their families (when the sexual abuse happens to be extra-familial).
- Lack of therapeutic services for the perpetrators: long term imprisonment of offenders for the sexual abuse of children may satisfy the social sense of justice, but in fact it only satisfies the sense of vengeance, and does not prevent such actions from happening in the future in most cases. The lack of therapeutic services for the perpetrators of offences

against children results in the fact that such services are not available to them, even if they indicate a willingness to be treated. It is not only caused by the fact that such an option is not available in India. The basic problems are the belief that long - term punishment is the best cure, and the lack of knowledge that punishment administered in the criminal trial can only delay the problem for some time, but never solve it.

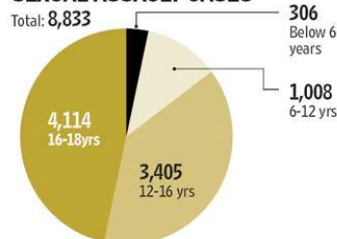
- Lack of understanding of the rights of the child: our archaic laws have created obstacles rather than provide relief to the scores of children who have or who are being sexually abused and exploited. There are compelling arguments, both for specific changes that must be made to the law, and for the Indian government’s obligations to effectuate these changes in view of the commitments made through UN Conventions and other International instruments.

UNSAFE FOR KIDS

Fewer children were brutalised in 2015 than 2014. Yet, 451 girls were raped before they could celebrate their sixth birthday, and another 1,151, before their twelfth

11,393 children were raped in 2015
8,341 of attackers knew the victim's family
8,800 rape cases where POCSO was invoked

SEXUAL ASSAULT CASES



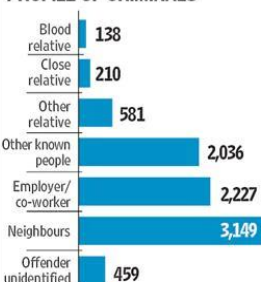
■ A girl, not old enough to begin primary school, and three others yet to enter their teens, were raped every day in 2015

AGE OF CULPRITS

Total arrested: 18,651

Age Group	Male	Female	Total
Below 18	492	2	494
18-30 yrs	11,768	71	11,839
30-45 yrs	5,044	113	5,157
45-60 yrs	1,067	19	1,086
60+	72	3	75

PROFILE OF CRIMINALS



SOURCE: NCRB Report Crime in India 2015

India's legislations and judicial approach on information technology and child pornography

The Government of India understood the requirement for presenting another law and for making appropriate revisions to the current laws to encourage web based business and give legitimate acknowledgment to electronic records and advanced marks. Digital laws are contained in the Information Technology Act, 2000. The cyber world have contributed a lot in the abuse of children, young women and other innocent people as the inhuman sections of our society got the new and easy medium to exploit the innocent beings and to do business in this inhuman acts.

Section 67A includes an offense of distributing material containing sexually express material with detainment for a term that may extend to 5 years with fine up to ten lakhs. This arrangement was basic to check MMS assaults and video voyeurism. Screening video chats and photos of unlawful exercises through Internet all go under this class, making explicit video or MMS clippings or dispersing such clippings through versatile or different types of correspondence through the Internet fall under this classifications

The Indian penal code, 1860

Section 293 also specifies, in clear terms, the law against Sale etc. of obscene objects to minors. As per the IPC, whosoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object, as is referred to in IPC Section 292, or offers of attempts so to do, shall be punished with imprisonment for a term which may extend to three years, and which fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to seven years, and also with fine which may extend to five thousand rupees.

Section 292, a book, pamphlet, paper, writing, drawing, painting representation, figure or any other object, shall be deemed to be obscene if it is lascivious or appeals to the prurient interest or if its effect, or (where it comprises two or more distinct items) the effect of any one of its items, is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it shall be punished with imprisonment, for the first instance, of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and also with fine which may extend to five thousand rupees.

The Bombay high court committee on protecting children from online pornography in Mr. Jayesh S. Thakkar and Another v. the State of Maharashtra & others [10], suggested following recommendations in their Report on Protecting Children from Online Pornography:

- Blocking of sites;
- Preventing minors from accessing unsuitable material from Cyber Cafes;
- Preventing the publication or propagation of pornography from Cyber Cafes.

In Court on its own motion v. State of Punjab [11], it was held, “We would like to mention that recently, the Parliament has enacted the ‘Protection of Children from Sexual Offences Act, 2012’. This is an Act to protect children from offences of sexual assault, sexual harassment and pornography. It becomes necessary to have effective implementation of this enactment as well. Under the Act, the National Commission and State Commissions have been made the designated authorities to monitor the implementation.

Effects of child pornography on children portrayed

A noteworthy lump of the Childs who are in sight of Child explicit entertainment are not generally enter into these illegal doings on their own. By and large it is their own particular relatives who get included into this wrongdoing for some penny.

The long-term effects of child sexual abuse can be devastating for a child victim. Children face the following problems during and post-abuse [12]:

- Mental health problems: anxiety, fear, depression as also masked depression, isolation, suicide, self-injury, poor

self-esteem, alcohol or cigarette or drug abuse, self-annihilation.

- Traumatic sexualisation: in which a child's sexuality – including both, sexual feelings and sexual attitudes – is shaped in a developmentally inappropriate and interpersonally dysfunctional fashion.
- Fertility control.
- Stigmatization: the negative connotations – for example, badness, shame and guilt – that are communicated to the child about the experiences and that then become incorporated into the child's self-image.
- Social dysfunction: delinquency, criminal behaviour, acts of violence to self or others, victim role.
- Feeling of powerlessness: the process in which the child's will, desire and sense of efficacy are continually contravened. Leading from the inability to stop the abuse, the child grows to feel anxious, inefficient and develops a tendency to run away from problems. Other long-term effects include nightmares, phobias, eating and sleeping disorders, disassociation, employment problems, vulnerability to subsequent victimization and becoming a sexual abuser too.
- Feeling of betrayal: children discover that someone on whom they are vitally dependent has caused them harm. Mostly the abuser is a known person and even if it is not the parent, the child experiences a loss of trust of the parents and begins a search for a person who could be trusted. This leads to vulnerability to subsequent abuse and exploitation, allows for own children to be victimized by oneself or others, leads to discomfort in intimate relationships, marital problems, aggressive behavior and impairs ability to judge people, which in turn leads to choosing wrong friends and disastrous marriages
- Boys who suffer sexual abuse are more likely to express their distress through externally directed, more active behaviour, which may include aggression and violence towards other people. In contrast, girls' responses appear to be more passive and internally directed – their distress may be expressed tearfully, or by running away or in severe cases, by self-mutilation.

Recommendations by the honourable supreme court

1. Parents and relatives ought to spend with more time with their Children frequently checking about their security and prevent them from misuse.
2. The guardians ought to communicate frequently with the Childs so that if any misuse is made which can be easily discovered regardless of whether the Child does not will fully report.
3. School specialists must also check the behaviour of the child under all situations and must inform the parents about any change and to give every child a favourable environment in the school itself.
4. Media ought to likewise assume dynamic part in instructing and sharpening the general public about misuse and sex offenses by giving required exposure about the current laws against sexual offenses particularly Child sexual offenses.

Conclusion

At last, along these lines, one might say that the threat of Child erotic entertainment must be halted to shield the youthful children from entering and being caught into the universe of voyeurism, trafficking, prostitution into the foul and filthy world. There must be an eye on their exercises by the guardians while accessing net. They should likewise be made mindful of the advantages and disadvantages of the present day world and online networking.

The prevalence of Child Sexual Abuse was found to be high in India as well as throughout the world. Child Sexual Abuse is an extensive problem and even the lowest prevalence includes a huge number of victims. Three main issues have been identified that makes it difficult to estimate exactly how many children are victims of Child Sexual Abuse. Firstly, the way abuse is defined plays an important role. Secondly, the cases reported by the official organizations usually underrate the number of victims as many cases never get reported to them. Thirdly, different studies report the prevalence for different time periods, for e.g., few give data on number of children abused in one year, others give numbers based on children ever abused in their lifetime, and few others involve adults who recall and report their childhood abuses. The prevalence of Child Sexual Abuse is alarming; hence, stringent measures should be taken for its prevention and control.

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