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Crime Against Children in India

Abhishek Dubey, (LLB, Student)

Mudra Singh, (Assistant Professor)

Amity Law School

Amity University

Uttar Pradesh Lucknow Campus

Abstract

Despite legislative measures and awareness campaigns, children continue to face various forms of abuse, exploitation, and violence. This research paper aims to comprehensively examine the landscape of crime against children in India, analyzing its root causes, prevalent forms, societal impacts, and existing legal frameworks. By synthesizing data from governmental reports, academic studies, and nongovernmental organizations, this paper provides insights into the challenges faced by children in India and identifies potential strategies for prevention and intervention. The findings underscore the urgent need for holistic approaches involving collaboration among government agencies, civil society organizations, and communities for safeguarding the rights and promoting the well-being of children in the country.

Keywords: *Crime against children, Child abuse, Child exploitation, Child protection, India*

Introduction:

India is home to one of the largest populations of children globally, numbering at 444 million. To contextualize, every fourth individual in India falls within the category of group of age from 1 to 14 years. In addition to being essential to each child's personal development, children's wellbeing also speaks volumes about the state of our society as a whole. Creating a safe environment for children to thrive is paramount, protecting them from harm, exploitation, and abuse while upholding their rights.

Unfortunately, incidents of children becoming victims of crime are not uncommon. Shockingly, statistics reveal that 1 out of 2 children worldwide experiences some form of violence annually. In India, crimes against children are a significant concern, encompassing physical, sexual, and emotional abuse, including offenses like murder, kidnapping, sexual exploitation, abandonment, and trafficking. These crimes can occur in various settings, including homes, schools, and communities, and perpetrators can range from strangers to close family members.

The impact of such crimes on children is profound, affecting their emotional and psychological development. It often results in academic struggles, leading to lower grades and increased absenteeism from school. Moreover, adults who have experienced childhood abuse are less likely to secure employment, possess assets, and have diminished earning potential compared to those with safer childhoods.

In this ASAR Data Story, we delve into the database provided by the (NCRB) – National Crime Records Bureau, for the year 2021 to analyse the prevalent patterns of major crimes of different intensities and nature against children in India.

Research Methodology

This study aims to evaluate the range of different crimes perpetrated against minors, elucidating the purpose and significance of the proposed research endeavor. Data collection primarily entails scrutinizing numerous peer-reviewed journals, articles, governmental websites, and other pertinent sources.

After thorough review of various scholarly publications, articles, and legal judgments, the researcher has investigated the obstacles in enforcing existing laws, including enduring barbaric practices prevalent in India that have not yet been outlawed or effectively addressed.

Legal Meaning of a Child

The legal meaning of a child may differ from one jurisdiction to another; however, it usually refers to a person who has not yet reached the age of majority, which is the turning point from childhood into adulthood and the assumption of all legal rights and obligations. In many countries, including India, the precise legal definition of a child is often outlined in legislation such as the “Juvenile Justice (Care and Protection of Children) Act, 2015.”

In India, as per the “Juvenile Justice (Care and Protection of Children) Act, 2015, a **child is defined as an individual who has not completed eighteen years of age.**” This definition aligns with the standards set forth by “United Nations Convention on the Rights of the Child (UNCRC), which **designates a child as any person under the age of 18, unless the applicable law grants majority earlier**”.

According to “Section 2(d) of the Protection of Children from Sexual Offences (POCSO) Act, the term child refers to any person below the age of eighteen years”. This legislation primarily focuses on safeguarding children from sexual offenses and harassment. It's essential to recognize that different laws and regulations may establish varying definitions of a child for specific contexts, such as education, labor, or criminal justice. Nonetheless, the fundamental principle remains consistent: a child is an individual who is legally recognized as being below the age of majority and is entitled to specific protections and rights under the law.

Status Of Children in India

In India, minors in totality constitutes 472 million, contributing 39 per cent of the total population. A significant proportion, 29 per cent, falls within the 0 to 6 age group. Furthermore, 73% of these children reside in rural areas, where availability to basic necessities like education, food, healthcare etc. is limited. The high prevalence of rural dwelling often leads to disparities in accessing fundamental rights for children. The establishment of Commission of India for the children's protection in 2005 has played a role for advancing child's welfare, particularly in combating child labor and protecting minors and adolescents. Legislation and the constitution both encourage the advancement of children's rights. However, despite these efforts, children in India continue to encounter challenges in realizing their rights, particularly in areas such as availability to education, child labor, and children marriage. Given that children make up 39 per cent of India's 1.30 billion people, it is critical to give their rights first priority.

Prevalence and Types of Crimes Against Children

It's really upsetting to see that there are many crimes against children in India, and the numbers keep increasing each year. In 2020, there were more than 105,000 reported cases, which is a big jump from the previous year. A large portion of these cases involved sexual offenses, with over 24,000 incidents reported. But these numbers might not show the full picture because many cases aren't reported due to fear, shame, or

difficulty in getting help.

These crimes involve hurting kids physically, using them for bad things, making them work instead of going to school, not taking care of them properly, and even hurting them emotionally. They happen everywhere, from homes and schools to communities and the internet. Kids who are already facing challenges, like those who are poor, living far away, or in places with violence, are even more vulnerable. To truly help these children, we need to understand what's going on and find ways to protect and support them better.

Factors Contributing to Crimes Against Children

Several interconnected factors contribute to the perpetuation of crimes against children in India, reflecting broader societal inequities and systemic failures. Economic vulnerability is a significant factor, as families facing poverty often resort to sending children to work or marrying them off at a young age to alleviate financial hardships. Gender-based discrimination and patriarchal norms further exacerbate the vulnerability of girls, with activities like child marriage, female infanticide, and violence linked to dowries continuing to prevail despite legal prohibitions.

The normalization or condonation of abusive acts by cultural norms and society attitudes is a crucial contributing factor to the persistence of crimes against children. Moreover, systemic failures in law enforcement, judiciary, and social welfare systems pose significant challenges in effectively addressing crimes against children. Limited awareness, inadequate resources, and coordination gaps among stakeholders further hinder efforts to protect children's rights and ensure their safety. Addressing these structural issues and challenging ingrained social norms is essential for creating a safer environment for children to thrive.

Impact of Crime on Children and Society:

Crimes against children don't just hurt the kids involved - they also affect their families, communities, and society as a whole. When children go through abuse or exploitation, it can really mess them up mentally, causing problems like feeling sad all the time, being anxious, or even developing PTSD. Being victimized can also mess with a kid's education and social life, making it hard for them to grow up healthy and happy. This can keep them stuck in poverty and feeling left out.

On a bigger scale, when crimes against kids happen a lot, it makes people lose trust in the systems meant to protect them, messes up how well we all get along, and slows down the economy. Things like child labour, trafficking, and sexual exploitation not only break the rules but also stop us from reaching important goals like getting rid of poverty and making sure everyone is treated fairly. To make things better, we need to get to the root of why these crimes happen and fix the problems they cause. This way, we can create a safe and loving environment where kids can grow up happy and reach their dreams successfully.

Constitutional Provision Related to Children

The framers of the Constitution of India took significant steps to make sure that the welfare and development of children by incorporating provisions in Chapters III and IV, which encompass Fundamental Rights and Directive Principles of State Policy (DPSP).

Fundamental Rights:

Article 14 ascertains “equality before the law” or “equal protection of the law” for all individuals within the territory of India, including children.

Article 15 forbids discrimination on the basis of race, caste, creed, sex, or place of birth. It emphasizes that there should be no discrimination against children and women, and the state has the power to enforce special provisions for their benefit.

Article 17 addresses the abolition of untouchability, ensuring that children are protected from this discriminatory practice, which was prevalent in the past.

Article 21 emphasizes the “right to life and personal liberty”, highlighting the importance of child welfare and ensuring access to food, nutrition, and well-being as integral aspects of this right.

Article 21A – Children aged six to fourteen are guaranteed free and compulsory education under Article 21A, acknowledging the importance of education in realizing the right to life. This provision was reinforced through landmark judgments such as “**Mohini Jain vs. State of Karnataka**” and “**Unnikrishnan vs. State of A.P.**”

Article 23 prohibits human trafficking and forced labor, safeguarding children from exploitation and abuse.

Article 24 forbids the employment of minors in dangerous jobs, protecting their health and welfare.

Directive Principles of State Policy:

“**Article 39(a)** emphasizes the state's responsibility to ensure equal access to justice, including providing free legal aid to those who cannot afford it, regardless of their financial or social status.”

Article 39(e) protects children from exploitation by outlawing the forced employment of minors in jobs that are inappropriate for their age and physical capabilities.

Article 39(f) is to protect children from exploitation and abuse during their childhood and youth by giving them the tools and opportunities they need to have healthy and prosperous lives.

Articles 47 and 51 of DPSP, among others, highlight the significance of improving living standards and upholding international agreements to safeguard children's rights.

Overall, these constitutional provisions underscore the commitment of the Indian government to promote the rights and well-being of children, ensuring their protection, education, and well-being.

Laws Which Protect the Children In India

Indian Penal Code, 1860:

Section 82 and 83 provide exemptions from criminal liability for children below the age of seven and between seven and twelve, respectively, recognizing their inability to comprehend the consequences of their actions.

Sections 305, 315, 316, 317, 369, 366A, 372, and 373 address

offenses such as abetment of suicide, infanticide, foeticide, exposure and abandonment of a child, kidnapping, procreation of minor girls, and trafficking for purposes of prostitution or illicit activities.

The Prohibition of Child Marriage Act, 2006:

This statute, which sets the legal marriage age at 18 for girls and 21 for boys, aims to end child marriage by preventing minors from being married off before they reach adulthood.

The Apprentices Act, 1961:

Prohibits children under the age of 14 from being apprenticed or trained, and requires a contract between the guardian and the employer for minors.

Juvenile Justice Act, 2015:

Focuses on the protection, treatment, and development of children, providing special provisions for child offenders and addressing issues related to child protection, including care and rehabilitation.

The Child Labor (Prohibition and Regulation) Act, 1986: Prohibits minors from working in dangerous jobs, protecting them from injury to their bodies and minds.

The Orphanages and Other Charitable Homes (Supervision and Control) Act, 1960:

Regulates orphanages and homes for abandoned women, ensuring proper supervision and control over their operations.

Guardian and Wards Act, 1890:

Deals with the appointment and removal of guardians for children by the courts, ensuring their protection and welfare, irrespective of religion.

The Hindu Adoption and Maintenance Act, 1956:

Regulates adult Hindu adoptions and discusses Hindu law's support obligations to spouses, parents and children.

Probation of Offenders Act, 1958:

Prohibits the incarceration of criminals younger than 21 in order to stop them from becoming seasoned offenders.

Protection of Children from Sexual Offences (POCSO) Act, 2012:

Protects children against sexual assault, harassment, and pornography.

To protect the child's identity, special courts hold proceedings in camera.

Together, these laws seek to protect children's rights and welfare by shielding them from various sorts of abuse, exploitation and injury.

Landmark Judgements On Crime Against Children:

“M.C Mehta vs. State of Tamil Nadu and others”

In the seminal ruling in M.C. Mehta vs. State of Tamil Nadu and others, M.C. Mehta initiated legal action against the Tamil Nadu state to promote children's welfare, improve their working conditions, and guarantee their education-based protection from hazardous jobs. In a historic decision, the Supreme Court upheld Article 24 of the Indian Constitution, which requires the government to work toward offering children free and compulsory education. It was decided that hazardous labour should not be performed by children younger than 14 years old, and the government was ordered to set up and keep up a welfare fund for the purpose of rehabilitating child labourers. Employers found violating child labor laws were mandated to contribute to this fund, while the government was tasked with providing assistance to the parents of children engaged in hazardous occupations or depositing funds into the welfare fund on their behalf.

“Machhi Singh and others vs. State of Punjab”

The Punjab and Haryana High Court determined and established the concept of the “rarest of the rare” cases justifying the death penalty in the significant case of Machhi Singh and others v. State of Punjab. This was due to the victim being an innocent child who neither provoked nor provided any justification for the murder. Moreover, the murder was committed in an exceptionally cruel, heinous, or gruesome manner, causing significant outrage in the community. The court considered various factors such as the perpetrator's motive, the vulnerability of the victim, the severity of the crime, and the manner in which it was carried out, all of which typically influence the decision to impose capital punishment, classifying it as an exceedingly rare occurrence.

“Anjum Abdul Razak Memon v. State of Maharashtra” (2013)

This case revolves around the conviction of several defendants as per “Terrorists and Disruptive Activities (Prevention) Act”, 1987, in connection with 1993 Bombay bombings, along with charges of conspiracy to commit such an act. The evidence presented includes confessions from co-defendants, testimonies from prosecution witnesses, documentary evidence, and statements made by the defendants themselves. The primary issue addressed by the Supreme

Court was to determine the hierarchy between the TADA and Juvenile Justice Acts. The Court noted that the Juvenile Justice Act of 2000 holds precedence over laws that were in effect at the time of its enactment, while TADA has long been repealed. Consequently, the Court ruled that the Juvenile Justice Act of 2000 does not supersede TADA on this basis.

Hari Ram v. State of Rajasthan (2009)

In this instance, a person named Hari Ram faced accusations of multiple criminal offenses, raising questions about whether he should be treated as an adult or a juvenile. Based on the terms of the 1986 Act, the Additional Sessions Judge concluded at the beginning of the trial that the accused was under 16 at the time of the alleged acts. Consequently, the case was referred to the Juvenile Justice Board in Ajmer, Rajasthan. But the High Court determined that the accused was older than 16 at the time of the offense, rejecting his juvenile status based on his father’s evidence and medical records.

Nonetheless, the introduction of the 2000 Act raised the age threshold from 16 to 18 years for determining juvenile status under the law. The Supreme Court was tasked with resolving which Act would apply to the accused. The Court ruled that all pending cases would be governed by the 2000 Act following its enactment. Therefore, the same Act would apply in this scenario, leading to the classification of the accused as a juvenile.

Conclusion

To sum up, crimes against kids in India are a big deal and go against their rights as humans. They also make it hard for the country to grow and for people to get along well. Fixing this problem needs everyone to work together - government, groups helping society, communities, and regular folks like you and me. If we make sure kids are safe and cared for, India can become a fairer and happier place for everyone. We need to make sure the laws are followed, stop bad things from happening to kids, and give them the help they need. If we all pitch in and keep at it, India can build a future where every child can be happy and do great things.

Suggestions

Preventing crimes against children requires a multi-faceted approach that encompasses prevention, protection, prosecution, and rehabilitation. Comprehensive awareness campaigns targeting communities, parents, and children themselves are crucial for promoting child rights and fostering a culture of zero tolerance towards abuse. Capacity-building initiatives for law enforcement agencies, judiciary, and social workers are essential in enhancing their response to child protection issues.

Furthermore, strengthening child protection mechanisms, including the establishment of specialized agencies and helplines, is vital in ensuring timely intervention and support for child victims. Collaboration among government agencies, civil society organizations, and international partners is instrumental in leveraging resources and expertise to combat crimes against children effectively. By prioritizing prevention and early intervention strategies, India can create a safer and more supportive environment for children to grow and thrive.

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