

Protection of Children from Sexual Offences: A Critical Review

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Abstract: India is multi-linguistic with diversity of culture, religions and regions but a conservative country in putting forth the thoughts of child sexual abuse in the society. However, these days the burning topic of the society in contrast to the thinking of the conservative society remains the discussion of child abuse as the families have turned into child-oriented families. Since long the world is making an attempt to talk about the child sexual abuse, laws for curbing the said offence and punish the perpetrator with heavy hands. UN Convention on the Rights of the Child (UNCRC) was convened in 1992. In 2003, Government of India accepted the two optional protocols to the UNCRC which addressed the involvement of children in armed conflict and their sale and measures to protect children from these dangerous forms of violence and prostitution and child pornography. Many legislations were formulated for protecting rights and to stop their victimization being at the hands of the criminals or predators. Most important such legislations are Juvenile Justice (Care and Protection) Act, 2015 and POCSO Act, 2012.

Keywords: Juvenile Justice

I. INTRODUCTION

A Child is the manifestation of divinity. Its candidness and smile are its greatest and charmed virtues which can hypnotize even a person having a heart of stone. Law and society understand its frangible and delicate temperament but probably perhaps hesitation to act, became so much empowered that the child remained neglected. The child has been defined as a young human being below the age of puberty or below the legal age of majority.

Throughout the history of Homo Sapiens, children have been inflicted to indignities, cruelties, and horrors. Owing to innocence and immaturity, a child is vulnerable to many kinds of injuries and violence including bullying, forced labour and maltreatment involving physical, sexual, psychological or emotional, abandonment, starvation, beating, slavery, sexual assault and done to death all over the world at different times. Children are the creatures who are yet to see the world but are often trapped under the shackles of sexual violence if not protected by the responsible guardians and law. Child sexual abuse has become a serious social problem in societies universally. Child abuse seems to increase in situations of rapid socio-cultural change, urban migration, family disorganization and the like. However, no candid set of prognostic variables have been identified. The factors that predict child abuse in one society will not be predictive in another. Sexual violence is a kind of violence that not only causes momentary injury on the body of a child but also leaves a lifelong scar on child's psyche which may lead to psychological disorders and thereby the overall growth of a child. Moreover, viciousness in the lives of children can take direct and indirect forms. We need to guard the integrity of childhood now and into the future.

Rights of children:

Every human being on this planet including a child has rights. Society has always understood the fragile and delicate temperament of a child but perhaps reluctance to act had been so much powerful that the child remained a neglected piece of the community. The rights of the children were demanded long back but many countries are still struggling for the same. The reason behind this is that the children themselves are unaware of the rights that they possess and nobody fights for them. However, a century ago in 1919, Eglantyne Jebb founded 'Save the Children'. She was one of the world's champions of human rights. She was a British social reformer and former teacher. She joined Fight the Famine Council, a group working to get food and medical supplies to the starving children in countries like Germany and Austria. She stood in Trafalgar Square and handed out leaflets that showed emaciated children with a headline: "Our blockade has caused this - millions of children are starving to death." Passers-by turned away from the disturbing flyer. But Eglantyne was determined not to let people ignore, what she believed was a violation of these children's

human rights. She was arrested, was found guilty and fined for her protest. But the Judge was so impressed with her commitment that he paid her fine and the said money became the first donation to Save the Children. She first emphasized about the rights of the child in the form of First International Declaration of the rights of the child. The expanded version of the above was adopted by the United Nations in 1959. The Declaration later inspired the 1989 UN Convention on the Rights of Child, landmark human rights treaty.

International Commitment Towards Child Protection:

India is a signatory to several international instruments and declarations on the rights of children to protection, security and dignity. It acceded to the United Nations Convention on the Rights of the Child (UNCRC) in 1992, reaffirming its earlier acceptance of the 1959 UN Declaration on the Rights of the Child, and is fully committed to the implementation of all provisions of the UNCRC. In 2005, the Government of India accepted the two Optional Protocols to the UNCRC, addressing the involvement of children in armed conflict and the sale of children, child and measures to protect children from these dangerous forms of violence and prostitution and child pornography. Three important International Instruments for the protection of Child Rights to which India is a signatory are:

Convention on the Rights of the Child (CRC):

CRC was adopted by the UN General Assembly in 1989. It was adopted and opened for signature, ratification and accession by United Nations General Assembly resolution 44/25 of November 20, 1989. The Convention is widely accepted. UN instrument is ratified by most of the developed as well as developing countries, including India. This Convention forms the pillar of children human rights law. The main intention of the Convention is to protect all children in the world and establish similar international legal obligations for State parties. The intention of the Convention is regarded as a revolutionary movement for the protection of the sovereignty of the rights of the child. The Convention calls upon State parties to improve family conditions and emphasizes the concept of non-discrimination based on race, religion etc. The purpose of the Convention is to unequivocally protect the primary and basic elements of the rights of the child. The Convention consists of 54 Articles and there are four core principles in the framework of this significant international law-making treaty:

The best interest of the child as opposed to those of parents,
 enjoying the right of the child with a non-discrimination method,
 having access to basic rights which include right to life, and
 Survival development as well as respecting the right to participate in the proceedings or hearings which may positively affect their rights in any other domestic procedures.

The purpose of these four core principles is to ensure the basic requirements of civil, political, economic, social, and cultural rights and vice versa. Although the Convention has been signed and ratified by the Indian delegations.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW):

CEDAW is also applicable to girls under 18 years of age. Article 16.2 of the Convention lays special emphasis on the prevention of child marriages and states that “betrothal and marriage of a child shall have no legal effect and that legislative action shall be taken by States to specify a minimum age for marriage.”

SAARC Convention on Prevention and Combating Trafficking In Women and Children for Prostitution:

It emphasizes that the evil of trafficking in women and children for prostitution is incompatible with the dignity and honor of human beings and is a violation of basic human rights of women and children.

II. STORY OF THE RIGHTS OF CHILD

1919	Eglantyne Jebb founded Save the Children.
1923-1924	Campaigned for the first International “Declaration of the Rights of the Child.” The Declaration of Geneva recognised that humanity owes to the child the best it has to give and listed five principles directing towards the development of children.
December 11, 1946	UNICEF was formed. It uses 16 separate categories of child maltreatment to describe the targets of its work of child protection including sexual assault, children indulged in hazardous jobs, children not going to schools, children having any of the parents, children not having their births registered, children victims of sex trafficking and pornography.

April 30, 1948	The American Declaration of the Rights and Duties of Man or the Bogota Declaration was adopted by the nations of the Americans at the 9th International Conference of America States in Bogota, Columbia. At the same time, the Charter of the organisation of America States was adopted, creating the organization of America States (OAS).
December 10, 1948	Universal Declaration of the Human Rights was drafted by the representatives with different legal and cultural backgrounds from all religions of the world, the declaration was proclaimed by the UNGA in Paris on December 10, 1948 (General Assembly Resolution 217 A) as a common standard of achievements for all peoples and all nations.
1959	The resolution was adopted by the UNGA 1386 (XIV) as the Declaration of the Rights of the Child.
1966	International Convention on Economic, Social & Cultural Rights.
1968	International Convention on Civil & Political Rights.
1973	Minimum Age Convention.
December 16, 1966 - January 3, 1976	“International Covenant on economic, social and cultural rights was adopted and opened for signature, ratification and accession by the United Nations General Assembly” 2200 A (XXI) of December 16, 1966 entry into force January 3, 1976, under Article 27.
1979	International Year of the Child; Convention on the elimination of all forms of discrimination against women.
1986	Declaration of Right to Development.
1989	UN Convention on the Rights of the Child (CRC) containing 54 Articles & 4 Fundamental Principles ie. Survival, Development & Protection Devotion to the best interests of the Child Equality & Non-Discrimination Respect for the views of the Child
1991-1995	Child Rights International Network (CRIN) was established. It is a private organization based in London which reviews United Nations actions and nations' compliance with the UN CRC.
February 27, 1991	Creation of the Committee on the Rights of the Child, a body of 18 Independent experts that monitor implementation of the Convention.
1998	Creation of the office of the rapporteur on the rights of the child of the inter-American Commission on Human Rights.
1999	The African Charter on the Rights & Welfare of the Child (ACRWC) was created.
2000	UN Convention against Transnational Organized Crime.
February 12, 2002	Optional Protocol on the sale of children, child prostitution and child pornography was adopted and came into force.
2002	“Convention on Prevention and Combating Trafficking in Women and Children for Prostitution by South Asian Association for Regional Cooperation (SAARC)”
2011	General Comment 13 – Published by Committee on the rights of the child.
April 14, 2014	Optional Protocol to the Convention on the Rights of the Child on a communication came into force.

Despite these declarations worldwide, child has been subjected to sexual abuse. Child sexual abuse has become a serious social problem in societies universally.

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