

SEXUAL ABUSE OF THE CHILDREN : A SOCIO-LEGAL STUDY

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**For every child who cries at night
Alone with shame and pain and fright**

**For every child who wants so much
To only feel a gentle touch**

**For the beaten child, who cries in pain
Whose tears run silent, like the rain**

**For the child used to satisfy lust
Who never learns to love or trust**

**For the child taken from her home
And made to feel so all alone**

**For the child whose home is just a shell
Where life becomes a living hell**

**For the child who smiles but cannot feel
Because of scars too deep to heal**

**For every child who yearns for love
I hope and pray to God above
To hear your cries and heal your pain
And give you back your life again**

With love, to all the children

BY : Kathy Williams

A child is just like a delicate and beautiful rose in the garden. If roses are wantonly destroyed, the garden will have a desolate look shorn of fragrances and beauty. Every one of us was a child and has reminiscences of childhood-either sweet or bitter, painful, one carries them throughout one's life. One loves sweet reminiscences and keeps them while one tried to burry bitter ones. As a rose, bud gradually unveils itself into a flower with a beautiful arrangements of petals, a child full of potentialities grows up as a man or woman having numerous thoughts and ideas and vicious with ability to transform the whole world. In order that potentialities in every human being may be fully explored and creatively utilized every child on earth has got to be loved and cared for good development. **“Children of the world are innocent, vulnerable and dependent. They are all curious, active and full of hope. Their life should be full of joy and peace, playing, learning and growing. Their future should be shaped in harmony and**

gain new experience. Abandoning the children, excluding good foundation of life for them is a crime.”

Children and childhood across the world, have broadly been construed in terms of a ‘golden age’ that is synonymous with purity, liberty, joy, and the like. It is the time when, spared the rigours of adult life, one hardly shoulders any kind of responsibility or obligation. But, then, it is also true that children are vulnerable, especially when they are very young. The victimization of children through various forms of violence-physical, social and economic has been persistent and pervasive problem of the past continues to be the problem of the present. It is a different matter that most of the societies (including Indian society) have ignored for long the existence of such violence against children as a tolerable deviation of certain families troubled by the traumas of domestic incompetence. The scope of the problem of child abuse within our society is contagion of such vast proportions that virtually all children are at risk of abuse. Children are abused by loved ones, friends, family friends, those in whom they place their trust, and those bound to care for them. They are abused by those they hardly know and even those they do not know. Children of all ages are as risk and vulnerable to abuse, whether in their homes, or in their community.

India is not an exception to the problem of child abuse and violation of human rights. So let us have a look at some statistics on the situation of children in India.

- 45.3% are abused between the age of 0 to 1;
- 34.5% are abused between the ages of 1 to 3;
- 10.1% are abused between the ages of 4 to 7;
- 04.0% are abused between the ages of 8 to 11;
- 05.6% are abused between the ages of 12 to 17 in year of 2008;
- 111 million child laborers in India work in hazardous or exploitative conditions;
- There are 13 million homeless children;

Forms of Child abuse

Child abuse is a serious social problem affects millions of children each year. Not only does it have multiple societal repercussions, but also individual repercussions that may produce lifelong scars. Barring a fistful number of fortune ones, the majority of them begins with suffering and are subject to various forms of child abuse. Child abuse has many forms: physical, emotional, sexual, neglect, and exploitation. Any of these that are potentially or actually harmful to a child's health, survival, dignity and development are

psychological, and neglect.

SEXUAL ABUSE

Child sexual abuse is a dark reality that routinely inflicts our daily lives but in a majority of cases it goes unnoticed and unreported on account of the innocence of the victim, stigma attached to the act, callousness and Insensitivity of the investigating and the law enforcement agencies, etc.

Child sexual abuse is an especially complicated form of abuse because of its layers of guilt and shame. It involves any sexual activity with a child where consent is not or cannot be given. This includes sexual contact that is accomplished by force or threat of force between an adult and a child regardless of whether there is deception or the child understands the nature of the sexual act. It's important to recognize that it not always involve body contact exposing a child to sexual situation or material whether or not touching is involved is sexually abusive. The inappropriate sexual behaviour with a child is sexual abuse and it includes fondling a child's genitals, making the child fondle the adult's genitals intercourse incest rape sodomy exhibitionism & sexual exploitation.

As defined by the World Health Organization, child sexual abuse is the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or that violates the laws or social taboos of society. Child sexual abuse is evidenced by this activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person. This may include but is not limited to:

- The inducement or coercion of a child to engage in any unlawful activity.
- The exploitative use of a child in prostitution or other unlawful sexual practices.
- The exploitative use of children in pornographic performances and materials.

Effects of child sexual abuse include guilt and self-blame, flashbacks, nightmares, insomnia, fear of things associated with the abuse (including objects, smells, places, doctor's visits, etc.), self-esteem issues, sexual dysfunction, chronic pain, addiction, self-injury, suicidal ideation, somatic complaints, depression, post-traumatic stress disorder, anxiety, other mental illnesses (including borderline personality disorder and dissociative identity disorder, propensity to re-victimization in adulthood, bulimia nervosa, physical injury to the child, among other problems.

THE REASONS FOR THE rampant instances of sexual abuse in India are manifold and rooted deep within the country's social fabric. Not unlike most other Asian countries, Indian children are socialized into a system where they are expected to obey and respect authority figures without ever questioning their actions. An all pervasive sensibility that rebellion is a sign of bad upbringing breeds a culture of abuse by encouraging sexual predators. Adults in India are often seen to exercise a near feudal hold over children demanding their unquestioned and complete obedience. What is worse is that a feeling of shame and silence characterizes cases of sexual violence against children and this often comes in the way of bringing offenders to justice.

While news stories of sexual of sexual predators are scary, but what is more terrifying is that sexual abuse usually occurs at the hands of someone the child knows and should be able to trust most often close relatives. The sexual use of children by adults. Especially by parents has always been considered a very serious matter not primarily because of the physical or psychological harm done to the child but because of the violation of a major societal taboo against incest.

Child sexual abuse can be categorized into two:

Extra familial Abuse is sexual abuse by anyone other than a relative. It includes abuse by stranger's acquaintances. Authority figures (including abuse by unrelated caregivers), friends of the family and friends. The most critical problem in the area of extra familial abuse is still the lack of information which not surprisingly contributes to misconceptions, biased policies, ineffective primary prevention programs and unrealistic optimism.

Interfamilial Abuse or incest is abuse by a relative. Most often when we consider incest, we think about fathers as the offenders. Siblings, uncles, and cousins also abuse the child. Of all types of incest, abuse by a female perpetrator is the least common.

Parental abuse, especially father-daughter incest, has received more attention than any other type of child sexual abuse, partially as a result of its historical emphasis and more recently as a result of its prioritization in systems designed to identify and assess child sexual abuse. There are an increasing number of children who are becoming victims of incest. These victims suffer physically, emotionally and psychologically, above all being silenced and threatened. This "silencing" leads them to self blame and guilt. And contrary to what many believe, it's not just girls who are at risk. Boys and girls both are vulnerable to sexual abuse.

around the subject and a very large percentage of people feel that this is a largely western problem and that child sexual abuse does not happen in India. Part of the reason of course lies in a traditional conservative family and community structure that does not talk about sex and sexuality at all. Parents do not speak to children about sexuality as well as physical and emotional changes that take place during their growing years. As a result of this, all forms of sexual abuse that a child faces do not get reported to anyone. The girl is unable to tell her mother about the uncle or neighbour who has made sexual advances towards her. This silence encourages the abuser so that he is emboldened to continue the abuse and to press his advantage to subject the child to more severe forms of sexual abuse. Very often children do not even realize that they are being abused.

It is encouraging to find that it was back in 1992-93, that eight mothers of girls who were sexually harassed by their own fathers reported cases of incest, molestation and rape to the capital's Crime against Women Cell. This is significant because hardly any such cases were reported till a year ago.

Child abuse is a result of 'uncle culture'. It is very shocking, but true that most of the rapists are either family member or family friend. There are many instances which have come into light and which depicts the same. In yet another case when a woman discovered that her own husband had since long time been raping his daughter after threatening her of dire consequences, she informed the police, who arrested the accused. In another shocking incident the day the police arrested the 30-year-old man, Sub hash, of Bulandshahr for raping his 5-year old niece. Surprisingly, and audaciously, the culprit in question had raped his niece at his sister's house when she was busy in the kitchen.

A man in his 50th rape the unsuspecting daughter of his neighbour's simply because he wanted to settle an old score with him. The young victim is still in great shock and trauma. She wonders that why her uncle did that dirty thing with her (she does not know that rape or sexual abuse means, as she is very young) in a similar case, at Delhi. These were just a few reported cases, the tip of the proverbial gigantic iceberg. Most of such cases go unreported in India, social pressure and stigma attach to the victim and the family make them buckle under pressure, and prevent them from reporting such cases to the police and others.

Talking into consideration the serious concern expressed by the women's organization, the Law Commission of India has recommended incorporation of new provisions in Criminal Laws to provide for stringent punishment for the offence of rape and sexual abuse of children.

sexually or abused the child, such parents get ransom money for their children and put their children in a situation where they are forced to indulge in this commercial sexual exploitation to earn money to repay the families debt to the exploiter. The child loses his childhood, its dignity, often its future. The mal-effects of such exploitation are miserable and the most obvious of these relates to the health of the child. HIV/AIDS is both a cause and consequences of commercial sexual exploitation of children. The various other forms of such exploitation are:

Forced Prostitution

Prostitution is one of the oldest professions of the world, practised since the birth of an organised society, where women have been driven to sell their bodies as a means of survival. The children of women in prostitution are the most vulnerable due to lack of awareness and the ignorance of alternative as a means of livelihood; the children enter the profession at a very young age unaware of the exploitation, violence and abuse they will have to face. Many have been forced into the profession at a very tender age, their voices of protest often remaining unheard. It has existed in India since time immemorial. It is not an unknown phenomenon in a society instead it is of an ancient origin and has its manifestation in various forms with varied degrees unfounded on so call social sanctions etc. In the case of children, it is always forced prostitution and therefore must not be used interchangeably with 'sex-work', which may be undertaken voluntarily also. Their playground is the brothel; they are the playthings and toys of lust. The India reportedly has the world's largest concentration of child prostitutes, accounting for one in every four of the global number.

Religious prostitution

Child prostitution is socially acceptable in some section of Indian society in the name of Religious prostitution though the practice of Devdasi system. It is practiced in various parts of India and is supported by the family as well as the society. Religious prostitution is known by different names such as Venkatasani, Jogini, Nailis, Muralis and Theradiyan. Young girls from socially disadvantaged communities given to the 'gods' and they become religious prostitute. Devdasi system is banned by the prohibition of dedication act of 1982. Even today this system is prevalent in Andhra Pradesh, Karnataka, Tamil Nadu, Kerala, Maharashtra, Uttar Pradesh, Orissa and Assam. The victims of religious prostitution, the Jogins and Devadasis join at a very early age. 95 percent of Harijan (Scheduled Caste) families send about 5-10 thousand girls every year in this practice.

Sex- tourism

dimensions. Many of the sex tourists are paedophiles who seek out children to satisfy their sexual urges. They can be of any nationality and come from different professional backgrounds. Any child without a physical handicap, irrespective of caste or class can be pushed into satisfying the sexual needs of the tourists. Goa, one of the hottest tourist spots in the country is known for child-sex tourism.

Some of the factors responsible for child sex tourism are:

- Feeling among the foreign tourists that the children of developing or under eloped countries can be exploited and the chances of detection are slender.
- Belief that children are less likely to contract sexually transmitted diseases and hence sex with them is safe.
- Governments in many developing countries with view to encourage tourism turn a blind eye to this problem.

The World Tourism Org became actively involved in the struggle against organized sex tourism and particularly the sexual exploitation of children, after being alerted of this phenomenon by various NGO's, ECPAT (End Child prostitution in Asian Tourism) and number of religious networks operating in tourist destination countries.

A Goa child Act, 2003, is a state legislation, which for the first time address the issue of sex tourism. There is a need for such legislation in other states where tourism and trafficking are dealt properly.

Pornography

Street children or children from poor families and middle class families fall prey to foreigners who attract them through the riches of the world and lure them into such exploitation. Child pornography and sex tourism are closely linked. Sex tourists have been in the forefront in the production of pornographic materials in the form of pictures, films, etc. depicting nude children and sex with children.

Thus, efforts are on to prevent and save children from vulnerabilities and exploitation to which they are subjected. It is to be noted that in Indian majority of such crime are not even reported. Most cases go unreported because of the fear of further trauma and embarrassment to the child as also to the family.

INDIAN LAW

The Protection of Children From Sexual Offences Act, 2012- The reasons for the rampant instances of sexual abuse in India are manifold and rooted deep within the country's social fabric. Not unlike most other Asian countries, Indian Children are socialized into a system where they are expected to obey and respect authority figures without ever questioning their actions. An all pervasive sensibility that rebellion is a sign

India has often been to exercise a heavy hand over children demanding their unquestioned and complete obedience. What is worse is that a feeling of shame and silence characterizes cases of sexual violence against children and this often comes in the way of bringing offenders to justice. Just when it had begun to seem as though the indifference of India society with respect to the protection and safety of its children was a phenomenon that was here to stay, the collective conscience of the Indian people was shaken as news broke about the massacre at Nithari, a small village at the outskirts of the national capital, in 2007 where thirty eight children were reported missing and had allegedly been raped and murdered. Aided the loud public outcries that followed the gut wrenching instances of child sexual abuse that came to the fore, the Ministry of Women and child development sought to expedite the passage of the offences against children (prevention) Act, To address the issue of child sexual abuse.

The Act seeks to protect children from offences of sexual assault, sexual harassment and pornography and provide for establishment of special Courts for trial of such offences and for matter connected therewith or incidental thereto. Indian Children, who account for a staggering forty two brutal sexual crimes known to humanity. The lackadaisical attitude of the Union legislature, the apathy of its law enforcement agencies and the conspicuous absence of any specialized legal framework to deal with cases of child sexual abuse that seems to have been passively solidified and strengthened by decades of state inaction. With the growing precedence of child trafficking, sex tourism, the devadasi system. Prostitution, child pornography, incest and child rape, one is left horrified at the prospect that there is not a single legislation that specifically deals with the issue of child sexual abuse.

SUGGESTIONS

Following are the suggestions to prevent Sexual abuse:

- . The first important thing is to create awareness about child rights in the society.
- Various loop-holes or even the services in the legislations must be plucked sooner than later.
- The present nation policy on children 1974 needs revision and there is a clear and established need for a separate National Child Protection policy Addition, every state should set up a state Commission for the protection of rights of the child and formulate plans of action for child protection at the district and state levels. There is also a clear and

legislation should address all forms of sexual abuse including commercial sexual exploitation, child pornography and grooming for sexual purpose it should also deal with Physical abuse including corporal and bullying, economic exploitation of children trafficking of children and transfer of children. The legislation should also look at mechanisms of reporting and persons responsible for reporting. This must be seen in the context of the fact that more than 70% of the respondents do not report the matter of sexual abuse to anyone. It has also very clearly emerged that largest percentage of abusers are person within the family or person of position of trust and authority. The legislation should address such issues also.

- So far child protection has been dealt with in a piecemeal and dilatory way with allocation of minimum reaching out to a numbers of children in scheme. Such a scheme should indentify vulnerable families and children, prevent vulnerabilities and provide services to those to in need. The scheme should strengthen statutory support services provided under the Juvenile Justice (Care and Protection of children) Act 2000 for children in need of care and protection and children in conflict with law. With the allocation of adequate financial and human resources, the scheme should help create a protective environment for children through strong service delivery mechanisms, outreach services and effective interventions.
- The present paper and the national study on child abuse 2007, has revealed that the majority of abuse case take place within the family environment, the perpetrators being close family relative. A child who has been abuses or continues to be in an abusive situation, needs a variety of services, including professional help in the form trauma counseling, medical treatment, police intervention and legal therefore, a multidisciplinary team of childcare professional (legal, and medical) is needed for prevention protection and treatment of victims of child abuse. A system should be established under the scheme on child protection. Further the existing Child line service provides emergency outreach series to children in difficult circumstances should be expanded.
- Parents are supposed to crate friendly equations equation with children, so that child confides in them they should believe in their child if he/she nauseates any unbelievable happening of sexual abuse. Children won't iie about such horrible events. Give them support both physical and psychological to prevent its damaging impact. Make them comfortable, console them and take all necessary measures to prevent the recurrence of the incident. Parents and caregivers are primarily responsible and accountable for the safety and security of the children in their care. But many parents failed in their duty towards children. Abusive parents should be given counseling therefore, there is a need to

TO HANDLE SITUATION OF CHILD SEXUAL ABUSE.

- School teachers have to be trained to handle the misbehaving student through guidance and counseling instead of corporal punishments.
- Using the media to mobilize the public in efforts to prevent child abuse has long been regarded as a vital component of a comprehensive child abuse prevention strategy. The media should be used to spread awareness on child rights. The values and attitudes that a people hold for children and how to raise them, the behavior they engage in as parents towards their and other children, the degree to which they support certain public policies all help to explain the existence of child abuse and its increase and decrease over time. The media (e.g. television, radio, newspaper and magazines and now even the internet) allow one to reach out to a large number of individuals in a consistent manner. These strategies allow advocates to educate the public about the existence and dimension of the given problem and more important how every individual can take action to faster abuse prevention.
- Equity is possible if social norms ensure that the girl's child lives in a non-abusive environment in which she is cared for and respected. Discrimination of girls results in their lower enrollment in schools, higher levels of malnutrition, trafficking of girls for sexual exploitation, child marriage and their non-participation in decision making in the family etc. These imbalances need to be addressed by bringing about attitudinal changes in people regarding the value of the girl's child. Focus should be on elimination of discrimination and abuse of girls and on creating awareness of existing legislations.
- Law enforcing machinery must be trained appropriately about the legal provisions and adequately equipped to face the eventuality.
- The corrupt officials in the system should be treated hard handedly.
- Lower ranked officials must be given full support so as not to be deterred by the impact of influential and moneyed people.
- A system should be developed which has no political influence. Because it is the need of the hour as the pimps and poodles are having direct nexus with the top brass in Indian political system.
- Strict vigilance, administrative will and more humane approach should be taken by the concerned authorities.
- The NGO - government association should be made stronger and more NGOs should be brought into the project.
- There must be special penal provisions for punishing the officials involved in the enforcement of related laws.

Care and full attention, with regard to their dignity and mental situation.

- All the Pending Bill should be passed and enforced so that problems of Child victims need extra and special care and protection therefore they must be treated specially.
- Awareness programmes should be conducted in the society to make the people aware of the plight of the victims and reality behind their entry into this trap. By this, society will change its thinking approach and will not stigmatize them.
- Child protection is a shared responsibility. And for any intervention to be effective there should be a synergy between efforts being made by different stakeholders to address. There is a need to create a mechanism that will make such a synergy possible. These may include child protection mechanisms at village, block district and state levels which involve parents, elected representative of urban and rural local bodies, teachers, anganwadi workers, medical practitioners, police and social workers and responsible members of public among others.

Lets us be more hopeful and confident that notwithstanding the pessimism over the grim child situation in the country, and the seeming impossibility of combating the problem of child abuse, we must maintain hope that there always exists potentials for easting out the problems of criminal victimization of children. Although we might desire more pleasant picture of child situation in the country, we cannot avoid encountering many difficult problems. The experience of the developed countries (where incidents of child abuse are far too less) indicate that children can be spared from the exploitation and abuse if the country is determined to do so, regardless of constraints and difficulties. This is possible only when clear priorities are set, concerted efforts are made, existing programmers are restricted, and other available, but often underutilized resources, are mobilized to energetically trickle the task at hand. Only with persistent at finding pragmatic solutions, we can hope of creating a more just and humane society. Finally and most importantly, an optimistic vision is important, because there is always light at the end of a dark tunnel.

Let us not forget, the future of the world is the hands of tomorrow's adults who are today's children. They are most precious commodity that the world has. The two only deserve, but have a right to all the protection which we can afford.

In the fight against child abuse mere legal framework cannot do that, people's participation, governmental organizations, creative leadership of the non-governmental

important role and give them tremendous contribution to success of the legal policy. Law cannot be the only instrument to take care of all problems. The whole legal regime ranging from international human rights instruments to constitute laws and down to local administrative circulars, whether relating to eradication of child labour or streamlining the adoption and fosterage arrangements or rescuing from sexual exploitation or effectuated the policy of compulsory primary education, has increasingly relied on this bottom up approach. From the perspective of law society interaction, the signs of healthy development are visible.