



# Sexual Offences On Children-More Awareness Required To Prevent The Crime By Indian Judiciary

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## ABSTRACT

Children are the bright future of India. Children are responsible citizen of India so it the responsibility of the society to protect the children from sex crime. there are provision in the constitution of India under Article 15 to protect the children in tender age.sex crime on child were committed during Vedic Period in India and King was the Judge who give punishment to the offender. There was provision of severe punishment during princely rule in India, during Mohammedaan dynasty in India. Indian Penal Code was enacted during British rule in India and there were provision of severe punishment according to crime committed in the British rule. Courts of Justice are doing justice and giving punishment to the offender but numbers of sex crime on children are increasing regularly in India so society should also protect children from sex crime.

**Keywords:** sex crime, child, dignity, Protect, compensation, witness

## INTRODUCTION

Children are Responsible Citizens of India and many legal safeguard are included in The Constitution of India to Protect Children from sexual offences. Children should be protecting from sexual abuse. To do insult and use offensive language on the children is made punishable offence in The Bharatiya Nyaya Sanhita, 2023(Act 45 of 2023).Indian Judiciary is aware to Protect Child Rights and always doing effort to protect children from sex crime. Prosecution-conviction-sentence is the set method in criminal law but age profile of the population should be kept in mind when hearing the sexual offence matters committed by offender. Indian Judiciary is always careful to avoid potential problems which will be faced by the children in future if offender is convicted by the Court of Justice then court have regular watch the safety of innocent children . Attraction toward each other of opposite sex men-women are natural phenomenon and it start generally after conversation with each other. Elope of opposite sex Children from home is general news today and such event are convert into kidnapping and abduction of child by relatives of child are increasing sexual offences events today and number of events to Register First Information Report by relatives of children to commit sex crime on his child are increasing rapidly at present. Use of social media by age group of 16 to 27 are increasing rapidly and threatening to children for sextortion and money is also increasing rapidly which is big problem.sex crime on child were prevalent during Vedic Period, During Mohammedan dynasty, during British rule within India and at current time also. Indian Judiciary are careful about such events and sexual relations are made by minor girl and minor boy but due to legal age limit fixed by law to give free and full consent for sexual intercourse such relationship convert into crime. This research problem has been a combination of three distinct concepts; sexual offences on the children, severe punishment to offender, and Child Rights on the Sex crime when children become victim by the bad act of the offender. Reason relating with sex crime on Child is to be discussed in relation with these distinct concepts.

Sexual offences on the Children being committed during Vedic Period, during princely rule, Mohammedan dynasty, during British rule within India and at current time also. There were severe punishment provision on the offender but even though numbers of sex crimes on child are increasing rapidly.

Legal Age of to give free and full consent for sexual intercourse for woman are fixed different during different time in the Indian Penal Code, 1860 and legal age limit is increased at different times so Courts of Justice is careful to decide the sex crime on the children cases. Legal age matter is critical issues which are not changed up to now. Consent of children has no importance in the sex crime matter.

POCSO Act, 2012 have been enacted by Parliament of India after direction given by Apex Court of India in re Sakshi versus Union of India (Dated 26-05-2004).Purpose of POCSO Act, 2012 is to protect Children from sex crime, use of Children in Pornographic Performance, To Protect Children from Prostitution, Sexual harassment misuse of children on social media etc., This study is centralized to protect the child rights.

## STATEMENT OF THE PROBLEM

Foremost discussion for the whole of the research paper is on sex crime on child and careful effort done by Indian Judiciary to restraint sexual offences on the Children within India. Courts of Justice are careful to prevent the sexual offences on the children but crime are increasing rapidly in the Country so for this I have to focus upon the following issues,

- . Are children are safe from sex crime in the Country at present time?
- . Are legal development related to child rights are successful to obtain the desired result?
- . Are work of Courts of Justice have been to the acquired degree so as to restrain sex crime on children?

## REVIEW OF LITERATURE.

The review of literature being an explanation belonging to text relevant so as to responsibility of Courts of Justice and of society to prevent the sex crime on child with the reason for which sex crime is done against which child's right to be protected. Text give a general review of what effort being done through Court of justice and by society throughout the time of Vedic Period till the present time. The literatures can be traced on three connected objects that is to say rights of child, legal statutes, responsibility of Courts of Justice and of society to prevent sex crime on child. In this research all these three ideas are taken and they are identified from the review of literature and they are correlated.

Patrick Olivelle(2009) The Law Code of Manu, Oxford University Press United Kingdom.

This literature gives understanding of the conduct of men and responsibility of Court of Justice during Vedic Period in cases related to sex assault on women. For a man it is given that He must not consort with an enemy, a friend of an enemy, an unrighteous person, or a thief-as also with another man's wife; for there is nothing in this world as sure to shorten a man's life as consorting with someone else's wife. Treatment in serious matter is mentioned in this literature that it was tradition if for a younger brother, the wife of his older brother is the same as the wife of an elder; and for an older brother, the wife of his younger brother is the same as a daughter –in-law. Except in a time of adversity, if an older brother has sex with his younger brother's wife or a younger brother with his older brother's wife, they become outcastes, even if they have been duly appointed.[1]

Shri Narain Gaur(2005) IPC(Act 45,1860) : Dived & Company Law Publishers & Book sellers Civil Lines, Allahabad-In this text knowledge regarding role of Courts of Justice during princely rule connected with India has been elaborated.Chanakya's Arthasastra, being the source of penal statutes and according the Arthasastra punishment was given to the offender.Chanakya use word 'Sahasa' for offence and to give punishment to the offender word "Kantak shodhan" were used.

During Mohammedan Dynasty Koran was the source to give punishment to the offender and Trial was held by Kazis and punishment was inflicted by Mir Abdul. Severe punishment was given during that period.[2]

During British rule in India Indian Penal Code was enacted in that period and Chapter 16 is relating to the Sexual offences against women and child and there was provision of severe punishment on the offender according to the nature of the offence.

It is mentioned in a case that Merely because a victim is dead and consequently could not be examined can never be a ground to acquit an accused if there is evidence otherwise available proving the criminal act of the accused concerned( State of Karnataka versus Mahabaleshwar Gourya Naik). [3]

In the "Convention on the Rights of the Child-it is mentioned in this Instrument that child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the charter of the United Nations and in particular in the spirit of peace,dignity,tolerance,freedom equality and solidarity. it is mentioned in the declaration of the Rights of the Child,"the child by reason of his physical and mental immaturity needs special safeguards and care, including appropriate legal protection, before as well as after birth".

In the Pocso statutes 2012 it is mentioned that child should be protected from all types of sexual crimes and Special Court is established by the State Government to protect child rights and children should be protected from pornographic performance and severe punishment provision are mentioned in this statutes. Compensation provision are made for rehabilitation of the victim [ 4].

In "The Bharatiya Nyaya Sanhita,2023 Chapter 5 is related to the Offences against Woman and Child in which Section 63 give the definition of rape and it is true that the sole testimony of the victim is sufficient to convict an accused. It is absolutely correct that no self-respecting woman would falsely state that she had been raped" (Sangay Bhutia versus State of Sikkim).[ 5]

According to new Report of World Health Organization 30 per cent women in India are suffering from mental, economic or sexual crime committed by her husband or partner on her. Every 1 out of 3 women are victim of partner or sex crime committed on her.[6]



In recent News Punjab and Haryana High Court give Order in” a case in which “victim’s absolutely normal mental state” after an alleged Pocco case offence raises serious doubts about the credibility of allegations. High Court said in a recent order while suspending the five-year sentence of a teacher convicted of molesting a student. High Court noted the class VIII student attended a PTM with her parents the day after the alleged offence, took photographs at school, and posted them on Instagram with the caption “School Mein Maje”.Such behavior cannot reasonably be anticipated from a minor who was subjected to sexual molestation by her teacher at school merely a day prior”. Court said in the Order passed on a petition by teacher. On November 8, 2024, a fast track Special Court in Chandigarh convicted the teacher in a Pocco case registered on November 2, 2022, awarding the maximum sentence of five years. His appeal against conviction was admitted by High Court in November last year. The prosecution alleged the teacher called the student, engaged in obscene talk and touched her inappropriately on November 2, 2022. Out of fear, she left school but narrated the offence to her father after arriving home. The teacher, on the other hand, claimed the girl harboured a grudge against him as he had caught her in a “compromising position” with a boy and reprimanded her around a month earlier.”The teacher had only called the girl to the staff room to question her over the use of a mobile phone during school hours, instructing her to bring her parents and the phone the next day for the PTM,” His Counsel said. The Bench Observed the mental state of the survivor remained “absolutely normal” even after the alleged offence, casting serious doubts on the veracity of her allegations and indicating the offence did not take place. High Court said any child who experienced such an incident must have been mentally traumatized for a while.”The conduct and demeanour of the prosecutrix subsequent to the alleged incident does not inspire confidence in the prosecution version, and the behavior of the prosecutrix exhibits no sign of fear, trauma, and emotional distress that would ordinarily be expected from a victim of such a grave offence.” High Court said, the sentence shall remain suspended till the appeal against conviction is decided.”[7]

In a recent case Former Karnataka Chief Minister has moved the Supreme Court against a November 13 Karnataka High Court Order that allowed a Protection of Children from Sexual Offences(Pocco) Act case against him to proceed to the trial stage ,by upholding the cognizance taken by a special court handling such matters.The Special Court had issued a summon to Ex Chief Minister and three others on November 18 to appear on December 2 to facilitate the start of the trial in the Pocco case ,registered by the Bengaluru police in 2024.While the former Chief Minister Moved the Supreme Court through a Special Leave Petition on the criminal side, the Supreme Court is yet to list the plea for hearing, in which the CID unit of the Karnataka Police and the Bengaluru police are respondents. The development came in the wake of the Karnataka High Court’s decision November 13 to uphold the February 28 special court decision to take cognizance of a chargesheet filed by the CID unit of against former Chief Minister and others under section 8(sexual assault) of the Pocco Act,and sections 354 A(sexual harassment),section 204(destruction of document to prevent its production as evidence) and section 214(offering gift or restoration of property in consideration of screening offender) of the Indian Penal Code.”As already stated, the Hon’ble High Court of Karnataka confirmed the Order of taking cognizance and issuing of summons to accused Number 1 to 4.Further as per Section 35 of the Pocco Act, the evidence of a child shall be recorded within a period of 30 days of taking cognizance, hence the court can proceed with the matter and issue an order for early appearance of accused persons,” the special court observed on November 18.”[8]

In recent case “Pocco court number 2 in Ajmer in Rajasthan State sentenced a man to 20 years of rigorous imprisonment for raping his 15 and-a –half year old daughter. When the mother of the girl learned about the crime, she reported it to police in August last year. Special Public Prosecutor stated that the girl’s mother reported to Gandhi Nagar Police station that her husband not only raped their daughter but also harassed her mentally and physically. Police arrested the accused and filed a charge sheet in Court on October 16.The prosecution produced 17 witnesses and 23 documents, including the FSL report. Along with the 20 years sentence, the court also imposed a fine of Rupees 50,000 on the convict.”[9]

In a recent case “A 21-year old man from Mathura has been sentenced to 20 years of rigorous imprisonment for raping a five –year-old girl, after Juvenile Justice Board transferred the case to a special Pocco Court. Though the offender was 17 at the time of the crime the board ruled he would be tried as an adult citing the “serious and brutal nature of the offence”. The Court said, “section 18 of the Juvenile Justice Act, 2015, provides that in cases where the child is above 16 years of age and has the physical and mental capacity to commit such an offence, the Juvenile Justice Board shall make a preliminary determination regarding the child’s ability to understand the consequences The convict should not be shown special mercy merely because he was a minor at the time of the crime.”[10]

In odisha” A local Court in Odisha’s Kendrapara district sentenced a 70 year-old-man to 20 years of rigorous imprisonment after finding the man guilty of raping a 9 year-old minor girl last year. The Additional District Judge cum special Judge Kendrapara also imposed a fine of Rupees 50,000 on the convict. In default his sentence will be increased by a year. The Court has also directed the Odisha State Legal Services Authority (OSLSA) to pay a compensation of Rupees 6 lakh to the victim said prosecution counsel. The victim girl was a student of standard 3 in a village school under the jurisdiction of the Pattamundai police station. The accused had allegedly threatened the victim not to confide his sexual assault to her parents. He was convicted under section 65(Rape on a woman under sixteen years of age) and section 331(house-trespass or house-breaking) of BNS and section 6 of the Protection of Children from Sexual Offences Act2012.Court Pronounced the judgment after relying on the evidence of seven witnesses including the victim girl and the medico legal report, said prosecution counsel.”[11]

This study is limited to the analysis of awareness of Courts of justice to protect the best interest of child so as to prevent sex crime on child in India with reference to Rajasthan state and further to enact the alternative law which may be helpful to prevent sexual crime on children which would protect the right of the child. Last mentioned fact- finding analysis have been its origin with respect to 3 conception that is to say sex crime on children, laws enacted by parliament and the rights of the child which have been protected through court of justice. But associations among these different concepts are based on the fact that sex crime on child cannot be stop but courts of justice are trying to minimize it. Enactment of new law can also be helpful as need of the time.

As far as empirical part of this study is concerned, it includes two groups i.e. Group of Police personnel and the Counsel Group. Both Group of Police Personnel and Counsel Group have been selected from five District of Rajasthan. Group of Police have practical experience of investigation of the case and Counsel Group have practical experience to prosecute the case on behalf of the State side and to defend the case as Counsel of the accused. Use of Empirical Methods in this research study is subject to the availability of relevant data.

## OBJECTIVE OF THE STUDY

Importance of this study is to have detailed investigation and analysis so as to address challenge of sexual offences on children with reference to Rajasthan state from a legal prospective and to ascertain the success of court of Justice to prevent sex crime on child through taking inspiration from international law. Therefore, one of the objectives of this study is to find out relation between POCSO Act so as to prevent sexual offences on children within India and to evaluate the success of this Act so as to safeguard the child rights. Later on this study trace out the changes brought over the years in the criminal statutes to prevent sexual offences on children with respect to India and evaluate the relationship between these legal measures which are required to prevent the sex crime on child with a balanced arrive at which is a fair combination of above laws and child rights.

The Objective of this study is

.To study the nature and extent of sex crime on children which are to be restrain with the help of international legal instruments.

. To study the have being laws and regulatory mechanism in India with reference to Rajasthan State.

.To knows whether Court of Justice have been successful so as to safeguard the Child Rights with respect to India and society is aware about sex crime on child.

With respect to the last mentioned analysis doctrinal and non doctrinal research are connected in with fact finding being put in an application. Further material of literature and evidence present by the prosecution are taken in consideration. Quantative Data, Judgment given by the Court of Justice etc. are taken in record to reach the new conclusion.

Facts and statistics are used for reference or analysis with regard to learning as to reach new conclusion which have been derived to the following sources-Judgment of Court of Justice, International legal Statutes, Report of various institutions, News papers, Books and expert Committee Reports, Law ministry of central Government Reports, Direction given by Court of Justice etc. In addition to this The Constitution of India, magazines, PhD thesis, International convention etc. are also referred so as to obtain outcome of a detailed investigation and analysis so as to connect a relation between sexual offences on child and child rights. Researcher performs a detailed investigation and analysis of material belonging to principal and outcome of principal sources with regard to achieving a reason for children's sex crime. The result pertaining in such situations are depicted here.

The Second portion is based on detailed investigation and analysis of subject, wherein, source to obtain principal facts and statistics of research are two Groups i.e. (i) Group of Police Personnel and (ii) Counsel Group. The Group of Police Personnel is expert in the investigation when information of alleged offence is given to the Police and police start to collect the evidence against the accused. The Counsel Group is expert in the subject –matter of code. Counsel performs duty as a public prosecutor on the State side and defends the accused on the defendant side and contradicts the statement of the witness of prosecution. The experience of both the Groups is very vital for this study.

## DATA ANALYSIS

For the empirical research questionnaire is being used to collect data. Two expert groups are chosen by the researcher and separate questionnaire are prepared by the researcher for both expert group. Question framed are of objective type of questions for both two groups. researcher have do visit to take response of police personnel ,and do visit to the police station, police choki of medical colleges of five District in Rajasthan State, office of the District Superintendent of police. Researcher has prepared separate Questionnaire for Counsel Group and have prepared Objective type question for the counsel group and have do visit to the Five District Sessions Court. Both Group express their opinion the there is more requirement to enact new laws which may be helpful to minimize the sexual offences against children and present Statutes are partially successful to prevent the sex crime on child. For Doctrinal research Researcher use relevant lawful principle,

theories of expert, judgment of Supreme Court of India, High courts, statutes enacted by parliament, international convention report etc., are used. Data are collected in table form and comparative analysis has to be done of the study of both Doctrinal and non Doctrinal research and conclusion is drawn.

## ETHICAL CONSIDERATIONS

As a researcher has included individual participants for empirical study and collected primary data from them, it is the responsibility of the researcher to uphold ethical consideration. Researcher has assured to the Member of expert group that their identity will not be disclosed. Rajasthan is large state so researcher have chosen only five District to do study on the subject. sex crime on child is big issue so five District is chosen for study. Time, money are another limitation of this research study.

## CONCLUSION

On basis of information revealed through Law Ministry, central Government, NCW and direction given by High Court indicate that Sex crime on child are increasing rapidly and there is more requirement the of alertness of the Indian Judiciary. Society must be active to prevent the sex crime on child. Pocso statutes is partially successful to prevent the sex crime on child so Enactment of new law may be helpful to prevent the sex crime on child.

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