

CHILD RAPE IN INDIA: A HEINOUS CRIME AGAINST THE INNOCENTS

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ABSTRACT

This research paper aims at understanding about the heinous crime of child rape in India. It discusses about the increasing rape cases in India, the punishments for rape provided under the Indian Penal Code (IPC) of 1860, the alternate punishments provided under The Protection of Children from Sexual Offences (POSCO) Act of 2012, the relevance of age in the cases of rape in India, the relevance of consent of the child in the cases of child rape and the recent reform that provides death penalty for the child rapists. It also discusses about the competency of a child as a witness, the relevance of written evidences in case the child is not able to communicate verbally, some landmark cases regarding the offence of child rape in India, the importance of children in a society and the necessity for ensuring the protection of the innocent children from such kind of sexual abuse or rape. This paper focuses upon recognizing the alarming increase in the rape of minors or child rape cases in India, the importance of educating the adults, parents, caregivers of the child as well as the children about the measures that can be taken by them to safeguard the children and the several ways, as an initiative that can be taken by the citizens of the country and the government, for ensuring the safety of the children and providing them a secure environment.

Keywords: Rape, Children, Offence, Crime, Consent, Child rape, Sexual abuse, Rigorous imprisonment, Life imprisonment, Rape cases

INTRODUCTION

Rape is the fourth most common crime against women in India. According to the 2018 annual report of the National Crime Records Bureau (NCRB), 33,356 rape cases were reported across India in 2018. Carrying out a small sample survey, Human Rights Watch records more than 7,200 minors are raped each year in India. Rape of a minor, that is someone below the age of consent (18 years), is a form of statutory rape. Of all the rapes in India, nearly 1 in 3 rape victims are below the age of 18 years.

The significance and importance of the child lies in the fact that the child is the universe. Children are considered to be God. Today's child is tomorrow's citizen. Child is the future human capital. Human society perpetuates through its children. The future and stability of it depends on the quality of its children. Their number, location, circumstances and education mark the level of our progress and development today and shape the world of tomorrow. In fact, they are the legacy of past and present and the bridge to the future of a nation. Children of a nation are the hopes of tomorrow. Childhood is the stage of human development and a child has been described as the future of mankind and the hope for human civilization. A child is the most asset and treasure of a nation and therefore requires special care, protection and safeguards.

The United Nations Declaration on Rights of Child 1959 recognizes the need for care and protection of a child. Similarly, the United Nations Convention on Rights of Child 1989 has also recognized the need of special protection. Furthermore, the United Nations Convention on Rights of Child and the Convention on Elimination of All forms of Discrimination against Women 1979 prohibits distinction on the basis of sex.

In *People's Union for Democratic Rights v. Union of India*¹⁹⁴, the court has termed the child as the section of humanity and has observed that whenever any fundamental right which is enforceable against private individuals, for example, a fundamental right enacted in Article 17, 23 or 24 is

¹⁹⁴ People's Union for Democratic Rights v. Union of India, 1982 SC 1473

being violated, it is the constitutional obligation of the State to take the necessary steps for the purpose of prohibiting such violation and ensuring observance of the fundamental right by the private individual who is transgressing the same.

The Supreme Court in *Sheela Barse v. Secretary, Children Aid Society*¹⁹⁵, took keen interest in the problems of children. If there will be no proper growth of today's children, the future of the country will be dull and dark. Hence, it is the responsibility of every generation to bring up the children in a proper way who will be the citizens of tomorrow. Children of today will be the leaders of tomorrow who will hold the nation's banner high and maintain the prestige of the country. If a child went in a wrong direction due to the lack of proper attention, training and guidance, it will indeed be a deficiency of the society. The children irrespective of their age are entitled to protection of the dignity and worth as any adult member of the society. Therefore, every society must devote full attention to ensure that children are properly taken care of and brought up in a proper atmosphere where they could receive adequate training, education and guidance in order to be able to have their rightful place in the society when they become grow up.

Despite the constitutional provisions and various social legislations, the children in our country are abused and exploited. The sexual abuse of children is on increase. Child sexual abuse is the physical or mental violation of a child, couple with sexual intent, usually by an older person who is in some position of trust or power over the child. Even though both men and women can sexually abuse a child, most abuses are by males against women, because of the more powerful position held by males in society. People generally refer to rape of females rather than of males.

Rape Under Indian Penal Code

The law relating to rape is enshrined under section 375, 376A, 376 B, 376C and 376D of the Indian Penal Code, 1860. This offence is placed under the Chapter 'Offences Affecting Human Body' and has further been classifieds 'Sexual Offences'. The Indian Penal Code does not take any special cognizance of Child victims of rape and this seems to be an indication of the gruesome crime that could be inflicted by unscrupulous males that even the drafters of the code had not visualized

¹⁹⁵ Sheela Barse v. Secretary, Children Aid Society, 1987 SC 656

against innocent children. However, recently, in the year 2018, a law has been passed by the Indian Parliament allowing the death penalty for raping girls under the age of 12.

Rape is a kind of sexual assault usually involving sexual intercourse or other forms of sexual penetration perpetrated against a person without the consent of that person. The act might be carried out by physical force, coercion, abuse of authority or against a person who is incapable of giving valid consent. Moreover, rape is recognized as an element of the crime of genocide when committed with the intent to destroy a targeted ethnic group. The word 'rape' comes from a Latin word 'rapere' and it literally means a forcible seizure, and this element is the characteristic features of the offence. The offence has been defined under Section 375 of Indian Penal Code (IPC).

Punishment for Rape

Punishment of committing the heinous crime of rape has been provided under Section 376, Section 376 A, Section 376 B, Section 376 C, Section 376 D and Section 376 E of the IPC.

Section 376 provides that whoever commits the crime of rape shall be punished with rigorous imprisonment up to 7 years or more, which may extend to life imprisonment, and shall be fined too. If a police officer, public servant, member of Armed forces, management staff of jail, remand home or any other place of custody, hospital staff or relative, guardian or a person in position of trust of authority towards the victim commits rape, he shall be punished with rigorous imprisonment up to 10 years or more, which may extent to life imprisonment, and shall also be fined. If the rape has been committed during communal or sectarian violence, on a pregnant woman, on a girl below the age of 16 years, when she is incapable of giving consent, if she is mentally or physically disable, caused grievous bodily harm in the process or endangers her life, repeatedly on same woman, shall also be fined and punished with rigorous imprisonment up to 10 years or more which may extend to life imprisonment.

- Section 376 A provides that whoever commits the crime of rape and causes death of the victim or result in persistent vegetative state of the victim shall be punished with rigorous imprisonment up to 20 years or more which may extent to life imprisonment.

- Section 376 B provides that whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with rigorous imprisonment up to 2 years or more, which may extend to 7 years, and shall also be fined.
- Section 376 C provides that whoever in a position of authority or fiduciary relationship, a public servant, superintendent or manager of jail, remand home or any other place of custody or the staff or management of the hospital abuses such position of authority to induce a woman in his custody or present in the premises to have sexual intercourse not amounting to the offence of rape shall be punished with rigorous imprisonment up to 5 years, which may extent to 10 years, and shall be fined too.
- Section 376 D provides that when a woman is raped by two or more persons, which constitutes a group and is said to be a gang rape, each of those persons shall be punished with rigorous imprisonment up to 20 years or more, which may extend to life imprisonment, and shall also be fined.
- Section 376 E provides that whoever has been previously convicted of an offence punishable under Section 376 or Section 376 A or Section 376 C and is again convicted of an offence punishable under the aforementioned sections shall be punished with life imprisonment.

Alternate Punishments

Section 42 of the POCSO (The Protection of Children from Sexual Offences) Act 2012 provides that where an act or an omission constitutes an offence punishable under this Act and also under sections 166 A, 354, 354 A, 354 B, 354 C, 354 D, 376, 376 A, 376 B, 376 C, 376 D, 376 E, 509 of IPC (Indian Penal Code) 1860, then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment under this Act or under IPC as provided for punishment which is greater in degree.

Section 42 A of the POCSO Act 2012 provides that the provisions of this Act shall be in addition to and in derogation of the provisions of any other law for the time being in force and, in case of

an inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.

The Relevance of Age in Rape Cases

When the victim is below the age of 18 years, the consent, if any, would not exonerate the offender from the liability. In child rape, the determination of age has been a problem. Ordinarily, the age of the victim is proved by birth certificate either obtained from the Birth and Death Registry office or from the school documents.

The offence is said to be rape when a man has carnal intercourse with a woman against her will and without her consent. The meaning of these two clauses may not be apparent, but they are intended to cover two separate contingencies. If the sexual intercourse was without her will, her age is immaterial for the offence of rape.

In *Harpal Singh v. State of Himachal Pradesh*¹⁹⁶, it was contended that no injury was detected in the private parts of the girl, that she was found to have been used to sexual intercourse and that it was a case of sexual intercourse by consent. The argument was held to be of no avail to the appellants if once it is proved that the girl was below 16 years of age, because in that case the question of consent becomes wholly irrelevant.

In *State of Punjab v. Major Singh*¹⁹⁷, the question was whether the accused, who caused injury to the private parts of a female child of 7.5 months, was guilty under Section 354 of the Indian Penal Code of the offence of outraging the modesty of a woman. The Supreme Court observed that the essence of a woman's modesty is her sex. An adult female's modesty is writ large on her body. No matter if the woman is young or old, intelligent or imbecile, awake or sleeping, she possesses modesty capable of being outraged. Further, the culpable intention of the accused is the crux of the matter. The reaction of the woman is very relevant, but its absence is not always decisive, as for example, when the accused with a computer mind stealthily touches the flesh of a sleeping woman. She may be an idiot, may be under the spell of anesthesia, may be sleeping or may be

¹⁹⁶ Harpal Singh v. State of Himachal Pradesh, 1981 CriLJ 1

¹⁹⁷ State of Punjab v. Major Singh, 1967 SC 63

unable to appreciate the significance of the act, nevertheless, the offender is punishable under the section.

Thus, under the Indian Penal Code provisions of Section 354 dealing with outraging the modesty of woman and Section 376 defining offence of rape applies to girl child. However, no special provision has been enacted with special reference to girl child. A girl child and an adult woman as a victim are in the same situation. It may be submitted that special provisions should be enacted with reference to child for such offences. Child abuse has been known through the ages. However, in a recent child rape case, the Parliament passed the law enabling death penalty for the rape accused who committed the offence of rape to a girl under the age of 12 years.

In a social environment like ours, fear of insults, prestige and reputation forces the victim to keep silent. In a culture, which places too much importance on female sanctity, the despair, and trauma of an abused child is a harsh reality. The existence of gender bias, male domination and female subjugation, has perpetuated the violence against women.

The Relevance of Consent in Child Rapes

The question of consent is immaterial where the prosecutrix is below the age of 18 years. Consent given by such victim is no consent in the eyes of law. But where the victim is above the age of 18 and gives consent under misconception of fact, again, such consent is no consent and the accused will be held liable. It may be submitted here that according to the UN Convention of Right of Child 1989, a child is a person, who has not attained the age of 18, who requires special care, protection and safeguards and therefore the consent of a girl below 18 years of age should be treated under law as no consent.

In *Suresh Balkrishana Nakhava v. State of Maharashtra*¹⁹⁸, it was held that however the facts clearly established that the prosecutrix Punam was under the age of 16 years at relevant time and in spite of her consent the act would amount to an offence of rape as defined under Sec. 375 of the IPC and punishable under Sec. 376 of the IPC. Similarly, consent given by a girl of 14 years is

¹⁹⁸ Suresh Balkrishana Nakhava v. State of Maharashtra, 1998 CriLJ 284

immaterial, in, *Sohan Singh v. State of Rajasthan*¹⁹⁹ the court observed that corroboration of the statement of girl was not required in this case because she was a minor at the time of occurrence and the circumstances which have been proved in evidence were such that it can safely be concluded that she was a reliable witness. Consent of girl aged between 14-15 years does not exonerate the accused from liability. Consent of a minor is wholly irrelevant.

The Competency of a Child Witness

Under the Indian Evidence Act, 1872, any person who is capable of understanding and giving rational answer to a question put to him is a competent witness. Thus, a child is a competent witness if he fulfils the requirement mentioned above. However, the court insists that the deposition of a child must be admitted with caution because the child may easily be tutored and has a tendency to imitate very easily. Again, it is a question for deliberation whether the law is protecting the interest of the child or looking at him with great suspicion because of inherent weakness on the part of the child. It may be suggested that the inherent weakness, physical and mental immaturity, does not give occasion to protection and safeguard rather it provides an opportunity to show its doubt as to the veracity of child deposition.

All persons are competent to testify unless the court take into account that they are prevented from understanding the questions that are put to them or from giving rational answers to those question, by tender years, extreme old age, disease whether of body or mind or any other cause of same kind. Children are the most dangerous witnesses, for due to their tender age they often mistake dreams for reality. They are capable of cramming things easily and reproducing them. They repeat as to their own knowledge that they have heard from others and are greatly influenced by fear of punishment, by hope of reward and by desire of notoriety. Hence, it is unsafe to rely on uncorroborated testimony of a child.

In *Padam Bahadur Darjee v. State of Sikkim*²⁰⁰, the court observed that though there was no legal compulsion that the evidence of the prosecutrix was to be corroborated before it can be accepted and the law only enjoins that the requirement of corroboration should be present to the mind of a

¹⁹⁹ *Sohan Singh v. State of Rajasthan*, 1998 CriLJ 2618

²⁰⁰ *Padam Bahadur Darjee v. State of Sikkim*, 1981 CriLJ 1317 (Sik)

judge. But in this case, we find that there was corroboration available to the testimony of prosecutrix. In *Chidda Ram v. The State*²⁰¹, the court observed that in our society respect for the dignity of the woman is on the decline and rape on the increase, though these offences are committed by sick minds but since it deals with the decency and morality in the public life and touches the honour of womanhood hence the offenders are to be dealt with strictly. The court also said that the prosecutrix is a victim of a crime, her evidence can be accepted without being corroborated in material. She is a competent witness under Sec. 118 of evidence Act and her evidence must receive the same weight as is attached to an injured in case of physical violence. But at the same time courts have to strike balance while evaluating the evidence of the prosecutrix, her testimony has to be evaluated like that of a witness or a complainant with care and caution. If her testimony inspires confidence and is trustworthy there is no need of any corroboration.

It was contended that the testimony of a child witness cannot be relied upon unless corroboration as material particular. In *Narayan IrannaPotkanthi v. State of Maharashtra*²⁰², rejecting the contention the court observed that it was not the rule of the law that every material particular in the evidence of the victim should stand corroborated by the evidence that was adduced. Under such circumstances, we find no substance in the contention that evidence of the child witness could not be relied upon in the absence of corroboration on all material particular. In *Bhawani Giri and Deo Karan v. State of Rajasthan*²⁰³, the court said that in rape cases courts must bear in mind human psychology and behavioral probability while assessing the testimonial potency of the victim's version. The injury on the person of victims especially her private parts have corroborative value and the chemical examination and medical examination was corroborative.

The Inability of a Witness to Communicate Verbally

Section 119 A of the Indian Evidence Act (Amendment 2013) provides that a witness who is unable to speak give his evidence in any other manner say by writing or signs but such writings has to be written in the open court and the evidence is considered to be oral evidence. If the witness

²⁰¹ *Chidda Ram v. The State*, 1992 CriLJ 4073

²⁰² *Narayan IrannaPotkanthi v. State of Maharashtra*, 1994 CriLJ 1752 (Bom)

²⁰³ *Bhawani Giri and Deo Karan v. State of Rajasthan*, 1995 CriLJ 983

is unable to communicate verbally, the court shall take the assistance of interpreter and it should be video graphed.

Section 146 of the Indian Evidence Act (Amendment 2013) provides that in prosecution for an offence under section 376, 376 A, 376 B, 376 C, 376 D, 376 E of IPC, it shall not be permissible to adduce evidence or put questions in the cross examination of the victim as to the general immoral character.

The Recent Reform Regarding Child Rapes

The Parliament of India in 2018 passed a stringent legislation that prescribed death penalty to those who are convicted of raping girls below the age of 12 years and made the law against such sexual offences harsher and stricter. The bill replaced the Criminal Law (Amendment) Ordinance that was promulgated on 21 April 2018, followed by an outburst over the rape and murder of a minor girl in Kathua of Jammu and Kashmir and the rape of another woman in Unnao of Uttar Pradesh. The Criminal Law (Amendment) Bill 2018 that was passed in the Lok Sabha earlier was approved by a voice vote in the Upper House. The Government of India brought the bill because several heart-rending incidents of rape of under aged girls had been reported in the country. Certain changes in the Indian Penal Code, Criminal Court Procedure, Evidence Act were introduced and there were consequential effects on prevention of atrocities against children.

The bill stipulated stringent punishments for perpetrators of rape, particularly of girls below 12 years. Death sentence had been provided for rapists of girls who are under the age of 12 years. The minimum punishment in cases of rape of women had been increased from rigorous imprisonment of seven years to 10 years. As per the bill, in case of rape of a girl below 16 years, the minimum punishment had been increased from 10 to 20 years, which may extend to life imprisonment which means imprisonment for the remaining life of the convicted person until death. Stringent punishment for rape of a girl under the age of 12 years had been provided with rigorous imprisonment up to 20 years or more which may extend to life imprisonment or death sentence. Gang rape of a girl under 12 years of age will invite punishment of life imprisonment.

The measure also provides for speedy trial and investigations. The time limit for the investigations of all rape cases had been prescribed, which must be mandatorily completed within two months.

The deadline for the completion of trial in all rape cases was prescribed to be two months. The bill says that a six-month time limit for the disposal of appeals in rape cases had also been prescribed, adding that there will also be no provision for anticipatory bail for a person who is accused of rape or gang rape of a girl below 16 years.

Landmark Cases

Some of the landmark cases regarding the child rape cases in India:

- **GhanashyamMisra v. The State on 27 November, 1956**²⁰⁴– In 1956, the Orissa High Court recognized that the offence was committed by a person in a position of trust and authority of the child and awarded the sentence of GhanashyamMisra who was a school teacher and he raped a 10 year old girl in the school premises. The court not only enhanced the sentence of the accused to seven years but also ordered him to pay compensation to the victim and her father. The judgement given by the court was that the circumstances of the case were of an aggravating nature. The victim was a young girl of 10 years, and the culprit was an adult of 39 years. He took advantage of his position of authority and induced the girl to come inside the classroom and committed such an atrocious and heinous act, the consequence of which might be a complete ruin of the future of the girl.
- **Tuka Ram and Anr v. State Of Maharashtra on 15 September, 1978 (Mathura Rape Case)**²⁰⁵– This case was an incident of custodial rape in India that happened on 26 March 1972, in which Mathura, who was a tribal girl and a minor at the time of when that heinous act was committed against her, was allegedly raped by two policemen in the compound of a Police Station in Chandrapur district of Maharashtra. After the Supreme Court acquitted the accused, there was huge public outrage and protests that eventually led to some amendments in the Indian Rape law through The Criminal Law (Second Amendment) Act 1983.

²⁰⁴GhanashyamMisra v. The State, 1957 CriLJ 469

²⁰⁵Tuka Ram and Anr v. State of Maharashtra, 1979 SCR (1) 810

- **GorakhDaji Ghadge v. The State of Maharashtra on 6 March, 1980**²⁰⁶ – In this case, the father was accused of raping his 13-year-old daughter at home. The Bombay High Court maintained that seminal emission is not necessary to determine rape. It also prescribed stringent punishment because the victim was the daughter of the accused. The judgement of the court was that crimes in which women are the victims need to be severely dealt with and in extreme cases like in this case where the accused, who is the father of the victim girl has thought it fit to deflower his own daughter of tender years to gratify his lust, only a deterrent sentence can meet the ends of justice.
- **State of Haryana v. Prem Chand and Others on 14 December, 1989**²⁰⁷ – In this case of rape, the court stated that the character or reputation of the victim has no bearing or relevance either in the matter of adjudging the guilt of the accused or imposing punishment on him. It went on to characterize the character of the victim as irrelevant as a mitigating or extenuating circumstance.
- **State of Punjab v. Gurmit Singh and Others on 16 January, 1996**²⁰⁸ – In this case, the Supreme Court criticized the acquittal of the persons who were accused of gang raping a 16-year-old girl. The trial court referred to the young village girl as a person of loose character and claimed that she had invented the story of rape to justify the night spent out of home. It had refused to rely on her statement. The Supreme Court observed that the appreciation of evidence by the trial court was not only unreasonable but perverse. The apex court held that the testimony of the victim in such type of cases is essential and unless there are compelling reasons that necessitate looking for verification of her statement, the courts should not find any difficulty to act on the testimony of the victim of sexual assault alone for convicting the accused where her testimony found to be reliable and in confidence. Seeking verification of her statement before even relying upon the same shall amount to add insult to injury as a rule in such cases.

²⁰⁶GorakhDaji Ghadge v. The State of Maharashtra, 1980 CriLJ 1380

²⁰⁷ State of Haryana v. Prem Chand and Others, 1989 SCR Supl. (2) 496

²⁰⁸ State of Punjab v. Gurmit Singh and Others, 1996 SCC (2) 384

- **State Of Andhra Pradesh v. Gangula Satya Murthy on 19 November, 1996²⁰⁹**– A girl of sixteen was raped and throttled to death. Sessions Court convicted the accused and sentenced him to imprisonment for life and rigorous imprisonment for 7 years. But on appeal, a Division Bench of the High Court of Andhra Pradesh acquitted him citing minor contradiction and discrepancies. This acquittal was challenged by the State of Andhra Pradesh. This time, the court concluded that the acquittal was an error and displayed a lack of sensitivity. It categorically stated that the Courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the witnesses that are not of a fatal nature to throw out allegations of rape.
- **Sudesh Jhaku v. K.C.J and Others, Delhi on 23 May, 1996²¹⁰** – A sordid and shocking case of a father, a high ranking bureaucrat in the Ministry of Home Affairs, involving his six year old daughter in a series of sexualised games and orgies with himself and other adults forced the justice system into a series of deliberations on various aspects of sexual abuse and assault. There was a need to elaborate and expand on the meaning of the term’s ‘rape’, ‘penetration’ and according a higher punishment to sexual offenders who hold a ‘position of trust and authority’. The court also deliberated on the precautions that should be taken when child is called on to depose in court. The order makes mention of several child friendly procedures like asking simple questions (avoiding double negatives) when questioning the child and giving breaks to the child. It also highlights how the presence of a screen cannot just retain anonymity of the child and also make her/him uncomfortable when deposing. It also speaks of the presence of ‘support persons’ or ‘neutral adults’ who can handhold and support the child during trial.
- **State of Karnataka v. Manjanna on 4 May, 2000²¹¹** – Hosadgura Hospital refused to medically examine a girl victim of 15 years of age as she had not been referred by the police. In the passing of the judgement, the Court put on record their disapproval of such conduct by Government Hospitals particularly in rural areas where hospitals are few and far between citing the loss of evidence on account of the delay in conducting medical examination. The judgement

²⁰⁹ State of Andhra Pradesh v. Gangula Satya Murthy, 1996 SC 455

²¹⁰ Sudesh Jhaku v. K.C.J. and Others, 1996 (38) DRJ 22

²¹¹ State of Karnataka v. Manjanna, 2000 (3) SCR 1007

also stated that age assessment of the victim, when in doubt, should be considered in favor of the victim.

- **Sangeeta Punekar v. State of Maharashtra and Others on 6 December, 2001**²¹²– The experiences faced by social workers while handling the Prem Sagar case resulted in a writ petition to ensure that institutions which house young children are not allowed to function without necessary Licenses. In the Prem Sagar case, Rev. Alfred who was the director of the ‘Prem Sagar’ institution had attempted to rape some children. Despite the FIR being lodged against Rev. Alfred, it was found that he continued to stay in the institution and abused the girls. The judgement reinforces some of the provisions of the Juvenile Justice Act that are essential to protect children who are housed in Institutions.

SUGGESTIONS AND RECOMMENDATION

Child rape or child sexual abuse exploits and degrades children and can cause serious damage to their cognitive, social, and emotional development. As a society, we have a collective responsibility to prevent the children from sexual abuse or rape. To accomplish this task, we must initiate and support services and policies that encourage and enhance the development of children, their health and their safety and we should advocate for policies and programs to help the children and their families meet their basic needs. We should also look forward to promoting research, training, and public education to empower and strengthen protective factors that buffer risk factors for rape or sexual abuse of minors while also directly addressing those risk factors.

All the adults and the adolescents need to know and understand that child rape or sexual abuse is a crime that can often cause severe damages to children, that help is available and provided to those who seek for it, and that a child can never consent to any sort of sexual activity. Furthermore, a comprehensive prevention strategy must include increasing the awareness and knowledge of the parents and other caregivers regarding the protective measures they can take on behalf of their

²¹² Sangeeta Punekar v. State of Maharashtra and Others, 2002 (2) CR 468 (Bom)

children. A powerful public education message should be transmitted to the general public that encourages the society to recognize that child sexual abuse or rape is the problem and responsibility of every person. The objective of such public education efforts is to eliminate all the tolerance for sexual abuse and confusion over the appropriate interactions between adults and children that society condones.

The wide circulation of accurate information to the public, particularly to policymakers, might help in breaking the silence and taboo that surrounds child rape or sexual abuse and may ease the formulation of effective solutions of the problem. The present child abuse prevention programs primarily focus on educating preschool and elementary school children about how to be aware of the instances of abuse and teaching them the essential personal safety skills. Programs should also be focused on helping those children who are the victims of past or current sexual abuse by the way of encouraging them to disclose such instances to their parents or other responsible adults. Research gives little evidence that such type of programs do prevent the occurrence of child rape or abuse. Although these programs provide short-term knowledge gain, they lack in establishing a link between the knowledge gain and the prevention of child rape. This lack does not necessarily mean that such type of programs is ineffective. More evaluations could be done to eliminate such limitations out of the existing child abuse prevention programs. Moreover, these programs must be strengthened so that program strategies are more explicitly directed towards the aim of preventing child sexual abuse or child rape.

Several experts have shown their concern that even when children are provided with the appropriate knowledge through child sexual abuse or rape prevention programs, they are still incapable to resist abusive behavior's that happen to them by older and stronger offenders. Such types of concerns appear to be valid because approximately 40 percent of child sexual abuse or rape victims are the age of 6 years or less, and thus might be especially susceptible and vulnerable to victimization. It should be the obligation of the adults to safeguard children from sexual abuse. Therefore, during the strengthening of the existing child sexual abuse or rape prevention programs, efforts should be made to create certain programs that shift the obligation of child rape or abuse prevention from children to the adults and the public institutions. Such type of approaches could include widespread intensive public education, like the use of media campaigns for increasing

awareness and knowledge of the adults on child sexual abuse and for teaching actions to the adults that they can take to protect the children. The signals of the sexual abuse of a child are mostly subtle and they frequently defy detection even by the seasoned professionals and knowledgeable parents. Additional efforts should be done, such as parents should be educated regarding processes and methods to reduce the risk of child rape or sexual abuse and training should be provided to the professionals and other caretakers of children for recognizing and appropriately responding to the sexually reactive behavior. Furthermore, the training and education of professionals, caregivers, and parents should also be focused on what to do when a child discloses sexual abuse, how to report sexual abuse, and how to respond to the needs of the child when the disclosure is made.

In the end on a concluding note, the offence of child rape is a heinous crime and it affects the mental and physical stability of a child who becomes a victim of such an offence. Children are considered as God in India and are the future of the country, then also they face such type of cruel and brutal behavior, and they might not be able to even understand what happened to them and with whom to share such incidents. Therefore, it is the responsibility of the government and citizens of the country to ensure protection to these innocents from such type of cruelty.

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Citation Method

20th Edition of Bluebook method is used

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