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# A Critique on Crimes against Children in India

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## ABSTRACT

*A child's age is a very sensitive phase from all the stages of life. They are the most innocent and vulnerable target for crimes. When an offence happens, it not only incapacitate them physically but mentally and emotionally as well. From the chronicle studies we can find out that such crimes have existed in the society from a long time and are increasing day by day. The main motive of the society, to show that it has matured, should be to allay the previously mentioned crimes. In India, the lion's share in such crimes are Kidnapping & Abduction followed by Rape, Assault or Insult to modesty of girl children, Crimes under POCSO, Procuration of minor girls, Crimes falling under Juvenile Justice Act. In this backdrop, present study is based on the similar malfeasances throughout India after all the prevalent laws.*

**Keywords:** *Crime against children, instances in India, kidnapping and abduction, murder, POCSO act, sexual assault.*

## I. INTRODUCTION

On All violence against children occurring in the first ten years of life is both, a problem in itself and a major risk factor for other types of violence and health issues through a person's life. In the contemporary world, when all the crimes are taken into consideration, the crime against children is escalating even after numerous laws getting amended and enforced according to the exigency<sup>2</sup>. If we see at the world level, India got 57.6 on the index with a score of 100 representing the best environment for children. According to Out of the shadow's survey for the response to child sexual abuse and exploitation reports, India has 58.2 on the scale of 100 considering, 61 for Environment, 86 on Legal Framework, 48 on Government capacity and dedication, 50 on Commitment in the Industry, Civilised Society and Media, in respect to children<sup>3</sup>.

A constant upward pattern with a remarkable increment of over 500% over a time of ten years

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<sup>2</sup> Dr. V. Shaharban, Crimes against children-prevalence and prevention, Research Gate (May 1,2020, 9:10AM), [https://www.researchgate.net/publication/337444706\\_CRIMES\\_AGAINST\\_CHILDREN-PREVALENCE\\_AND\\_PREVENTION\\_STRATEGIES](https://www.researchgate.net/publication/337444706_CRIMES_AGAINST_CHILDREN-PREVALENCE_AND_PREVENTION_STRATEGIES)

<sup>3</sup> Out of the shadows: Shining light on the response to child sexual abuse and exploitation, Economics Times (02 May, 2020, 9:43AM), <http://outoftheshadows.eiu.com>

is seen in India. According to 'National Crime Records Bureau' report, Crime Against Children (IPC + SLL) - 2014-2016, Madhya Pradesh had the highest topped with 15085 crimes reported during 2014, Maharashtra encountered 13921 cases in 2015, Uttar Pradesh came across 16079 cases. Amongst the Union Territories, Delhi transcends the rest<sup>4</sup>.

In light of the most recent National Crime Records Bureau report, for 2016-2017, information given released on October 21, 2019 following a entr'acte of two years, violations against youngsters rose by 20 percent –inflated if compared to other number of crimes which rose by 3.6 percent. Kidnapping and abduction remains the most prevalent reckon for 42 percent of the total 1,29,032 cases of crime reported<sup>5</sup>. The other crimes against children incorporate infringement of the Protection of Children from Sexual Offences (POCSO) Act, assault, rape, child trafficking and obtaining of minor girl child. Likewise, Child Labour also observed a critical climb of 126 percent, with the NCRB report we can note that only 462 instances of child labour were reported in 2017 though just 204 of in 2016. On the other side, for child marriage, NCRB recorded 395 cases filed under the Prohibition of Child Marriage Act (PCMA) 2006. In 2016 reports, by Child Rights and You, Uttar Pradesh recorded most elevated number of wrongdoings under the classifications of "Kidnapping and Abduction" and "POCSO Act" in these classifications Maharashtra and Madhya Pradesh remained in the second and third order, sequentially<sup>6</sup>. Uttar Pradesh and Madhya Pradesh topped the report of States for comprehensive crimes against children. They accounted for approximately fifteen percent with over 19,000 cases. Jharkhand observed the top increment in crimes against children at 73.9 per cent however Manipur had a noteworthy decline of 18.7 percent somewhere in the range of 2016 and 2017<sup>7</sup>.

By this momentous study we cannot overlook the fact that the crimes against children is more often and the decline, only in some states of India, is very shallow. The report published by the Government of India in reference to crime against children, we can notice that the cases filed for Kidnapping & Abduction under "India Penal Code" and then for "Protection of Children from Sexual Offences Act" under Special Local Laws.

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<sup>4</sup> Crimes against children rise by 20 per cent: CRY report, Our Bureau (May 2,2020 01:02PM), <https://www.thehindubusinessline.com/news/national/crimes-against-children-rise-by-20-per-cent-cry-report/article30084689.ece>

<sup>5</sup> CRY - Child Rights and You, Reports & Publications (May 02,2020, 12:00 PM), <https://www.cry.org/cry-resources/reports-publications>

<sup>6</sup> CRY - Child Rights and You, Reports & Publications (May 02,2020, 12:00 PM), <https://www.cry.org/cry-resources/reports-publications>

<sup>7</sup> 7 things you didn't know about urban crime in India - Crime Index, Economic Times (May 2,2020, 2:00 PM), <https://economictimes.indiatimes.com/news/politics-and-nation/7-things-you-didnt-know-about-urban-crime-in-india/violent-crime-targetting-property/slideshow/72425178.cms>

**TYPES OF CRIMES:<sup>8</sup>**

The various kinds of crimes against a child can be divided into the following broad categories:

1. Sexual offences-
  - Rape
  - Sexual assaults
  - Sexual harassment
2. Child trafficking
3. Child marriage
4. Child labour
5. Kidnapping and Abduction-
  - Kidnapping for transmitting.
  - Kidnapping from legal guardianship.
  - Kidnapping for money.
  - Kidnapping for making children beg.
  - Kidnapping to constrain for marriage.
  - Kidnapping for enslavement.
  - Kidnapping a child, under 10 years of age, for stealing from the person.
6. Murder
7. Foeticide

**II. CONSTITUTIONAL PROVISIONS<sup>9</sup>**

The provisions which deal with the rights of the children are as follows-

ARTICLE 21: Nobody should be prevented from his life or individual's liberty except if it contradicts with law<sup>10</sup>.

ARTICLE 24: A child, under the age of fourteen years, should not be employed in any

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<sup>8</sup> Crime Against Children, Chapter-6, page no. 89

<sup>9</sup> Marbudlang Mylliempdah, Crime Against Children.

<sup>10</sup> Constitution of India. Art.21

hazardous industry, mill or mine<sup>11</sup>.

ARTICLE 39(f): It is the right of a child to grow in a healthfully environment with freedom and dignity. He should be protected from exploitation and against virtuous and material deserting.<sup>12</sup>

ARTICLE 45: The State will give, free and necessary instruction for all children with respect to education, till the age of fourteen years<sup>13</sup>.

### **III. LAWS ENACTED BY STATUTE**

There are various laws in India to superintend Crime against Children. They are as a rule characterized into two general classifications -

1. The crimes falling under the Indian Penal Code (IPC)<sup>14</sup>
  - i) Murder under Section-302
  - ii) Instigating a child to perpetrate suicide under Section-305
  - iii) Foeticide under Section-15 & 316
  - iv) Kidnapping under Section-360
  - v) Procurement of girl child for incitement by force or allure to do an illegal intercourse under Section-366(A)
  - vi) Selling of girl child for commercial purposes or prostitution under Section-372
  - vii) Buying of girl child for any unlawful and immoral purpose like prostitution under Section-373
  - viii) Rape of a child under Section-376
  - ix) Depraved Offences under Section-377
  - x) Child trafficking under Section-372
2. The crimes under the Special and Local Laws (SLL)<sup>15</sup>
  - i) ITPA,1986<sup>16</sup>.
  - ii) JJA,2015<sup>17</sup>.

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<sup>11</sup> Constitution of India. Art.24

<sup>12</sup> Constitution of India. Art. 39(f)

<sup>13</sup> Constitution of India. Art. 45

<sup>14</sup> Crime Against Children, Chapter-6, Page No. 89

<sup>15</sup> Crime Against Children, Chapter-6, Page No. 91

<sup>16</sup> Immoral Traffic Prevention Act, 1986.

<sup>17</sup> The Juvenile Justice (Care and Protection of Children) Act, 2015.

- iii) CMRA,2014<sup>18</sup>.
- iv) CLA,2006<sup>19</sup>.
- v) POCSO,2019<sup>20</sup>
- vi) PCMA,2006<sup>21</sup>.

**NCRB, 2016<sup>22</sup>-**

On the October 21, 2019, Annual Crime Report for the year 2016 was released by the National Crime Records Bureau (NCRB) after the two year defer. In compliance with the report, 46 girls are raped every day which means 2 girls in every two hour. Earlier, the count was low as per the NCRB report of 2005, 11 girls were raped every day resulting 1 girl in two hour. Taking heed of Kidnapping 55,000 children were kidnapped in 2016, which accounted for 60% of 90,000 cases. Correspondingly, 6 of every 100 murders were of children below the age of 18<sup>23</sup>. The metropolitan cities are also facing the same problem at a high rate of crime rise against children with reference to CAC<sup>24</sup> (IPC + SLL) in Metropolitan Cities for the year 2014-2016 Report, we can analyse the continuation of crimes against child and how unsafe even the metropolitan cities are for children<sup>25</sup>.

**Table 1: Crime Against Children (IPC + SLL) - 2014-2016**

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<sup>18</sup> Child Marriage Restraint (Amendment) Act,2014

<sup>19</sup> Child Labour Act, 2006.

<sup>20</sup>Protection of Children from Sexual Offences (Amendment) Bill, POCSO, 2019.

<sup>21</sup> Prohibition of Child Marriage Act, 2006.

<sup>22</sup> National Crime Reports Bureau,2016.

<sup>23</sup> Nayanika Sengupta, 109 children sexually abused every day in India in 2018: NCRB, India Today (May 03,2020 9:04AM) <https://www.indiatoday.in/india/story/109-children-sexually-abused-every-day-india-2018-1636160-2020-01-12>

<sup>24</sup> Crime Against Children.

<sup>25</sup> Crime Against Children (IPC + SLL) - 2014-2016, NCBR (May 03,2020, 10:22AM) URL-[https://ncrb.gov.in/sites/default/files/crime\\_in\\_india\\_table\\_additional\\_table\\_chapter\\_reports/Table%204A.1.pdf](https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/Table%204A.1.pdf)

S. No.	State/UT	2014	2015	2016	Percentage State Share To All-India (2016)	Rank Based on Incidence / % share (2016)	Mid-Year Projected Children Population+ (in Lakhs) (2016)	Rate of Total Cognizable Crimes (2016)	Rank Based on Crime Rate
1	2	3	4	5	6	7	8	9	10
<b>STATES:</b>									
1	Andhra Pradesh	2059	1992	1847	1.7	17	156.7	11.8	32
2	Arunachal Pradesh	134	181	133	0.1	29	4.7	28.3	14
3	Assam	1385	2835	3964	3.7	9	118.9	33.3	12
4	Bihar	2255	1917	3932	3.7	10	447.8	8.8	34
5	Chhattisgarh	4358	4469	4746	4.4	6	100.5	47.2	6
6	Goa	330	242	230	0.2	24	5.2	44.2	8
7	Gujarat	3219	3623	3637	3.4	11	206.8	17.6	25
8	Haryana	2540	3262	3099	2.9	13	92.8	33.4	11
9	Himachal Pradesh	467	477	467	0.4	21	21.6	21.6	22
10	Jammu & Kashmir	211	308	222	0.2	26	45.0	4.9	36
11	Jharkhand	423	406	717	0.7	19	131.5	5.5	35
12	Karnataka	3416	3961	4455	4.2	7	195.9	22.7	20
13	Kerala	2391	2384	2879	2.7	15	93.4	30.8	13
14	Madhya Pradesh	15085	12859	13746	12.9	3	300.8	45.7	7
15	Maharashtra	8115	13921	14559	13.6	2	378.5	38.5	9
16	Manipur	137	110	134	0.1	28	9.6	14.0	31
17	Meghalaya	213	257	240	0.2	23	10.0	24.0	17
18	Mizoram	178	186	188	0.2	27	3.7	50.8	5
19	Nagaland	25	61	78	0.1	32	6.7	11.6	33
20	Odisha	2196	2562	3286	3.1	12	140.4	23.4	19
21	Punjab	1762	1836	1843	1.7	18	87.7	21.0	23
22	Rajasthan	3880	3689	4034	3.8	8	285.4	14.1	30
23	Sikkim	93	64	110	0.1	30	2.0	55.0	4
24	Tamil Nadu	2354	2617	2856	2.7	16	202.0	14.1	29
25	Telangana	1930	2697	2909	2.7	14	111.7	26.0	15
26	Tripura	369	255	274	0.3	22	12.4	22.1	21
27	Uttar Pradesh	14835	11420	16079	15.0	1	885.8	18.2	24
28	Uttarakhand	489	635	676	0.6	20	38.5	17.6	26
29	West Bengal	4909	4963	7004	6.5	5	293.7	23.8	18
<b>TOTAL STATE(S)</b>		<b>79758</b>	<b>84189</b>	<b>98344</b>	<b>91.9</b>		<b>4389.6</b>	<b>22.4</b>	
<b>UNION TERRITORIES:</b>									
30	A & N Islands	50	102	86	0.1	31	1.4	61.4	2
31	Chandigarh	208	271	222	0.2	25	4.0	55.5	3
32	D&N Haveli	11	35	21	0.0	35	1.3	16.2	27
33	Daman & Diu	7	28	31	0.0	34	0.9	34.4	10
34	Delhi UT	9350	9489	8178	7.6	4	56.0	146.0	1
35	Lakshadweep	1	2	5	0.0	36	0.2	25.0	16
36	Puducherry	38	56	71	0.1	33	4.7	15.1	28
<b>TOTAL UT(S)</b>		<b>9665</b>	<b>9983</b>	<b>8614</b>	<b>8.1</b>		<b>68.4</b>	<b>125.9</b>	
<b>TOTAL ALL INDIA</b>		<b>89423</b>	<b>94172</b>	<b>106958</b>	<b>100.0</b>		<b>4458.0</b>	<b>24.0</b>	

*Sources: National Crime Bureau, 2016*

### SUPERVISORY BODIES:

Ministry working for Women and Child Development i.e. WCD<sup>26</sup>, is a ministry upgraded from an earlier department. It is the superior most body which supervise the formulation and administration of the laws and functions for the betterment of Women and youngsters in India. It also guards the innovative plans and policies for the welfare of women and children with the

<sup>26</sup> Ministry for Women And Child Development.

attempt of both government agencies and non-governmental organisations. This ministry also formulated the Integrated Child Development Services (ICDS). They also work for making the non-governmental organisations more effective, also oversees after the various laws of India and its implementation in the same sector<sup>27</sup>.

N.C.P.C.R<sup>28</sup> was established by the legislative assemblies and came into force on the 5<sup>th</sup> March 2007. This body works under the WCD, GOI. The Commission was made to ensure that all the Law, Policies, Programme are in compatibility of the Child Rights which are provided in the Constitution of India and the Rights of the children presented in the United Nation Conventions. NCPCR works for the care and safeguards every child. It was investigates the crimes and takes Suo Moto notice in matters dealing with infringement of Child Rights, execution or implementation of laws<sup>29</sup>.

Government of India/Bharat Sarkar Ministry of Home Affairs also gives advisory guidelines time to time to guide the bodies working for support and welfare of the children. The Home Ministry advises the States and UT Administrations to enforce all the existing legislations relating to crime against children strenuously. It also supervises the enforcement of legislative machinery regulating the functionaries of criminal justice as egalitarianism system. It has set up the 'Crime against Women/Children Counter' in each police station<sup>30</sup>.

To ensure a better future for children, there are many non-organisations (NGO) working with the same motives. Some of the highly active NGOs in India include "Child Rights and You (CRY)", "Genesis Foundation", "Katha", "Smile Foundation", "Childline India Foundation", "Save The Children." The most industrious NGO is CRY and Smile foundation, they provide regular reports and various surveys in the same sector for the amelioration of children in India<sup>31</sup>.

The United Nations Children's Fund also commonly known as UNICEF, is a component of International Children's Emergency Fund (ICEF) which was formed earlier. This organ also toil for the humanitarian and developmental aid to children in 190 countries. The UNICEF, India not only focuses on the development of the child but also makes them realise about their rights, their potential and also to have a save life as well<sup>32</sup>. In the current situation of COVID-

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<sup>27</sup> About the Ministry, WCD (May 05,2020, 11:02AM) <https://wcd.nic.in/about-us/about-ministry>

<sup>28</sup> The National Commission for Protection of Child Rights

<sup>29</sup> National Commission for Protection of Child Rights (NCPCR) in India, MEITY (MAY 09,2020,02:54PM) <https://vikaspedia.in/education/child-rights/national-commission-for-protection-of-child-rights-ncpcr>

<sup>30</sup> Advisory on crime against children, MHA (May 12,2020, 03:23AM) URL-[https://www.mha.gov.in/sites/default/files/AdvCrime-children-280710\\_2.pdf](https://www.mha.gov.in/sites/default/files/AdvCrime-children-280710_2.pdf)

<sup>31</sup> A. Arya, 11 NGOs You Can Get In Touch With To Ensure Every Child In India Has A Chance At A Better Future, Scoop whoop (May 12,2020, 04:34PM) URL-<https://www.scoopwhoop.com/children-ngos-india-volunteer-donate/>

<sup>32</sup> Research and reports, UNICEF (May 12,2020, 03:34AM) URL-<https://www.scribbr.com/apa-citation->



19, it has also realised the guide which is children friendly so as to make them aware about the risk factor. It not only takes safety and education into consideration but also the nutrition, health, protection of children. It transpires with various programmes which empowers a child to grow mentally as well as physically. It also commissions on the social factors like sanitation, water, hygiene, gender equality and many more<sup>33</sup>.

#### **IV. INSTANCES IN INDIA**

##### **Background:**

Crime against children is one of the common problems in India, there is no distinction in the level of such crimes because the mindset of a child is so immature that even if they are small acts for a normal adult, for them they are an immediate life changing moments which are then followed by diverse impacts throughout the lifetime. Most of the children are not even aware of the misdeed which happened to them and thus it remains unsaid. In India, where society is conventional, most of the family believes that the story should be unheard. They think it is good for the future of the child but deep in the psychology of a child, there are a lot of agonies which causes startle in forthcoming<sup>34</sup>.

##### **Kidnapping and Abduction:**

The cases recorder for the missing children are vague, considering that various examples of missing youths are not itemized or not recorded by the police, especially in towns and rural areas, regardless of this the National Human Rights Commission's unmistakable investigate each case with discipline and earnestness<sup>35</sup>. In February, 2020 a man located in Lucknow kidnapped his own niece and warned the family that he would sell her organs, if they did not pay him ₹13,00,000 in ransom<sup>36</sup>. This case is just one of the paltry incidents in India. As the NCRB Report-2016 suggests, the total cases for Kidnapping are the largest in number compared to other crimes against children<sup>37</sup>. As indicated by the WCA ministry for missing youngster's report, a kid is abducted every ten minutes in India, on a normal. In light of present

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generator/#/sources/new/webpage

<sup>33</sup> UNICEF's work, UNICEF (May 12,2020 04:44AM) <https://www.unicef.org>

<sup>34</sup> Chandrashekar S.V, Offences against Children: Criminal Justice and Social issues in India, IRJSS, Vol. 3(7), 10-12, July (2014)

<sup>35</sup> Chetan Chauhan, The horror of child-lifting is real; a child goes missing every 10 minutes, HT (May 14,2020, 8:34PM) URL-<https://www.hindustantimes.com/india-news/a-child-goes-missing-every-10-minutes-social-media-does-its-bit-to-fan-child-lifting-fears/story68zLRdqhowQ7MgXswMwYeO.html>

<sup>36</sup> Lucknow: Man held for kidnapping niece, seeking Rs 10 lakh r..., Times of India (May 12, 2020 at 12:33PM) <https://timesofindia.indiatimes.com/city/lucknow/lucknow-man-held-for-kidnapping-niece-seeking-rs-10-lakh-ransom/articleshow/74144144.cms>

<sup>37</sup> Crime Against Children (IPC + SLL) - 2014-2016, NCRB (May 12,2020 02:23AM) [https://ncrb.gov.in/sites/default/files/crime\\_in\\_india\\_table\\_additional\\_table\\_chapter\\_reports/Table%204A.1.pdf](https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/Table%204A.1.pdf)

conditions, around 54,750 adolescents would have been represented missing over the year in India. Just few of them have been reportedly found<sup>38</sup>.

The highest number of crime amongst all the crimes is of Kidnapping and Abduction which is constituted in Section-363 of IPC. It states that an individual who kidnaps a person, from the country or from his legal guardians, will be penalised for up to seven year and will be subjected to fine also. In Vipin Menon's case, the appellant Chandrakala was married to Vipin Menon. They both were settled in the United States and were well employed. They had a child who was sent to India to live with her maternal grandparents. Unfortunately, differences arose between them and they decided to get separated. While Vipin Menon filed an application for his daughter's custody, the child continued to live with her maternal grandparents. One day, while the custody application was still to be decided upon, Vipin Menon took his daughter away with him to a different state. The grandparents lodged a complaint of kidnapping against him. However, the court held that Vipin Menon was the natural guardian of the child<sup>39</sup>.

Abduction of a child to compel to marry is also an offence under Sec. 366 of Indian Penal Code. Such reported cases are more than 15000 in the reports<sup>40</sup>. Section-366(A) describes the punishment Whoever, using any and all means whatsoever, instigates any minor girl less than eighteen (18) years to go anywhere or to do any act with the intentions that such girl might, or realizing that almost certainly, she will be, constrained or enticed to illegal intercourse with someone else will be culpable with detainment which may stretch out to ten years, and will likewise be at risk to fine<sup>41</sup>. The cases for Kidnapping and Abduction tops the lists of crime against children in India<sup>42</sup>.

### **Child Murder:**

Besides all these crimes, Child Murder is prevalent in this decade. The most renowned case of Ayushi Talwar, soon-to-be fourteen-year-old, was discovered deceased in her home situated in Noida. Ayushi's throat was cut with a sharp object and her head was cudgelled. The live-in domestic assistant, Hemraj Banjade was viewed as the prima facia suspect in the homicide, after a day, he was discovered dead on the porch of a similar level. His neck was likewise cut and had endured wounds in the head. There were wounds everywhere on his body and the

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<sup>38</sup>Chetan Chauhan, The horror of child-lifting is real; a child goes missing every 10 minutes, HT (May 14,2020, 8:34PM) URL-<https://www.hindustantimes.com/india-news/a-child-goes-missing-every-10-minutes-social-media-does-its-bit-to-fan-child-lifting-fears/story68zLRdqhowQ7MgXswMwYeO.html>

<sup>39</sup> Chandrakala Menon (Mrs) And Anr. vs Vipin Menon, 1993 (41) BLJR 536.

<sup>40</sup> IPC Crimes Against Children, NCRB

<sup>41</sup> Indian Penal Code, 1860

<sup>42</sup> IPC Crimes Against Children – 2016, NCRB(May 13,2020 02:33AM) [https://ncrb.gov.in/sites/default/files/crime\\_in\\_india\\_table\\_additional\\_table\\_chapter\\_reports/Table%204A.2.pdf](https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/Table%204A.2.pdf)

entryway to the porch was bolted from inside. Noida Police speculated the homicides to be a own's work and said, the murders had been accomplished with 'careful exactness'. This case underwent so many stages, numerous tests were made on her parents as they were suspected as the prime murders. In the conclusion, no evidence were found and they were granted bail on the benefit of doubt by the court<sup>43</sup>. One such intimidating case is Nithari Killings, this case included the commission of intolerable wrongdoings like sexual maltreatment, murder, barbarianism and endeavoured necrophilia. The case got features in media because of its fierce and uncommon nature of wrongdoings. The case became known after a proceeded with arrangement of vanishings of the children (both girls and boys) and adolescents from the Nithari town in the year 2005 and 2006. Examination of this case at last lead to following of the cottage of Moninder Singh Pandher and this caused the vanishing puzzle of the Nithari town to unfurl one stage after the another. Moninder Singh had a domestic help, Koli, at his place, when police tried him he confessed everything. All the homicides were finished by Koli in the drawing room between 9 am to 4 pm. After each slaughtering, he would convey the body upstairs to a washroom and hack it into little parts. He would leave the washroom in that condition and simply subsequent to cooking a portion of the body parts and eating them, he would tidy up the restroom and drawing room. It is exceptionally difficult to accept that not once in any of the homicide, neither the other helpers nor some other individual saw him doing these things<sup>44</sup>.

### **Child Trafficking:**

Human trading is the 3<sup>rd</sup> biggest gainful sector on the planet. Child trafficking, unlikely to numerous different issues is found in both developed and under developed countries. These children are handed-down of sex workers, constrained to marriage, illegal adoption, as modest or bonded worker, utilized for game and organ trafficking. A few youngsters are enlisted into armed groups for terrorist purposes.

NGOs estimate that twelve thousand to fifty thousand ladies and kids are dealt in the nation yearly from neighbouring nation for the sex exchange. A big wide range of younger ladies are dealt from Bangladesh and Nepal. 200,000 Nepalese young women below sixteen years are doing prostitution in India. A prediction for over 1,000 to 1,500 Indian kids are snuck out of the state constantly to Saudi Arabia for begging in the course of the Hajj. Child Trafficking in

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<sup>43</sup> Express Desk, What is the Aarushi Talwar murder case, The Indian Express (May 13,2020 4:43PM) <https://indianexpress.com/article/what-is/what-is-the-aarushi-talwar-murder-case-allahabad-high-court-hemraj-rajesh-talwar-nupur-talwar-4886203/>

<sup>44</sup> Anubhav Pandey, all you need to know about Nithari Serial Killings, iPleaders (May 14,2020 12:23AM) <https://blog.ipleaders.in/need-know-nithari-serial-killings/>

Andhra Pradesh, Karnataka, West Bengal and Tamil Nadu have the largest range of people dealt. Intra nation/bury locale dealing is high in Rajasthan, Assam, Meghalaya, Bihar, Uttar Pradesh, Andhra Pradesh, Karnataka, Tamil Nadu and Maharashtra. Delhi and Goa are the sizable recipient states. Dealing from north eastern states is excessive but often ignored. In 2008, 529 young ladies were found in the process of being trafficked<sup>45</sup>.

These trafficked kids are forced to become beggars, to become thief and to get indulged in various wrong acts. In a study by World Vision India, it was stated that about 59% of teenagers didn't know about any approach to shield themselves from child trafficking, and 72% didn't think about administrations that could support them<sup>46</sup>. Regulating child trafficking is a task for Government. ITPA, 1956 was passed by the parliament for the same. It constitutes for a commission in Centre and State but does not define the role, functions, and constituents of these authorities. This act was amended and The Immoral Traffic (Prevention) Amendment Bill, 2006 came into force.

### **Child Labour:**

Child labour is one such crimes which has existed over the decades, it is a problem of not only under developed countries but also for nations that has developed over the years. India, being the developing country, the problem is deep rooted with high poverty, illiteracy and many more factors. It denotes to employment of child in any occupation that infringes the child right or his childhood<sup>47</sup>. It not only interferes the child with his regular schooling but also with his growth physically, mentally, emotionally, morally. There are kinds of child labour present in India and mainly the reason behind is the socio-economical factor. In the gender biased society of India, women is paid less for the same working hours as the men, and even less to a child. According to census, U.P, A.P, M.P, Bihar and Maharashtra are top five states where the whole number of youngsters working has increased as compared to the other different states. The most noteworthy bounce regarding the rate is of U.P, the child labour expanded from 12% nearly 21%. In excess of 3,00,000 youngsters are evaluated to be caught in the cover industry<sup>48</sup>. Eminently, Constitution of India, as per Fundamental Rights under Article-24, prohibits child

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<sup>45</sup> AQ: Centre for Child Rights, *Combating Child Trafficking - A Users Handbook*, New Delhi, 2007.

<sup>46</sup> Shreehari Paliath & Chaitanya Mallapur, *Child trafficking: Lack of data is hindering the work of Indian agencies and NGOs*, Scroll (May 12, 2020, 10:34AM) <https://scroll.in/article/930161/child-trafficking-lack-of-data-is-hindering-the-work-of-indian-agencies-and-ngos>

<sup>47</sup> Bhatt, Bilal Ahmad, "Gender, education and child labour- A sociological perspective" *Centre of Central Asian Studies, University of Kashmir, J&K*, vol. 5(6): 2010 pages-323-328.

<sup>48</sup> Mrs. Niti Nagar & Mrs. Bindu Roy, *A Critical Analysis Of Child Labour In India*, IJCRM (May 15, 2020, 6:30 PM) [http://www.ijcrm.com/publish\\_article/edition\\_5/B0150717.pdf](http://www.ijcrm.com/publish_article/edition_5/B0150717.pdf)

labour in dangerous businesses (however not in non-dangerous industries)<sup>49</sup>.

### **Child Marriage:**

It has been practised in India since time immemorial. Children are married before they are brought up mentally and physically. The problem for this issue is basically the religious values, customs, social practices, economic problems. It is prohibited in the country now but the practices are still going on in the rural areas of Rajasthan and in many more parts as well. The child marriage violates the Human Rights. The sexual active children, are so immature that they can't handle the birth of the child, the girls are so premature that it leads to abortion, premature child, death risks to both mother and the child as well. These activities not only harm them internally but also in the mindset, they get scars for life. Every 3<sup>rd</sup> girl in the gathering of 15-year age is wedded and second youthful young lady has brought forth a kid. As indicated by the RGI Report<sup>50</sup> Rajasthan has the most noteworthy (40.8) level of women at any point wedded among 15-multi year old young ladies when contrasted with India (24.9 %) trailed by Bihar (39.6 %), M.P (34.1%), Jharkhand (32.9%) and A.P (32.3%). Among the different locale in the State of Rajasthan, Bhilwara is at the top with 61.9 percent<sup>51</sup>.

The factors influencing the child marriage can be to avoid expenditure in girl child's education, social insecurities, poverty in family, and many more. The girl child becomes a bridge in between production to reproduction. They have to face so many problems relating to the child marriage at such a young age and then after also, heavy burden from in-laws, early pregnancy health complications, inability to raise the child and to plan the family, a large age gap between the bride and the groom<sup>52</sup>.

### **Sexual Offences:**

As indicated by "Rape, Abuse And Incest National Network Website", 1/3<sup>rd</sup> of abusers, are underneath the age of 18 that incorporate family companions, family members, neighbours or sitters and are generally men . Additionally, 1 of every 9 young ladies and 1 out of 53 young men underneath the age of 18 have been explicitly manhandled or attacked by a grown-up of which 82% are female casualties. In India, 'Asian Community for Human Rights' 48,338 cases

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<sup>49</sup> The Constitution of India, Art. 24

<sup>50</sup> Register General of India Reports.

<sup>51</sup> B. Suresh Lal, Child Marriage in India: Factors and Problems, IJSR (May 14,2020 4:42pm) [https://www.researchgate.net/profile/B\\_Suresh\\_Lal2/publication/278022723\\_Child\\_Marriage\\_in\\_India\\_Factors\\_and\\_Problems/links/5953849e0f7e9b329242b475/Child-Marriage-in-India-Factors-and-Problems.pdf](https://www.researchgate.net/profile/B_Suresh_Lal2/publication/278022723_Child_Marriage_in_India_Factors_and_Problems/links/5953849e0f7e9b329242b475/Child-Marriage-in-India-Factors-and-Problems.pdf)

<sup>52</sup> NIPC, (2000): National Institute for Public Cooperation and Child Development, GOI, Note No. NI/PC/SAP/132/2000/908, dated July 31, 2000, page 4.

were accounted for child abuse somewhere in the range of 2001 and 2011<sup>53</sup>.

In the nation, a unique enactment, “POCSO Act (Protection of Children from Sexual Offences)” was endorsed in May 2012 by the Indian legislative assembly which depicts every types of child sexual abuse of age group 0–18 years for both the gender, male and female, as crime<sup>54</sup>. A POCSO court granted capital punishment to an adolescent convicted of raping and murdering a small girl of four (4) years<sup>55</sup>. In January, 2018 an Eight (8) year little girl, from the community of Muslim nomadic shepherds, Asifa Bano, was abducted, gang raped and murdered in a place of worship. The facts of the cases made the actions called as “THE BARBARIC ACT.” Where the case was all about the brutality with a small girl of Eight, the Hindu-Muslim conflict started. The girl was raped multiple times and then strangled to death<sup>56</sup>. Thenceforth, the heinous crimes of Sexual Assaults, Sexual Harassment increased and a need was felt for the amendment of the act.

Unnatural Offences covered under Section-377 of Indian Penal Code are also a source of CAC as the reported cases against the NCRB report for the same section of crime are more than 1200 and are covered by “The Protection of Children from Sexual Offences (POCSO) Act”<sup>57</sup>.

## **V. BRIEFING OF POCSO (AMENDMENT) ACT, 2019:**

The Parliament amended the act on 6 August 2019. It is a gender neutral enactment. It characterizes a “child” as any person beneath eighteen year and gives protection to all youngsters from sexual abuses. Meaning of children sexual maltreatment is complete and incorporates the accompanying:

- (i) penetrative sexual assault,
- (ii) aggravated penetrative sexual assault,
- (iii) sexual assault,
- (iv) aggravated sexual assault,

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<sup>53</sup> Towards a Global Indicator: On unidentified Victims in Child Sexual Exploitation Material, Summary Report, ECPAT, INTERPOL, 2018 (May 12, 2020, 02:45AM) URL:- <https://www.pbc2019.org/protection-of-minors/child-abuse-on-the-global-level>.

<sup>54</sup> Suminder Kaur, Recent trends in child rape crisis in Delhi (India): A forensic overview, *Science Direct* (May 14 2020, 09:14PM) <https://www.sciencedirect.com/science/article/pii/S2665910719300477#bib0035>

<sup>55</sup> K. Saroj Kumar Sharma, Manipur man gets death for rape, murder of minor, *India Today* (May 14, 2020 8:23PM) <https://timesofindia.indiatimes.com/city/imphal/manipur-man-gets-death-for-rape-murder-of-minor/articleshow/65225822.cms>

<sup>56</sup> Chanchal Chauhan, Kathua rape-murder case: Life sentence for 3 | All that happened in 10 points, *India Today* (May 14, 2020, 8:36PM) <https://www.indiatoday.in/india/story/kathua-rape-murder-case-verdict-1546315-2019-06-11>

<sup>57</sup> IPC Crimes Against Children – 2016 (May 13, 2020 02:33AM) [https://ncrb.gov.in/sites/default/files/crime\\_in\\_india\\_table\\_additional\\_table\\_chapter\\_reports/Table%204A.2.pdf](https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/Table%204A.2.pdf)

- (v) sexual harassment,
- (vi) using child for pornographic purpose, and
- (vii) trafficking of children for sexual purposes.

It recommends tough discipline appraised according to the severity of the crime, with intense term of out and out detainment, and fine<sup>58</sup>.

By the amendment, the definition for child pornography was included which means visual delineation of explicitly unequivocal direct including a child which incorporate photo, video, advanced or PC produced picture vague from a genuine child, and picture made, adjusted, or altered, however seem to portray a child. The Act name of Juvenile Justice was substituted with the altered Act.

Section.4 was also modified which stated the punishment for penetrative sexual assault. The altered section now delineate the punishment as, an individual who commits any of these crimes shall be liable of an internment of either not less than ten years and in case if the child is below 16 years, an imprisonment of either twenty (20) years at the least to life imprisonment. In both the cases, the convict is liable of fine which should be adequate enough to get the medical and convalescence expenditure for the victim.

The amendment also created minor omission in the description of “Aggravated penetrative sexual assault” which is given in Section-5. The punishment for the same act, Section-6, is also replaced in the principle act and it now states that the accused shall be convicted to meticulous imprisonment for a period which should not be under twenty years, and can expand up to, incarceration which means, the rest of characteristic existence of that individual and will likewise be at risk to fine, or with death.

Section-9 deals with Aggravated sexual assault, clause (v) was interposed, whoever convinces, incites, allures or pressures a youngster to get administered or regulates or direct anybody to administer, help in getting any medication or hormone or any synthetic substance, to a child with the goal that such kid accomplishes early sexual development is now a crime.

Section-14 dealing with punishment of using a kid for obscene purposes was swapped with the alteration made by the parliament. Now the punishment for child pornographic purpose is an incarceration of not less than five years, and fine as well. If the person is found to do the same act repeatedly, then an incarceration of not less than 7 years and will be accountable to be fined.

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<sup>58</sup> The Protection of Children from Sexual Offences Act, 2012, India Code (May 12,2020 9:32PM) <https://indiacode.nic.in>

If someone uses a child in pornography committing ‘penetrative sexual assault’, ‘aggravated penetrative sexual assaults’, ‘sexual assault’ or ‘aggravated sexual assault’ then he will be additionally be punished as per section- 4,6,9 and 10 with the punishment provided under Section-14.

Section-15 was also substituted from the principle act by this altered act. If someone possess or stores any pornographic material involving a child and does not deletes, destroys or report it to the authority in concern with an intention to forward it shall be legally responsible to be fined, not a smaller amount than rupees five thousand. Committing the offence repeatedly will make the person liable to ten thousand rupees. Any individual, who collects, accumulates or has obscene substance in any structure including a youngster for spreading or proliferating or showing or disseminating in any which way from the motive behind announcing, making it public, as might be endorsed, or for using it as evidence in lawcourt, will be rebuffed with detainment of depiction which may reach out to three (3) years, or with charge, or with both. If such act is done for commercial purpose, then the individual will be accountable for an incarceration up to three (3) years which may expand to five (5) years, or with penalty or both. For second guilty verdict, an incarceration for at least five (5) years shall be granted which may expand to seven (7) years and liable to penalty as well.

“The Juvenile Justice (Care and Protection of Children) Act, 2000” in Section-34 was replaced with the “Juvenile Justice (Care and Protection of Children) Act, 2015”. In Section- 42, section 67B of the “Information Technology Act, 2000” was added. The last alteration was in Section- 45 which provided for the manner of deleting and destroying the pornographic material and reporting the same to the authority according to Section-15.

## **VI. DISCUSSION**

Children are the enormous quality gift of mankind and on the other hand, they are most prone to crimes. These various kinds of crimes are highly grave in nature. They gets imprinted on the life of the child, subconsciously. It leads to physical and mental turmoil. In India, being an under developing country the poverty rate is high and illiteracy rate is also low. Both this factors becomes the major factors influencing all the crimes against children. Indian Parliament tries to make the law and orders according to the need of the society. The major loophole against child crimes are because of the less effective execution and administration of the laws. The population of the country is huge and it requires more committees and commissions to supervise the schemes and policies. State government should be more active towards these issues, and shall find ways to implement the laws made by the Centre Government. The non-



government organisations should be well funded by the government.

The impact of such crimes against the child impacts him in all sphere of life. Many such crimes results in death of the children, often leads to severe injuries which make them unable to function properly as a normal child. The childhood is taken away by such crimes, such events impact their future opportunities and future generations. The mind of the child does not function properly leading to negative coping and high risk behaviours. These crimes also ruin brain evolution and damages other segments of nervous regularity. The crimes like sexual abuse, child marriage, they are fatal to the girl child as their body is premature.

The risk factor of these crimes at individual level as well as for public. The individual who commits these crimes is not only curse to the child or the family but also to the society. It leads to malfunctioning in biological and personal aspects. The awareness regarding the NGO's and Commissions working for welfare of children should be spread in order to decrease the crime rate and when such offence gets committed then it should be reported. Only instituting enactment won't be sufficient except if this is trailed by severe implementation of the law with responsibility. The management for the legislations should be handled over to small sectors, they shall work primarily for children welfare. Country has commissions but the number of such committees are less as compared to the crime rate.

The parents and teachers should have a positive relationship with the child so that they can share their pain with them. Otherwise, many times the problems are unheard and the trauma catches the root of the child's development. Children are the outlook of the nation and also the strongest human resource, if they will be suffering in the earlier phases of life then the growth of the country will be affected. Therefore, the main aim of the Governments should be to focus on child development and providing them a healthy environment to nurture.

## **VII. CONCLUSION**

The present condition of India is good as compared to other developing countries. Decent environment is given to the children. There is adequate amount of legislation in the country but the main problem comes at the implementation of the law and order. The legal framework of the country is satisfactory but the government capacity is low, it needs to increase as it is the demand of this generation where the crime rate is rapidly rising. The non-government organisations should be promoted more until and unless the government can shape commissions to handle crime against children. The legislation of India should be frequently altered according to the need of the society and severe punishments and fines shall be imposed because committing an offence on a child, is an irreplaceable act, it can't be compensated by

minute punishments and diminutive fines. For sexual crimes the punishment should be agonizing, that before committing such offences and crimes, the individual should think twice and get the feeling of dread to the core. Fast trail court for such cases should be made such that the culprit can get the reward for his deed expeditiously. Another force should be made to supervise the investigation processes of the cases dealing with crime against children. India has a long way to go in the domain of crimes and the crimes against children should be the prime motive to head the community on the path of development.

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