

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 5 | Issue 3

2022

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Ritual Abuse against Children: The Pain of the Voiceless

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ABSTRACT

To any country children are the most valuable resource and best hope for the future, especially in countries like India Girl child plays a vital role. Each and every child is an uncut diamond with its preciousness contained within itself. Not all the carbons are transformed into diamonds and not all the diamonds are shaped to the level of perfection such a way the birth and brought up of the children were decided by their society in which the children born. Religion plays a vital role in any brought up of a child so as the religion makes a big impact in the children's life. Many religious customs and practices abuse the children physically, sexually and psychologically. Children were being abused and harassed in the name of religion blanketed by good faith, children were being forced or enticed to involve in many religious rituals which gives them immense injuries and pain. Not all the religions and customs imposes grave and hurting procedures in conduct of its rituals. Many of the rituals followed in the religion of Hinduism contains back braking and hurting procedures which sometimes leads to death also. Being in a secularist country and matter of religion as a personal business, one cannot question others faith when they tolerate and enjoy the pain but the same cannot be justified when it comes to the issue of children involving in such activities. Children were deemed and codified to be not eligible to take any decisions, till they attend their age of majority as per the pertaining laws thus one cannot say that the child is intended to do such activities in the name of religious good faith. In this paper I have made an attempt to bring in to lime light the various abuse been imposed on the children by their family members and others in the name of religion, rituals and good faith, especially in Hinduism and how far it violates major laws of India and the need of the legislation to address it.

I. INTRODUCTION

Law and justice are meant to be the sheath anchors of the society. To any society the children plays a vital role in the development of the country. The educational and cultural aspects of such children are very important in making an impact to the development of the country. The post independent society of India had seen many dramatic changes and subsequent alterations

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in law. Our Indian Nation with different kinds of people belonging to different cultures, ethnicity, customs and rituals have eroded some of the abuses against women and children through various legislations and court interferences but still there are many of abuses still prevalent against the children which has to be addressed. This is a small dip in to some of the religious ritual abuses against the children which is unnoticed by the existing laws of our Nation.

Child and Child Rights

‘Child’ is defined as person who has not completed eighteen years of age³. "child rights" includes the children's rights adopted in the United Nations convention on the Rights of the Child on the 20th November, 1989 and ratified by the Government of India on the 11th December, 1992⁴. Article 1 of the United Nations Convention on the Rights of the Child reads as, a child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier. In India the age of majority is indicated as completing the age of eighteen years and not before⁵

II. RELIGIOUS RITUALS AND HINDUISM

Throughout the world the rights of the child are violated in many aspects which is then and there addressed and cropped by the International communities by recommending various measures. As far as the religion is concerned the total number of existing countries is less comparing to the religion in numbers. Each and every religion has its own codified or uncodified norms and regulations imposing on its people. There are countries which imposes religion on its people and there are some which is secular and doesn't prefer, recommend or impose the religion on its people, some of the countries law itself is based on the so-called holy book of that concerned religion which makes it very difficult for any International body to turn its attention towards the violation of rights through rituals based on religion especially against girl children as the children are not even competent to know what is happening to them.

In India the large percent of population is constituted of Hindu religion and as like all the existing religion Hinduism is very hard against the women, In India any person who is not a Muslim, Christian, parse or Jew is a Hindu, unless he proves that he may not have been dealt with the instance of Hindu customs, rites and rituals and Hinduism does not even have single version of rituals for the entire religion, thousands of communities have their own kind of

³ Section 2(15) juvenile justice (care and protection of children) Act 2015

⁴ Section 2(b) The commission for protection of child rights act 2005

⁵ Section 3(1) The Indian Majority Act 1875

rituals which are mostly different from each other.

Each and every community within the box of Hinduism has their own ritual implications upon their people, which are different and unique with each other. In one way or another way these rituals are being imposed upon the children. The child being in the stage of incompetent to accept or refuse the ritual implications should be considered as victims in his aspect.

III. INDIAN PENAL CODE AND RITUAL ABUSE

Many of the rituals in Hinduism are visibly back breaking and gives immense pain to the doer. many of times the doer of the rituals or the person forced to be the doer of such rituals are put into death which is not even recorded legally and can be seen only in the medias as a mere accident.

SOME OF THE MOST COMMON RITUALS IN HINDUISM ATTRACTING THE VARIOUS CRIMES UNDER INDIAN PENAL CODE

- **EAR AND NOSE PIERCING**

Ear piercing most commonly known as the **Karnvedh Sanskar in Sanskrit and almost familiar in all parts of India. Ear piercing is a form of child cruelty. It does not serve any purpose rather than satisfying the parents. The child is put into immense pain by physically harming them. The ears and nose of the child is pierced with a needle which puts them into pain and untold fear. According section to section 321 of the Indian Penal Code** Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said “voluntarily to cause hurt.

The ritual practice of ear and nose piercing very well attracts the ingredients laid down in section 321 of the code. Sometimes to the worsen the ear and nose piercing may leads to infections to the that respective body parts putting the victim to an untold misery which very well attracts section 322 of code which reads as follows “Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said “voluntarily to cause grievous hurt”



Picture-1 showing the ear-piercing ritual



Picture -2 showing the infection in ears due to ear- piercing

BABY DROPPING⁶ - This unusual customary practice of tossing the infant who is below the age of two years from the top of the tower towards the crowd assembled under the tower. It is believed that tossing and catching the infant brings enormous luck to the infant in its future. This practice was first prevalent among the Muslims and later adopted by the Hindu people before 700 years in various parts of Karnataka. This act very well attracts section 336 of the code which states endangering life or personal safety of others. “Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees, or with both.



Picture-3 showing, the baby about to be dropped from the top of the building



Picture -4 Throwing of baby from the top of the building

⁶ Shocking Rituals in India That Will Give You Goosebumps (wonderslist.com)



Picture 5 dropping of baby from top of the temple and people waiting to catch it

HOOKING AND PIERCING THE BODY⁷ – The ritual of hooking and piercing the body is very familiar in southern parts of India, especially in Tamilnadu. The ritual practice of hooking and piercing the body is prevalent for many numbers of years which is untraceable. The devotees used to pierce and screw their body with needle, hooks, rods and many used to tie the tractors and vehicles. It is believed as an offering to the god by getting immense and life threatening pain. The worser part of this ritual is many of the children are involved in it, putting them in to miserable pain and hardships⁸. An annual ritual called Kuthiyotam which takes place at the Attukal Bagavathi temple in Thiruvananthapuram which involves piercing the skin of children aged between seven to twelve usually the piercing is made under the arms of the children with a iron hook and pulled with thread then ash will be applied to the wound. An police official namely Sreelekha Radhamma holding the post of chief of prisons called it as a rigorous mental and physical abuse in his blog post⁹



Picture 6 – piercing the body with iron hook

⁷ Unusual Rituals and Festivals of India That Will Give You Goosebumps (scoopwhoop.com)

⁸ <https://youtu.be/YKuMhy0A4jE>

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Picture 7 – piercing the body with hook attached with lemons and spiritual symbols



picture 8 – piercing of jaw with iron rod with the tip attached with lemon

FIRE WALKING¹⁰ – It is hearsay that the fire-walking which is called as theemidhi in Tamil was originated from Tamilnadu and had spread wide to Srilanka, Singapore, Malaysia and Some parts of South Africa. It is believed that in epic Mahabharata after the battle of Kurukshetra, Draupadi walked across a bed of fire and emerged as fresh flower. Theemidhi is the re-enactment of the same. The participation in Theemidhi also includes minors and there are reports that children aged about four and five also being insisted by parents to participate in the firewalking¹¹. The act of inducing the children to participate in such activity very well comes under the ambit of section 336, 337, 338 and 339 of Indian Penal Code which reads as follows

Section 336. Act endangering life or personal safety of others.—Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees, or with both.

Section 337. Causing hurt by act endangering life or personal safety of others.—Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life,

¹⁰ <https://www.youtube.com/watch?v=4vP1D0fh2Y4>

¹¹ https://upload.wikimedia.org/wikipedia/commons/6/67/Fire_walking_in_Udappu.jpg

or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Section 338. Causing grievous hurt by act endangering life or personal safety of others.—Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both. Of wrongful restraint and wrongful confinement

Section 339. Wrongful restraint. Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

ROLLING OVER FOOD LEFTOVERS – MADEY SNANA

Casteism is one of the major problems that developing India is facing. Casteism not only affects the entire social system of the country but it also bites the social development of the children. This is a blind belief called as ‘Madey Snana’¹² in which the left overs of Brahmins on banana leaves during which the children of those category people also insisted by their own parents and guardians to rollover. Although this practice was supposed to be banned in the year 2010 by the proposed Karnataka Prevention of Superstitious Practice Bill 2013.

The act of inducing the children to role over the leftovers clearly attracts section 599 of the code which reads as “Whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, 1 [shall be punished with simple imprisonment for a term which may extend to three years, and also with fine].

PUBERTY RITUALS

Across all the geographical lines of India puberty rituals is followed, the way of following, process and functions may differ but in one way or other the customary practices in all the communities and states imposes restrictions on the girl child. There will many dos and don’ts insisted on that girl child. In states of Rajasthan, Madhya pradesh , Gujarath, Maharastra and Tamilnadu the girl child is prohibited to come inside the house and Mat-at -one-corner concept is observed, the girl child is restricted to visit temple, In Bihar, Bengal and Kashmir temple

¹² <https://image.scoopwhoop.com/w620/s3.scoopwhoop.com/shon/fr/9.jpg.webp>

visit is restricted for the girl child. The only exception is Punjab where the girl child is not put in to any restrictions. Most of Southern India, the Assamese, and the Kulu Paharis are some of the people in India who celebrate puberty rituals. All these puberty rituals have the same undercurrent, with slight differences. Confinement, nutritious food, and a ceremonial feast, but we are never worried about the privacy of that girl child who is undergoing some natural body changes and who needs some medical attention also. The way to satisfy the society by conducting the puberty rituals the modesty of the girl child is been violated. Which clearly attracts section 509 of the code which reads as Whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, 1 [shall be punished with simple imprisonment for a term which may extend to three years, and also with fine].

IV. CONSTITUTIONAL ASPECTS

Article 21:

No person shall be deprived of his life or personal liberty except according to procedure established by law

Article 23(1)

Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

Article 39(f),

certain principles of policy to be followed by the State, states: that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Thus, the word 'no person' in the constitution of includes child also which emphasis all the constitutional rights to the children.

V. PSYCHOLOGICAL ASPECTS

The religious based rituals imposed upon the children can't be justified for the reason that it was meant for the benefit of the children. The religious ritual implication upon the child affects the cognitive development in the children. The trauma and mental stress which is carried by the children during the performance of the religious based rituals will make a life lasting impact on the children. The mental stress of the children affects them in four ways such as cognitive,

affective, functional and socio-cultural. The natural activity of the children and the intellect capacity of the children is diminished because of the impact made by the religious ritual abuses against the children.

VI. CONCLUSION

“The religious world is the reflex of the real world.”¹³ The words of Karl Marx’s about religion according to him religion does not have any independent history instead it’s the creature of productive forces. “I personally do not understand why religion should be given this vast, expansive jurisdiction, so as to cover the whole of life and to prevent the legislature from encroaching upon that field. After all, what are we having this liberty for? We are having this liberty in order to reform our social system, which is so full of inequities, discriminations and other things, which conflict with our fundamental rights.”¹⁴ the words of the great Dr Ambedkar which elaborates that there is an discrimination with respect to religion and its supplements it is crystal clear that the religion and customs imposes many hardships in the name of rituals against the children. Even the person who is witnessing such happenings could not complain about it as there is no locus standi. Law is for the society and never the society is for law, when there is a social transformation in the society then law has to be its way. From the above aspects it can be seen that children of our country are being abused by religious rituals especially in Hinduism. Child marriage is one of the traditional ritual abuses against the girl children which is eradicated by the Prohibition of child marriage act 2006 and the same case in the abolition of sati and various rituals. The legislation has to focus on the religious ritual abuse made against the children as children are the asserts of any society. It is not only the duty of the legislators to look in to it, it is the prime duty of each and every citizen to safeguard the rights of every child in this society.

¹³ Religion as Opium of the People (Karl Marx) (learnreligions.com)

¹⁴ Dr Ambedkars words During the constituent assembly debate

VII. REFERENCES

1. *The God Argument, the case against Religion, authored A.C.Graylin, published Blossom Burrys London*
2. *The modern sociological theory an introduction, authored by m francis Abraham, published by oxford university press*
3. *Inside capitalism an introduction to political economy authored by Paul Philips published by aakar books*
4. *Ambedkar Inrum yenrum, selected frameworks of Dr Ambedkar, published by Vidiyal pathipagam*
5. *The history of India, authored by Dr N Subramanian, published by New Centaury book house*
6. *Manitha samudhayam, authored by Ragul Sangrithayam, translated by A.G. Ethirajulu, published by New Centuary books.*
7. *Freud authored by Jonathan lear, orginally published by Routledge, transalated by Vincent, published by ethir velieedu*
