



WHITE BLACK
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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

WHITE BLACK LEGAL: THE LAW JOURNAL

SIT ON MY LAP KID – UNCLE

Submitted by: Sahil Gandass

ABSTRACT

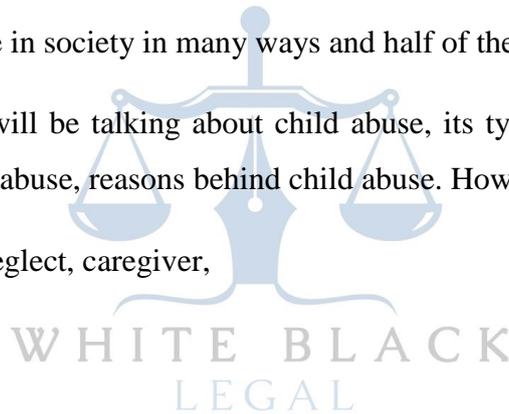
Uncle told me to come and sit on my lap kid, a girl goes crying and tells her mother about this. The mother becomes negligent after hearing this. I want you all to think why the girl was crying, why uncle told the little kid to sit on his lap if it was a positive gesture than why the kid was crying. When the elder gives some chocolates to the kid he doesn't cry, why is it so now he is crying when an uncle asked him to come and sit on his lap. Yes, you are getting the author right I am talking about child abuse, to which half of the world is unaware of. Or is aware but doesn't pay much heed to.

The most occurring issue, that is prevalent in almost every house next door but is not much talked about.

Child abuse is taking place in society in many ways and half of the people are unaware of it.

In this paper, the author will be talking about child abuse, its types, some of the signs and indicators indicating child abuse, reasons behind child abuse. How to overcome this problem.

Keywords: Child abuse, neglect, caregiver,



CHILD ABUSE

Child abuse¹ is any kind of behavior that harms children. It can be any form of emotional, physical, sexual, as well as neglect and exploitation. Child abuse is the maltreatment done to a child whatsoever under the age of 18 years. Child abuse is when a parent or caregiver, whether through action or failing to act, causes injury, death, emotional harm, or risk of serious harm to a child.

Child abuse is not been limited to beating, harassing, it is a wider term which even includes putting your child into beggary, child labor, living them on the roadside, not providing them with the necessary products, giving them painful punishments, terrorizing them, demeaning them, negligent towards them and even more. All the practice, beliefs or anything which provides any kind of harm to them whether it is physical, mental, emotional is child abuse.

From the case of *Jai Prakash @Prakash vs. State of Rajasthan*² we can understand the concept of child abuse. In this case, an 8-year-old boy found dead, his father Chhala Ram files a FIR on 7-09-2000 in the nearby police station at Chirawa, Rajasthan. Where he tells that his son Mintu is being missing from the afternoon of 2-9-2000. He also claimed that his son at around noon to play but didn't come back. On 3-9-2000, Chhala Ram files a missing report about his missing child. On the morning of 7-9-2000, the villagers started a search operation and Bakhtawar and Jainarain Sharma who went to the riverside discovered the dead body of Mintu and his clothes. Chhala Ram files a FIR claiming that someone killed his son. Police filed the charge sheet for the offense under section 377 and section 402 of the Indian penal code. In this case, Ram Singh, who is an uncle of the deceased, testified that on 2.9.2000 when he and his nephew, Nand Lal, were going from their farm, they saw the deceased and the appellant going together towards the river. He further states that in the evening when Mintu did not come back home, his brother and he both went to the appellant's house. There, the appellant's mother informed them that Mintu was at their house till the afternoon, and after that, he went with the appellant. Similarly, Bakhtawar Singh states that when he went to the appellant's house around 11-11.30 A.M., he saw Mintu sitting with Omprakash and Jai Prakash at the appellant's house. Likewise, in the statement of, Nandlal, claims that as he was passing by the appellant's house he saw Jai Prakash leaving with the deceased and going towards the river. Hiralal also states that on 2.9.2000 when he went to Jaiprakash's house he

¹ Child Help, *What is Child abuse*, Child help (Sept. 23, 2020, 7:00PM.) <https://www.childhelp.org/child-abuse/>

² *Prakash v State of Rajasthan*, (2006) 2 SCC 483 (India).

saw Jaiprakash and Mintu sleeping on the same cot. Nandlal also tells that Mintu and the appellant are distantly related to each other as uncle and nephew. These witnesses prove that the deceased was "last seen" with the appellant. And according to the post mortem report death occurred 4-5 days ago and the appellant had sexual intercourse with the deceased 4-5 days ago. According to the post-mortem report, it was found that the cause of death is "asphyxia"³. Now according to section 106 and section 104 of the evidence act and section 377 and section 302 of the Indian penal code. "For the former offense, the appellant has been sentenced to 10 years R.I. and fined Rs. 500/- and to further undergo a sentence to fifteen days of simple imprisonment in default thereof. For the latter offense, he has been sentenced to life imprisonment and fined Rs. 2,000/- and to further undergo two months simple imprisonment in default thereof."⁴

*"Protection of society and deterring the criminal is the avowed object of law and that is required to be achieved by imposing an appropriate sentence. The sentencing courts are expected to consider all relevant facts and circumstances bearing on the question of sentence and proceed to impose a sentence commensurate with the gravity of the offence. Courts must hear the loud cry for justice by the society in cases of the heinous crime of rape on innocent helpless girls of tender years, as in this case, and respond by imposition of proper sentence. Public abhorrence of the crime needs reflection through imposition of appropriate sentence by the court. To show mercy in the case of such a heinous crime would be a travesty of justice and the plea for leniency is wholly misplaced. the courts are expected to properly operate the sentencing system and to impose such sentence for a proved offence, which may serve as a deterrent for the commission of like offences by others. Sexual violence apart from being a dehumanizing act is an unlawful intrusion of the right to privacy and sanctity of a female. It is a serious blow to her supreme honour and offends her self-esteem and dignity - it degrades and humiliates the victim and where the victim is a helpless innocent child, it leaves behind a traumatic experience. The courts are, therefore, expected to deal with cases of sexual crime against women with utmost sensitivity. Such cases need to be dealt with sternly and severely. A socially sensitized Judge is a better statutory armour in cases of crime against women than long clauses of penal provisions, containing complex exceptions and provisos."*⁵

The same philosophy would equally apply to the case of child abuse.

³ Goutam Biswas, Review of forensic Medicine & toxicology 138 (Jaypee Brothers medical publishers, 2012)

⁴ Prakash v State of Rajasthan, (2006) 2 SCC 483 (India).

⁵ ibid

TYPES

Child abuse is not been limited to any one type of abuse i.e sexual abuse but there are many other types of abuse.

1. Physical abuse: Physical abuse⁶ is a type of abuse to a child in which parents, caregivers, relatives, or any person causes any type of injury that has to be non-accidental. It includes kitting biting hair pulling choking whipping are some examples of physical injury. If anybody didn't mean to cause any injury to the child, but if he gets injured due to his activity it will be considered as abuse. Teaching physical discipline to a child by parents or caretakers which doesn't include any type of injury or impairment does not mean to be abuse to the child. Physical abuse can result in death, depression, anxiety attacks, broken bones, bruises, blisters, lifelong injuries, self-destructive behavior in attitude, insomnia, immaturity.
2. Sexual abuse: Sexual abuse⁷ is a type of abuse to a child in which parents, caregivers, or any person puts or uses a child for sexual purposes or involves a child in sexual activities such as prostitution, child pornography, sexual intercourse. It also includes the girl or boy child being raped, sexually harassed by the family members, relatives, or anyone. Any Sexually act between an adult and minor, between two minors, forcing and engaging a child into a sexual act is sexual abuse. Sexual abuse can lead to death, suicide, swelling pain, any sexually transmitted disease, urinary tract infection, Difficulty in walking sitting, itching ant genital parts, depression, anxiety attacks, lack of confidence, nightmares, sleep disturbance, the decline in school performance and many more.
3. Emotional abuse: Emotional abuse⁸ is a type of abuse to a child in which parents, caretakers, relatives, or any person emotional harms a child, or harms the mental state of a child. Ignoring, criticizing, shaming humiliating, accusing, terrorizing, punishing, isolating a child from peer and positive activities, encouraging any type of misbehavior, screaming, yelling, not listening to the child, showing low interests in the child, breaking a promise, making comments which a child doesn't like, using abusive language, discouraging them on their failure, making them feel that they are useless, confining a child too little areas, telling lies to them to justify certain actions,

⁶ Child Help, *What is Child abuse*, Child help (Sept. 24, 2020, 4:00PM.) <https://www.childhelp.org/child-abuse/>

⁷ ibid

⁸ ibid

taking advantage of child's weakness, making them do things which are not meant for them, indulging them in criminal acts are some type of emotional abuse practice towards a child.

4. Child neglect: Child neglect⁹ is a type of abuse practice towards a child in which parents, relatives, caretakers, and any person fails to provide good supervision care, affection love, and due to the negligence of anyone the child suffers. Child neglect includes Failing to provide proper healthy food, drinks, health facilities, shelter, adequate personal hygiene, leaving the child with an inappropriate caretaker, exposing the child to an unsafe environment, ignoring a child's need for attention, affection, and emotional support, permitting a child to use drugs, use alcohol or engage in criminal activities, leaving a child at home or some other custody, allowing a child to miss school, not allowed the child to enroll in school, not providing proper educational support, leaving the child on roads, making them do beggary, child labor.

CHILD ABUSE INDICATORS

There are some signs and indicator which show that child abuse has taken place or taking place. These signs can be seen from both children as well as the adult.

Some of Child indicator/ signs¹⁰ are

1. difficulty in sitting
2. having any scar, bruises
3. Aggressive behavior
4. Suffering from depression, anxiety attacks
5. Death
6. Having severe injuries marks
7. Difficulty in walking or sitting
8. Having any sexually transmitted disease
9. Having marks on genital parts
10. Bedwetting without any medical history
11. Suicide attempts
12. Lack of confidence
13. Speech problems

⁹ ibid

¹⁰ Child Help, *What is Child abuse*, Child help (Sept. 25, 2020, 8:00PM.) <https://www.childhelp.org/child-abuse/>

14. Seems afraid of parents or elders
15. Nightmares and insomnia
16. Self-destructive behavior
17. Sleep disturbance
18. Poor peer relation
19. Delay in development
20. Health problems
21. Suicidal thoughts
22. Behavior that is inappropriate for that age
23. Weight fluctuation
24. Often tired or sleepless
25. Intreated medical problems
26. Show sign of malnutrition
27. Often hungry
28. Pregnancy
29. Hygiene problem.

SOME SIGN/ INDICATOR¹¹ IN ADULTS ARE

1. Lack of care for the child
2. Depression, anxiety problems
3. Poor anger management
4. History of violence or abuse
5. Unsound mind
6. Unstable presence
7. Jealous
8. Not able to explain the injury of the child
9. Blame child
10. Delays in medical assistance
11. Having unrealistic expectation from the child
12. Threatens the child
13. Leaving a child home alone
14. Treating a child's favorite, making them feel special compared to another child.
15. Insist on physical affection when the child doesn't want it such as kissing, hugging.
16. Fails to enroll a child in school.

¹¹ ibid

17. Yelling, mocking at a child without any reason
18. Publicly humiliating or demeaning the child
19. Using abusive language
20. having alcohol or drugs.

REASONS BEHIND CHILD ABUSE

Reasons behind this heinous crime of child abuse¹² can be unsound mind, if the Parent himself is a victim of child abuse, domestic violence, lack of support, stress, weak in education, lack of parenting skills, lack of support, financial problems, family problems, alcohol and drug usage, the mentality of the people, poor parent-child relationship, lack of understanding about basic childhood development, domestic violence in the family.

HOW TO OVERCOME CHILD ABUSE INDIVIDUALLY

As we have been talking in this paper about the heinous crime of child abuse. And it has to stop at the end for the welfare of children and the upcoming future generation. Or it is going to destroy society. As an individual we can fight this issue, what we have to do is if we find there is child abuse taking place or there is a victim of child abuse

1. Give a call at 100 to the police and report about the matter to the nearest police station
2. An individual can call the doctor or therapist, they can help you to reach the best resource and help the child to get back to normal if the child is suffering from any medical problem or being the victim of any physical, mental, or sexual abuse.
3. An individual can call on 1098 in child helpline number India and can report about the matter
4. An individual can report the matter to the National Commission for Protection of Child Rights¹³ by email cp.ncpcr@nic.in or on their contact number- 011-23478200/250.
5. An individual can officially lodge complainant at the online complainant management system of NCPCR (E-baalnidaan)¹⁴

¹² Kimbley Holland, *Understanding the Causes of Child Abuse*, Healthline (Sept. 26, 2020, 3:01 PM), <https://www.healthline.com/health/causes-of-child-abuse>.

¹³ *National commission for Protecting Child Rights*, Government of India (Sept. 27, 2020, 5:00PM) <https://ncpcr.gov.in/>.

¹⁴ National Commission for Protecting Child rights, *E-Baalnidaan*, Govt. of India (Sept 27, 2020, 5:30 PM) www.ebaalnidaan.nic.in.

6. An individual can seek help from various NGO's which are working for the betterment of the children. He/she can work as a volunteer and donate some amount for the betterment of the children.
7. An individual can also spread awareness among society by organizing campaigns, shows, events.
8. An individual should be loving, kind-hearted toward children, and just love them.

CONCLUSION

As we have seen the concept of Child abuse which is not been limited to sexual abuse but is far more extended to mental, physical, emotional, child neglect. It is not a small issue in the society. It has to become in the limelight and people should take this issue very seriously. The root of this issue lies with the inappropriate intentions of relatives, negligence of parents, and lastly the innocence of children. To overcome this problem of child abuse everyone has to step out of the crowd and do his part or complete the responsibility toward innocent children. Parents should keep a check on their children, they have to be kind and polite to them. What children need is just love.

“What is a home without children? Quiet.”

— HENNY YOUNGMAN

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