

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

EDITORIAL TEAM

EDITORS

Megha Middha



Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can

bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



14th, 2019

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC - NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration.10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



methodology and teaching and learning.

Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

TERMINATION OF ADOLESCENT PREGNANCY, A SOCIETAL STIGMA

“Abuse is never contained to a present moment, it lingers across a person’s lifetime and has pervasive long-term ramifications”

Authored By- Madhushree Sarkar
& Purba Chakraborty

INTRODUCTION:

In the past centuries where custom and religion had played a wider role, there adolescent pregnancy was not an illegal act as child marriage was prevalent. But with time it is observed that such adolescent pregnancy was creating a health hazard to the life of the women bearing it. So then laws were evolved to safeguard the women who were less than 18 years of age. But now in the 21th century teenage pregnancy has increased because of the romantic adolescent relationship and child sexual abuse. In today’s time the word child sexual abuse can be divided into two sub categories (1) non consensual child sexual abuse & (2) consensual sexual adolescent relationships. Both the sub categories are having criminal consequences. It is just that the minor i.e.; the children under 18years can go for abortion if the gestation period is within 20-24 weeks, even if the pregnancy is the result of the consensual sexual relationship between minors.

CHILD SEXUAL ABUSE AND LAWS RELATING TO IT:

Child sexual abuse has a wider ambit which refers to a kind of child abuse where an adult or an adolescent person uses or exploits a child for sexual purposes. In most of the situations, the exploiters are from home, school or from neighborhood. Children being of a very tender age initially do not understand what they are going through and which causes a great trauma in their mind. The act of sexual abuse is done either by luring the child or by giving threat so we can say it is an act which is non consensual i.e.; the child’s consent is missing. IPC did not have any stringent laws relating to child sexual abuse prior but from 2018 sections like 376AB Punishment for rape on woman under 12 yrs of age ; section 376DA Punishment for gang rape on a woman under sixteen years of age and section 376DB Punishment of women under 12

years of age has been added to IPC¹. The Protection of Children from Sexual Offences Act, 2012 is based on Article 15(3) of the Indian Constitution which allows the government to take special measures for women and children². It is a gender neutral law so it comprises boy child and as well as girl child under 18 years as “child”. Unlike IPC the Protection of Children from Sexual Offence Act, 2012 considers the accused “guilty until proven innocent”. The child sexual abuse often leads to pregnancy but this is the point which triggers the social stigma in the guardians mind because as per the law i.e.; under section 19 of the POCSO Act which introduces a mandatory police reporting of such offence and penalizes those who fails to do so. The family of the victim hesitates to file a complaint as that would hamper their family honors and because of which they approach an unqualified doctor for medical termination of pregnancy. Under Rule 3B (b) of the Medical Termination of Pregnancy Rules minors can seek abortion of pregnancy of a term 20-24 weeks³. But still most family avoid approaching the registered medical practitioners as they are duty bound to report it to the police before dealing with such pregnancy which has aroused from a sexual assault of the minor. So now the Registered Medical Practitioner (RMP) is exempted from disclosing the personal details of the minor who is subjected to sexual abuse and whose pregnancy has resulted from such sexual assault itself.

Instances of consensual adolescent sexual relationships are witnessed in the contemporary society. As a natural phenomenon it has been observed that every adolescent goes through a lot of physical and mental growth during their 16-19 years of age due to which they tend to get attracted to their sexual preferences which is biological in nature but our law has so far not acknowledged the biological factors as an exception .And has made POCSO Act universal in terms of age of the victims. The age of consent is 18years under POCSO ACT and these acts as a barrier in engaging in consensual sexual relationships.

HARMONIOUS INTERPRETATION OF POCSO ACT and MTP ACT:

X versus The Principal Secretary, Health and Family Welfare Department, Govt. of NCT of Delhi & Anr *To ensure that the benefit of Rule 3B(b) is extended to all women under 18 years*

¹ Indian Penal Code (45 of 1860)

² The Constitution of India (44 OF 2019); page 11

³ X versus The Principal Secretary, Health and Family Welfare Department, Govt. of NCT of Delhi & Anr2022(SC)809

of age who engage in consensual sexual activity, it is necessary to harmoniously read both the POCSO Act and the MTP Act. For the limited purposes of providing medical termination of pregnancy in terms of the MTP Act, we clarify that the RMP, only on request of the minor and the guardian of the minor, need not disclose the identity and other personal details of the minor in the information provided under Section 19(1) of the POCSO Act. The RMP who has provided information under Section 19(1) of the POCSO Act (in reference to a minor seeking medical termination of a pregnancy under the MTP Act) is also exempt from disclosing the minor's identity in any criminal proceedings which may follow from the RMP's report under Section 19(1) of the POCSO Act. Such an interpretation would prevent any conflict between the statutory obligation of the RMP to mandatorily report the offence under the POCSO Act and the rights of privacy and reproductive autonomy of the minor under Article 21 of the Constitution. It could not possibly be the legislature's intent to deprive minors of safe abortions⁴.

Prevention is better than cure:

As a society we have a lot to do for the minors who do have the potential to do great in their life time and can be an asset for the society, so just because of a act where she or he did not have an active role so merely that act should not be a hurdle in the growth of such child. And as a society we should not look down upon the victim of such sexual abuse. Because our conduct towards them will tarnishes their vulnerable mind. The children below 18 years are at a tender age. At this age if they are subjected to sexual violence then they carry the trauma within them for life and which is a pullback in their development so they should be given counseling from the expert counselors and a lot of support from family and society as others behavior leaves an impact in their life. And workshops should be carried out in the village level by the Anganwadi workers to teach the children about good touch and unsafe touch. And by this the children can be aware of such unsafe touch. To deal with adolescent pregnancies the awareness on sex education should be given from class 8 onwards as this is the tender age where children go through lots of hormonal changes and for which they do not have an answer to and they land up taking advices from wrong people which leads them to pregnancies and they face criminal consequences.

⁴ 2022(SC)809