

Protection from Damnation: AGE
(Juveniles as SEXUAL OFFENDERS)

by

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ABSTRACT

- *We always consider children as a face of God and hence protect them, always say that children are innocent and immature and try not to be harsh on them, but what if that child takes a face of Satan: the devil, will or should we still consider them as the same old innocent child. When a child or a juvenile commits a heinous crime such as RAPE or any SEXUAL OFFENCE, why are they not treated as actual criminals, why are they not sent away, why are they still treated as small children? The following article will try to open a door of your mind and will let you question the Indian Justice System, will let you think are these predators actually children who are immature and should not be treated as actual criminals. The writer via this article will help you understand the consequences of not having strict punishments for juvenile rapists. Will help you understand that AGE should not used as an armor by the juvenile rapists and that always letting them go without any strict penalty is not good for the future of India. According to NCRB in 2017, in India 1456 sexual offences were committed by juveniles. Studies show that juveniles are not treated harshly because they haven't attained that maturity level or that they should be given second chance at life. In Nirbhaya Rape case when a juvenile was convicted, Enakshi Ganguly said, "Young people are easier to bring in to an offence, because they are easier to influence and brainwash" then the same should be taken in consideration for adult rapists because brainwashing someone and bringing them into an offence is easy. Hope this study will help you open a door for a new type of justice.*

Introduction:

So, what exactly is Rape?

- Acc., to Section 375 of Indian Penal Code, Rape is defined as “A man that has sexual intercourse with a woman, against her will, or when the women are intoxicated and in no state to give her consent or with her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt. In simple words, Rape in general is not always considered when the victim is forced into a physical sexual act, it can also be defined when someone is pressurized, which in result makes them feel that they have no other option than to have sex. Sections like 375, 376 of Indian Penal Code talks about rape and punishment for the same. In India, rape is without a doubt a heinous crime and an issue of great concern. Acc., to National Bureau 2016 reports, rape is the 4th most common crime against women in India. Madhya Pradesh has the highest number of rape reports among Indian states.
- When someone commits a crime like rape, we can say that they had full knowledge of the activities that are involved in committing such an atrocious sin. Along with time we have heard names like Akshay Thakur (28), Vinay Sharma (20), Pawan Gupta (19), Mukesh Singh (26) & Mohammed Afroz (17), all of them were sentenced to death in the famous rape case known as “NIRBHAYA HATYA KAND”, except Mohammed Afroz, he was set free after he served 3 years in a reform group. He was set free after 3 years because he was a juvenile when he committed such a sinful act.
- Who is a juvenile or we can say who can be categorized under the group of juvenile. Under Juvenile Justice (Care and Protection of Children) Act, of 1986, Section 2(a) defined the term juvenile is a "boy who has not attained the age of 16 years and girl who has not attained the age of 18 years". Acc., to G. K. Chesterton “For kids are innocent and love justice while most of us are evil and naturally prefer mercy”, but it’s time to question ourselves, children who commit such atrocious crimes like rapes are they actually innocent, are they the same

pretty flowers who were cherished because of their blooming nature. The age of the all the children involved in despicable crime like rape raises genuine concerns regarding the state of our social and moral fabric.

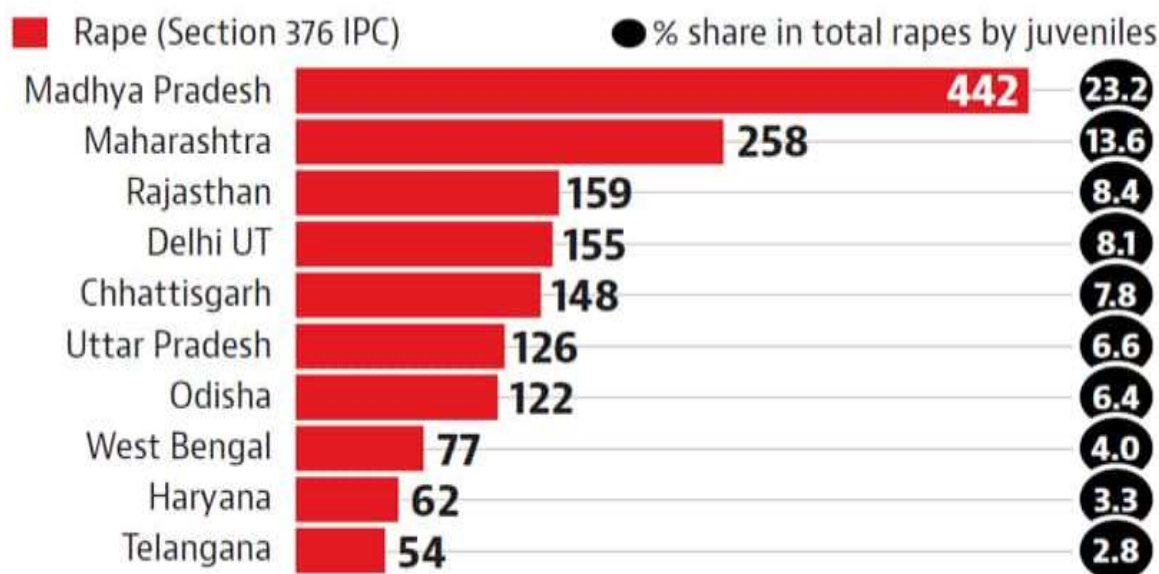
- Under The Juvenile Justice Bill, 2000 Act, any child in conflict with law, regardless of the type of offence committed, may spend a maximum of three years in institutional care (special home, etc.). The child cannot be given any penalty higher than three years, nor be tried as an adult and be sent to an adult jail. A new bill was purposed in the house which treats all children under the age of 18 years in a similar way, except for one departure. It states that any 16-18 year old who commits a heinous offence may be tried as an adult. But what about the children under the age of 16 years, if they commit such a crime like rape why shouldn't they be tried as adults, why does their age save them from such a sinful crime. We, as a society have failed to protect not only our girls, but also our boys from falling prey to this rut. We do have harsh laws for the adult offenders who commit rape but the problem arises where the Rapists themselves are minors. Death penalty or life imprisonment has expressly been forbidden as a punishment for minors below eighteen years of age under Article 37(3) of Convention on the Rights of the Child and also under Rule 17.2 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, popularly known as Beijing Rules.
- Juvenile perpetrated sexual aggression has been a problem of growing concern in Indian society over the past decade. Below are 2 different graphs which show the state juvenile sex offenders.

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- I. GRAPH 1- It shows the top 10 states of India which were hit by juvenile sex offenders in the year 2016.
- II. GRAPH 2 – It shows how different age groups have indulged in different crime.

Ten states most hit by juvenile sex offenders

Over 60% of juvenile rapes that happened in 2016 were reported from Madhya Pradesh, Maharashtra, Rajasthan, Delhi and Chhattisgarh



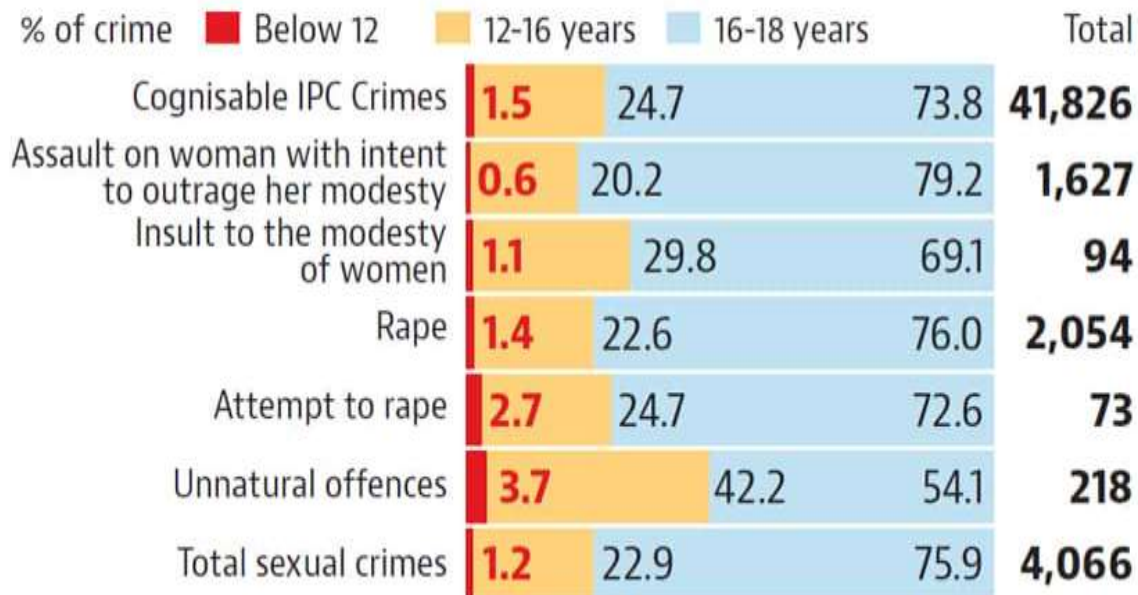
GRAPH 1



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16-18: The tough ages, according to statistics

The share of sex related crimes in all cognisable IPC crimes committed by juveniles is the highest among 16 to 18-year-olds



SOURCE: NATIONAL CRIME RECORDS BUREAU

GRAPH 2

- Some of the Factors that have received the most attention which are the main reason why children become sex offenders include: maltreatment experiences, exposure to pornography at a very young age, substance abuse, and exposure to aggressive role models.
- According to 2017 reports, in India by the National Crime Records Bureau (NCRB), 1,614 rapes, 1,456 other sexual assault offenders were juveniles in the country, and 1,614 cases of rape were against juveniles. The list of cases where the rapist was a minor is long. Below are some cases where the rapist was a minor and was saved from a serious punishment because of their age.

CASES:

- 1) 5-year-old girl gang-raped by juveniles in Bihar - The incident happened when the minor girl had gone to play on April 3 evening. The two accused took the girl to bushes, where they allegedly sexually assaulted her. There were blood stains on the clothes of the minor girl. The 2 accused boys were of the age 10 and 11 years.
 - 2) Bharatpur Rape Case - In 2018, a 14-year-old boy was detained under CrPC and Protection of Children from Sexual Offences (POCSO) Act for allegedly raping his 5-year-old girl cousin in Bharatpur by luring her to a secluded place by promising to give her 10 rupees for toffees. The little girl's mother realized the abuse after she found her daughter bleeding.
 - 3) Juvenile Justice Court in Kairana - A 15-year-old boy on 12 February, 2018 raped a 6-year-old girl who was his neighbor in Shamli district by luring her. Juvenile Court at Kairana held the accused to be guilty and sent him to a correction home for 3 years with no imposition of fine as he was below 16 years old, under Section 376 of the Indian Penal Code along with Section 7 of the Protection of Children from Sexual Offences Act.
 - 4) The Nirbhaya Gang Rape Case, 2012 - The juvenile convict in the 2012 Delhi Gang Rape was tried as a minor and escaped the full burden of the law despite being 17 years old.
- The common thing between these case verdicts is that all the accused were sent to reform homes for as long as a span of 3 years, but they were never given a strict punishment. Even though the Justice (Care and Protection of Children) Act, 2000 was amended which provides for the trial of juveniles in the age group of 16 to 18 years as adult if involved in heinous offences. The law was amended following intense protests in the wake of the 2016 Nirbhaya gang rape in Delhi in which one of the accused was a few months short of turning 18.
- Do we really need cases like Nirbhaya gang rape, and following protests for the acts to get amended? What if tomorrow someone is raped and the accused is someone who is 15 years old, should they be allowed to escape the burden of the crime committed by them just because they were of not a legal age? Is that justice to the victim? Sexual offences by young people should be seen within the context of an increase in sexual crimes committed as a whole in society.

CONCLUTION/SOLUTION:

- There need stricter laws for juvenile sex offenders, just sending them to reform homes is no way justice to the victim.
- We need to understand that playing the blame game won't help the society. The society plays the blame game and asks for answers while the justice system pulls its strings and applies its rationality. With years passing, with the pace rape and sexual cases are increasing it is noticed that children have started to use their behavior as a tool of power, which pushes them to commit these sinful acts. We need to make sure that these monstrous beings get punished because they think molesting someone or raping someone is okay because in the end they escape the burden of the crime.
- We need to prove that these children can be punished for the wrong behavior and they should be taught to follow the right path. With the age of information and technology taking its roots in our everyday lives, sensitive and age-inappropriate information is just a button away, easily accessible by any child, teen or an adult. Wrong information in the wrong hands can cause major destruction not only in the life of the person responsible but also the victim and the society at large. We as a society need to teach and tell the children what is a bad and a good use of the technology, and how if used with a negative approach can make their life hell. We need to be open to have such talks, conversations with the children instead of running from these conversations and tagging them as taboos. We have to teach our children about sex and sexuality. It is also important to analyze the situation and look out for any false accusations.
- Parents should teach their child about gender equality and how to respect other genders. They should not support male children over the female child.
- More and more awareness related to this should be spread.

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