

Sentencing Policy in cases of Crimes Against Women & Children



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Crimes against women

Female Foeticide

Trafficking

Dowry Death

Domestic Violence

Outraging Modesty

Aggravated Rape

Sexual Abuse

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sodomy

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Crimes against children

Infanticide

Child Traffic

Child Labour

Female Foeticide

Aggravated Rape

sodomy

Outraging Modesty

Pornography

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Paedophilia

Sexual Abuse

R
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Crimes against children under POCSO

Sexual Assault

Penetrative Sexual Assault

**Aggravated Penetrative
Sexual Assault**

Sexual Harassment

Aggravated Sexual Assault

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The Two Tests

- Lesser numbers, Greater attention
 - At Home
 - In School
 - In Countries
 - In Courts
- The 3 Rs
 - Recognize
 - Resist
 - Report

**Cure the disease and
kill the patient ?**

Impact of abuse / violence

- Destroying psychology
- Devastating life
- Bitter shock
- Disgust
- Disbelief
- Suspicion
- Helplessness
- Frustration
- Anxiety
- Loss of security
- Feeling of guilt
- Fear of disclosure
- Confusion

*I hold that the more helpless a creature,
the more entitled it is to protection by men,
from the cruelty of men – Mahatma Gandhi*

Re-victimization / Secondary victimization

- Police investigation
- Medical examination
- **Court trial** - Order of re-examination of witnesses
“India’s Other Daughter re-victimized by law(pla)yers”

Justice without force is powerless;
Force without Justice is tyranny.

Interpretation / Precedents

- For degree of doubt
 - AIR 2003 SC 3617 – Reasonable doubt is not an imaginary, trivial or possible doubt, but the doubt based upon reason and common sense
- For sentencing policy
 - 2005 (1) Crimes 40 SC – Sentencing policy should be such as to reflect the conscience of the society
- For extent of punishment
 - 2001 Cr.LJ 1579 (Bom) – Punishment for rape of a 3 year old child should be severe

Be Cruel to be Kind

Interpretation / Precedents

- For reformatory directions
 - AIR 2000 SC 1069 – Psycho therapeutic treatment was ordered for a rapist of a child of 2 years
- For guidelines of lesser punishment
 - AIR 2000 SC 1470 – Significance of adequate and sufficient reasons for lesser punishment explained
- For the test of Justice
 - AIR 2003 SCW 4065 - Held that letting the guilty escape is not doing justice according to law

**To pardon the oppressor
is to deal harshly with the oppressed.**

Stages requiring sensitivity for Sentencing

- The stage of bail
 - Hearing the victim, the accused and the State
- Decision
 - Sentencing
 - Fine
 - Compensation
 - Rehabilitation

Law cannot prevent
what it cannot punish



