

# A Study on the Legal Applicability of Methods used by the Sri Lankan media in reporting Child Sex Offenses

Gunasekera H.D.E<sup>1</sup>, Abeysekara T.B.<sup>2</sup> and Weerasinghe T<sup>3</sup>

<sup>1</sup> Faculty of Graduate Studies, University of Sri Jayewardenepura, Sri Lanka

<sup>2</sup> Legal Studies Unit, Faculty of Management Studies and Commerce, University of Sri Jayewardenepura, Sri Lanka

<sup>3</sup> Sri Pali Campus, University of Colombo, Sri Lanka

**Abstract:** The main focus of this research is to examine how media reporting on child sex offenses take place specifically in the Sri Lankan legal context (with reference to the Penal Code (Amendment) Act No. 22 of 1995). There are several socio-legal and consensual approaches to the definition of child. These approaches are primarily based on the relationship between a person's age and role. Especially those under the age of 18, are internationally recognized as children. However, Child abuse, has been a threat that has spread secretly in the society for centuries. But in recent decades it has been recognized as a serious social problem and has received enough attention to oppose it.

## I. INTRODUCTION

By the mid-80s, child corporal punishment was recognized as a crime in Sri Lanka, and child sexual abuse in the early 90s was recognized as a serious offense. Since then, Sri Lanka has joined hands with the United Nations Convention on the Rights of the Child to address the short-term and long-term effects of child abuse and to take action against various forms of violence and cruelty to children.

Taken as a whole, four basic types of child abuse can be identified (Marasinghe, 1995).

1. Physical abuse
2. Mental abuse
3. Sexual abuse
4. Ignorance

If an activity causes injury or pain, weakness, disability or death to a child, that activity is considered as a physical abuse (T. Serisier, 2017). If a child experiences any stress or trauma as a result of an action or expression, it is considered as a mental abuse, and sexual abuse is considered the most serious form of child abuse. Child sexual abuse can occur through body contact, or not (C. Goddard, B.J. Saunders, 2001). There is a rapid increase in child abuse in the country at present. It is a gradual increase. The question is whether the increase is an increase in child abuse or an increase in child abuse reporting. Statistically, however, there has been a rapid increase in abuses or reporting. This is evident from the number of complaints received by the National Child Protection Authority-Sri Lanka, the apex body for child protection in the

country. Following are the data related to child abuse and child abuse complaints received by the National Child Protection Authority from 2016 to 2020. (National Child Protection Authority, 2020).

During the year 2016, the number of child abuse complaints reported to the National Child Protection Authority was 9361; the highest number of complaints were reported related to child abuse and that number is 2180. There were 713 cases of sexual harassment and 1457 complaints of non-provision of compulsory education (NCPA, 2020).

The highest number of complaints was reported from the Colombo district during the year 2016 and that number was 1277. Meanwhile, 917 complaints were reported from the Gampaha District and 722 from the Kurunegala District (NCPA, 2020).

In 2017, the National Child Protection Authority had received 9014 complaints, the highest number of which were 501 cases of child abuse, 340 cases of child rape and 309 cases of serious sexual abuse. The highest number of complaints have been reported from Colombo, Gampaha, Kalutara, Ratnapura and Kurunegala districts (NCPA, 2020).

The highest number of complaints reported to the National Child Protection Authority in 2018 was about child abuse and that number is 2413. There were 555 cases of sexual abuse, 375 cases of serious sexual abuse and 311 cases of child rape. The highest number of incidents were reported from Colombo, Gampaha and Kurunegala districts. It was 1330, 1066 and 823 respectively. (NCPA, 2020).

In the year 2019, the total number of complaints reported was 8558. There were 2342 complaints of child abuse, 594 cases of sexual abuse, 294 cases of child rape and 288 cases of serious sexual abuse. As usual, the highest number of complaints were reported from the Colombo and Gampaha districts (NCPA, 2020).

In 2020, there were 2337 child abuse complaints, 518 sexual abuse and 256 child rapes. In terms of districts, 1134 complaints have been reported from Colombo District, 944 from Gampaha District and 627 from Kurunegala District (NCPA, 2020).

There are several common features that can be identified from child abuse complaints reported to the National Child Protection Authority from 2016 to 2020. Especially from 2016 to 2020 there is a gradual increase in complaints. There has also been a gradual increase in complaints of child sexual abuse in particular. In terms of districts, the highest number of complaints has been reported from the Colombo district during the past five years. In addition, the highest number of complaints were reported from Gampaha, Galle, Kurunegala and Anuradhapura districts in Sri Lanka.

On the other hand, the media also plays an important role in reporting child sexual abuse in the country. Especially, in our country, media can be divided into two main categories as print and electronic media. Newspapers, books, magazines, brochures, etc. can be defined as print media and television, radio, Cinema, the Internet, etc. can be defined as electronic media. Television, radio and newspaper can be introduced as the closest medium to the people. Of all these media, news reporting is the closest to the public (Hapuarachchi, 2017).

Journalism in particular is more than a craft. It is more than just an industry. Journalists are unofficial public servants whose mission is to serve the public. It all started with a very limited group of people understanding the signs and letters on the caves. Television, newspapers and radio have made our world a global village (Dissanayake, 1999). Within seconds the information given spreads throughout the universe and is available to everyone. 'Information' and 'News' the two English words are often used in the field of mass communication. Anything can happen to anyone anywhere in the world in a second. Such incidents, with or without the influence of nature, are presented orally or in writing. The world is full of phenomena that happen to people, places, and nature. Information about such phenomena is communicated from person to person. Therefore, human beings begin to react to such phenomena that they hear and see while living in a society. The resulting process is a factor in the well-being of society (Kariyawasam, 1993).

Such information is essential for the survival of a complex civilization. The need for and knowledge of such information is as old as the history of human civilization. Man's curiosity about the world is not limited to one era. But all information is not news. The media only records, interprets or publishes a selection of information (Kariyawasam, 1993). Therefore, out of the hundreds of thousands of pieces of information that are happening in the world, what is of any importance and value to be presented by the media falls into the category of news.

News is an interesting report. They are based on important and accurate information about what people think and see (Gunasekara, 1998). Different people have different interpretations of this news (K. Soothill, and S. Walby, 1991). Millard Wheeler, an American journalist, believes that all the information that most people are interested in, can be considered as the news.

In the 16th century, the concept of news was defined as news flowing from all directions. Accordingly, it was believed that the word 'news' was formed by combining the initials of the English words 'North', 'East', 'West' and 'South'. But today it is felt that this interpretation is wrong. Professor Sunanda Mahendra states in one of his books (*Sanniwedana Shabdhakaraya*) that the word News is derived from words 'Novelties' and 'Newnes'. (Mahendra, 1997)

Among the definitions of news, the definition given by Pole D Masherier is very important. He says that news is new information related to a recent important event that affects people and arouses their interest. According to analysts Malvin L. Defleur & Everett Dennis the news process is the process by which professional news publishers gather new information and disseminate it through the media in a way that is accessible to the public and understandable to the public.

Charles A. Dana, a former editor of the New York Sun, says that news is something that is important to most of the people in society and has never been noticed before. According to him, "when a dog bite a man that is not a news, but when a man bites a dog that is a news" (Rajapakshe, 2009). Thus, it is clear that Charles Dana's concept of news is based on society. His analysis seems to include both novelty and human significance.

In the opinion of Millard Vileyer, a pioneer in the field of American journalism, anything that is timely and of interest to most people is news. Information that interests a large number of people is thus the best news. In the opinion of Professor Herbert Poole, who was once a journalist for the 'American New York Times', news is an active scientific idea. It is therefore difficult to define using traditional definition. Communication as well as news is a process (Piyadasa, 1993).

McEven, a leading author, states that anything that the reader mentions as news is news. Robert Durnton, a professor of history at Princeton University, says that news is limited to human activities. Thus only information that is important for reporting is called news. In particular, what readers read, hear, and watch becomes an initial step in the process of turning information into news.

The Oxford Dictionary defines news as 'new information about something that has happened recently', "[n]ews is information that people are hoping for, that is of interest to them, and that is relevant to a recent and important event," explains the Asia Pacific Broadcasting Institute's handbook, 'Here is the News'. This definition seems to be a more practical definition and has also provided an understanding of the essential features of a news story.

The process of administering justice in child abuse is also very important. The Police Department is the main supporter of the judiciary in this judicial process. Police are obliged to begin investigations as soon as they receive child abuse complaints. When the police conduct investigations, the

details of those investigations are also published through the media. In particular, information on such abuses is published through the media.

The main objective of this thesis is to examine how media reporting on child sex crimes take place specifically in the Sri Lankan legal context.

Intentions,

- Exploring the various theoretical conceptual approaches to the legal application effectiveness of methods used in the media in child sex crime reporting.
- Examine the current state of legal application activism of media methods of reporting child sexual offenses.
- Investigate whether media coverage of child sex crimes contributes to the development of such abuses.
- Exploring the potential for reducing child sex offenses through media reporting.
- Investigate the reasons why individuals who are also victims of media reporting do not take legal action against those institutions.
- Study the existing law relating to media reporting on child sexual offenses and submit proposals if the law needs to be amended.
- Create a social discourse on the legal background of media reporting on child sexual offenses.

## II. RESEARCH METHODOLOGY

First, the main theoretical foundation of this research was built on the George Gabner's Cultivation Theory, and the legal approach, the historical approach, the sociological approach, the psychoanalytic approach and the structural approach were also the basis for the research. Based on the television media, Gabner pointed out that the media is a powerful medium that can influence the public, and that the effect is active for a long time without the consumer being aware of it. This research shows that child sex crimes have historical origins, as well as sociological conditions related to child sex crimes and media reporting, psychological analysis related to media reporting on child sex crimes, and legal status related to media reporting on child sex crimes. Based on the theoretical foundation, secondly, in this research, 04 basic data collection methods were used.

1. Questionnaire method
2. Interview method
3. Case study method
4. Participatory observation method

Under the questionnaire system, the questionnaire was given to 500 persons between the ages of 14-60 years and the sample was selected under five modes. 100 samples each were selected on the basis of schools, universities, professions, civil organizations and the general public.

The questionnaire consisted of 24 questions, which included quantitative questions as well as qualitative questions. Twelve (12) experts and ten (10) professional journalists in the fields of law, psychology, sociology and journalism participated in the interview process. Media reports pertaining to 20 Child Sexual offenses cases were used as case studies. Observation is based in relation to the experience gained while working as a professional journalist for the Sri Lanka Broadcasting Corporation and Siyatharupavahini. A statistical method was used for quantitative data analysis and a descriptive method for qualitative data analysis was used when drawing conclusions, based on the findings.

Several statistical methods were used to analyze the data. The information collected was calculated as a percentage. Statistical methods were used in the analysis of the data, and some information was described in detail. SPSS computer software was also used in the data analysis.

## III. RESULTS AND DISCUSSION

Data were obtained in four ways in this research, which were discussed in Chapter Four. Child sex crimes have become a serious social catastrophe in the country, and the media coverage of them has become another serious catastrophe. The problem of the research was how media reporting on child sex crimes could take place specifically in the Sri Lankan legal context. In this regard, research has been able to gather information on various data collection methods. The research also focused on the impact of media reporting on the recipient.

A child is a person under 18 years of age. Article 1 of the UN Convention on the Rights of the Child defines a child as a person under 18 years of age. Sri Lanka also signed the Charter in 1991 and ratified the Government. 77% of the sample correctly identified who the child was.

The majority of society is aware of child sex crimes. Child sexual offenses include sexual assault, stabbing, rape, adultery, and serious sexual abuse. Ninety-six percent of the samples had some understanding of child sex abuse.

Through the media, social media and rumors, people gain an understanding of child sex crimes. The majority of society learns about child sex crimes through the media. Some people gain an understanding of child sex crimes through social media.

Media coverage of child sex crimes reveals the identity of the victim. The media reveals the victim's name, area, school, age, gender, religion, race, family information, citizenship, photos, videos, audio recordings, etc.

Media coverage of child sex crimes reveals the identity of the media victim for a number of reasons. The belief that the attractiveness of the news will increase, the non-reporting of identity facts will be considered as a shortcoming in the news report, and the right of the media to information can be considered as some main reasons.

In addition, bringing the news closer to the receiver, the lack of the recipient's opposition, the fact that such reporting is a key factor in increasing the channel's popularity in the face of competition within the media, the belief that reporting controls anti-social behavior, and the influence of the executive section of the media have contributed to this.

There is no discipline in reporting of child sexual abuse incidents on social media. That is a serious problem. The media is working to reveal the identities of the victims of child sex crimes without any restrictions. Reporting infringes on the victim's privacy and fundamental rights. When a media report reveals the identity of the victim of a child sex crime, the victim's fundamental rights are violated.

It is an offense under Sri Lankan law to publish the name and identity of the victim of a child sexual offense (In terms of Section 365A of the Penal Code (Amendment) Act No. 22 of 1995) The law should be enforced against media institutions that do such things. This leads to child being mentally abused in front of the society, harming the victim's personality, harming the victim's family members, the victim being a hater of society. Thus the media must act to protect media ethics and the law must be enforced equally for all. Therefore this research reveals that the law should be enforced against this prevailing situation.

Also, the victim does not take legal action against media reports that reveal the names and identities of victims of child sexual abuse. The reasons for this are economic hardship, fear of taking legal action against the media, cultural factors, social and psychosocial factors, fear of social contradictions, fear of social stigma, fear of being subjected to secondary victimization, fear of the future of the victim, the ignorance of the law, the victim's personality being weakened with the sexual offense committed, the fact that there is no discussion in society that legal action has been taken against the media, no state intervention, generalization of the behavior the media and the injustice of the poor society is not represented in the courts (T.B. Abeysekara, S. Elkaduwe, 2016).

Authorities do not take legal action against media reports that reveal the names and identities of victims of child sexual abuse. Under Section 365 (c) of the Penal Code (Amendment) Act No. 22 of 1995, no case has been filed against reports made by the Attorney General's Department or the Sri Lanka Police in such a manner as to reveal the identities of child victims. This was confirmed by the information obtained from the above two institutions under the Right to Information Act No. 12 of 2016. Legal, social, economic, cultural and political factors influence the authorities not to take legal action against media reports that reveal the identities of victims of child sex crimes.

The current law on media coverage of child sex offenses is inadequate. However, the existing law, is not practically enforceable which is a serious problem.

Media coverage of child sex crimes contributes to the growth of such crimes. In media reporting, crime is sometimes even portrayed. There is a chance that someone with a corrupt mind who sees these events will be tempted to commit such a crime.

The media has the potential to reduce child sexual abuse in the country. It is very important to raise awareness through the media. The research revealed that the media should not be limited to mere reporting but should raise awareness in the media to prevent the recurrence of child sex crimes in the society. The names of the perpetrators of child sex crimes should be made public by the media. It is also important to socialize the punishment for child sex crimes. The media should not publish any news or report that promotes child sex crimes. More opportunities for awareness should be created by the media. Instead of promoting cheap popularity, media reporting should promote social justice, and media institutions should promote religious and ethical programs. It is also the responsibility of the media to report child sex crimes in a way that protects the victim.

The media reports child sex crimes for commercial and financial gain. The subscriber is more interested to know about such events. The more popular a media company is, the greater its commercial and financial benefits. In return, the media is inclined to report on anti-social behavior

Anti-social incidents, such as child sex crimes, are widely reported in the media. It is advisable to be limited. The reporter should have a broad understanding of what should and should not be reported. The media does not act ethically in reporting anti-social incidents such as child sex crimes. It is a serious problem that some media outlets have a greater impact on the victim than the actual sex crime. The media does not play a broad role in victim counseling. The media can play a vital role in providing counseling to victims of child sexual abuse. Incest is the most common child sex crime in the country. The media is working to report these incidents in a very low manner. The media in Sri Lanka is failing to fulfill its social responsibility to reduce child sex crimes. The commercial aims of the media have come to the fore, while the public service aims have been undermined.

Anti-social incidents, such as child sex crimes, depend on the definition of reporting by the media. It is important for the media to have a broad definition of the issues affecting child sex crimes and the mental status of the accused.

Media stations sell child sex crimes. This can be seen in the electronic media as well as in the print media. These are often done with the aim of popularizing newspapers as well as websites. It is a problem that the identity of the victim child is made public not only in the media but also in litigation. It makes the victim a secondary victim, even in the courtroom. There is no proper regulatory system in the country for media reporting on 'sexual offenses' (T.B. Abeysekara, C. Samarasinghe, 2019). If there is a proper media regulatory system, media reporting will be standardized. Powerful parties

interfere unnecessarily in reporting anti-social behaviors through the media. Strong parties, including businessmen, are putting that pressure on the media.

Today, morality is controlled by the media. The tradition is to work on media ethics. But today's media practice is vastly different from tradition. Media coverage of child sex offenses undermines the morality of the judiciary. Media coverage of court cases has an indirect effect on court proceedings and decisions. Protecting the victim of a child sex crime is done by keeping the court proceedings confidential without opening them to the media.

Media institutions and journalists have the potential to easily provoke the public. The media acts as the fastest mechanism to build up the public opinion. The media can also use violence against children in connection with child sexual abuse. Examples are the assassination of Seya Sadewmi and the assassination of a scientist in Jaffna.

Journalists and media stations do not have self-restraint in reporting on child sexual crimes. The main factor influencing this is market competition. Another factor is the lack of a high media culture in the country to achieve self-restraint. The dual factors of money and popularity also play a role. Lack of proper media guidance system, lack of receptor antagonism, ignorance of the journalist, lack of awareness and training workshops for journalists on child sexual offenses as well as lack of a systematic media regulatory mechanism in child sex crime journalism reporting have also contributed to the lack of self-restraint of journalists and media station in reporting on child sex crimes.

Victims are severely affected by the disclosure of their identities in media reporting. Such media coverage can cause serious damage to a child's privacy. Victims become secondary victims in the eyes of society due to media reporting. Sometimes victims also suffer from mood swings such as anxiety and depression. Once the victim's identity is revealed by the media, the situation worsens thus that the child cannot even get married.

Counseling psychology plays an important role in rehabilitating the mood that breaks down following a child sex crime. Psychoanalysis counseling approach, behavioral counseling approach, holistic counseling approach, rational counseling approach and cognitive counseling approach are the most important.

He or she behaves abnormally based on the fact that he or she is a victim of a child sex crime and his or her identity is revealed by the media. In such a case, counseling should be done and cognitive counseling approach is more important.

There are differences between the social world of the journalist who reports child sex crimes and the social world of the victim. The social status, attitudes and background of the reporter also affect the media report. Also, the reporter's education and the reporter's thinking about social forces also affect media reporting.

The media provides pre-judgments on child sex crimes which is a serious problem. It should not be in the media. The media cannot play the role of the judiciary. Pre-judgments by the media in the Seya murder case caused serious problems.

The media exaggerates child sex crimes. The research also revealed that this is an exaggerated report in favor of the popularity of the media. It's problematic.

Journalists have no understanding of Section 365 (c) of the Penal Code (Amendment) Act No. 22 of 1995 relating to media reporting on child sexual crimes. Many journalists are unaware that there is a law on reporting in the country or that it can be enforced in practice.

#### IV. CONCLUSION

The problem with this research was how the media coverage of child sex crimes took place specifically in the Sri Lankan legal context. (According to the Penal Code (Amendment) Act No. 22 of 1995) Child sex offenses are not a simple matter. A serious social catastrophe. There is a legal context in Sri Lanka for media reporting. This is clearly stated in Section 365 (c) of the Penal Code (Amendment) Act No. 22 of 1995.

According to the article, anyone who publishes or discloses the name or identity of a victim of a child sex offender is liable to imprisonment for a term not exceeding two years or to a fine or both. If media stations comply with this law when reporting on child sexual offenses, media reporting will also be standardized. According to the law, the media has no access to the victim's name, area, school, age, gender, religion, race, family information, citizenship, photos, videos and audio recordings. In practice, however, the situation is quite different.

Twenty studies were considered in the research. What happened was that media reports pertaining to 20 child sex crimes committed in the country were used to study whether those reports were specific to the legal context of the country. All those media reports revealed the identity of the victim of the sex crime. Media coverage of Seya Sadewmi's assassination revealed all the identities of her and her family. A similar situation is found in other studies. During my tenure as a professional journalist at *Siyatha TV* and the Sri Lanka Broadcasting Corporation (SLBC), it was revealed that these media stations were careless about the legal context in which the media reported on child sexual crimes.

Respondents' responses to the research questionnaire also revealed that media reports on child sexual offenses included the victim's area, name, age, gender, family information, photos, and videos. It was also endorsed by subject experts and professional journalists who were interviewed.

There are a number of factors that have contributed to the non-compliance of media institutions and journalists with the law relating to the reporting of child sex crimes. The breakdown of the concept of the rule of law, the close relationships between certain media stations and criminals, the

disrespect and disobedience of journalists to the law, the dislike of the public towards journalists, the ignorance of the law in the media, their belief that no one will enforce the law against media institutions or journalists, the problem of journalists' intelligence, the low level of skills of journalists, the disparity between human interests, the desire of journalists to be popular, problems with the standard of journalism, inequalities in media culture, disrespect of journalists towards core values in society, Poverty of social consciousness with the advancement of modern technology, journalists working to take advantage of ignorance of the law, lack of standardized international experience for journalists, lack of receptive antagonism, the mentality of journalists have led to media coverage of child sex crimes not being in line with the Sri Lankan legal context.

Accordingly, confirming its hypothesis at the end of the research '*A Study on the Legal Applicability of Methods used by the Sri Lankan media in reporting child sex offenses*', the main conclusion was that media reporting on child sexual offenses did not comply with the legal provisions of the Penal Code.

#### SPECIAL THANKS

In doing this research author made continuous contacts with several resource persons. They made their fullest support. Author appreciated their consideration, guidance, help and time they made when and where necessary.

To all who supported the research.

#### BIBLIOGRAPHY

- [1] Abeysekera, T.B., Samarasinghe, C., Online Sexual Harassment of Women in Sri Lanka: What Researches have done so far, (2019) Vol-24 Bar Association Law Journal, 297-303.
- [2] Abeysekera, T.B., Elkaduwe, S., An Informed Approach to Combat Sexual Offences: A Criminological Analysis (2016) Vol-4 JSA Law Journal 240.
- [3] Dissanayake, D. G. (1999). Television News Production. Colombo 04, F.E.S. Publications.
- [4] Gunasekara, R. (1998). Advice to Journalists, Author Publications.
- [5] Goddard, C., & Saunders, B. J. Child Abuse and the Media (2001) Vol-14 Issues in Child Abuse Prevention, 1-22.
- [6] Hapuarachchi, Ajantha (2017). News and News Reporting. Colombo, S. Godage brothers.
- [7] Kariyawasam, T. (1993). International news organizations. Colombo, S. Godage and brothers.
- [8] Kariyawasam, T. (1993). News writing and reporting. Colombo, S. Godage and brothers.
- [9] Mahendra, s. (1997). Communication Studio. Colombo, S. Godage and brothers.
- [10] Marasinghe, c. (1995). Handbook of Child Abuse. Colombo 01, Police Department.
- [11] National Child Protection Authority. (2020). Frequency Database, Madiwela.
- [12] Piyadasa, R.L. (1993). Newspaper Art Ideas and Investigations. Kandy, Author Publications.
- [13] Rajapaksa, W. (2009). Principles of Communication. Colombo, S. Godage and brothers.
- [14] Serisier T., Sex crimes and the Media. (2017 Jan 25) Oxford Research Encyclopedia of Criminology and Criminal Justice. <<https://doi.org/10.1093/acrefore/9780190264079.013.118>> visited on 21st April 2021
- [15] Soothill, K., and Walby, S., Sex Crime in the News. (Routledge 1991)