

CRITICAL AND ANALYTICAL STUDY ON CHILD ABUSE

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Abstract

Child Abuse in all fields being a victim could be most traumatic experience for Children. Especially in India where the society looks down upon the Children and the law doesn't even properly recognise Child Abuse. In this paper I have plan to discuss upon the various types and effects of Child Abuse that can be inflicted upon a Child and how they adversely affect them. I have also briefly examine upon the law exist to protect Children in such cases such as the Protection of Children From Sexual Offences Act, 2012. I am also having an elaborate review upon the recent increase in Child Abuse against Children. In conclusion I have attention upon the options available to the victims to Child Abuse and the changes required in legal system to effectively curb the rising spirits of Child Abuse criminals. I also plan to suggest countering the ever increasing Child Abuse against Children in India.

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INTRODUCTION

Child abuse is the physical, sexual or emotional maltreatment or neglect of a child or children.¹ In the United States, the Centers for Disease Control and Prevention, and the Department for Children and Families, define child maltreatment as any act or series of acts of commission or omission by a parent or other caregiver that results in harm, potential for harm, or threat of harm to a child.² Child abuse can occur in a child's home, or in the organizations, schools or communities the child interacts with.

DEFINITION

The Indian Penal Code does not spell out the definition of Child abuse as a specific offence neither does it offer legal remedy and punishment for "Child Abuse". The IPC broadly lays out punishment for offences related to rape or sodomy or "unnatural sex". The IPC Laws are rarely interpreted to cover the range of child sexual abuse; the law relating to term "Sodomy" or 'rape' are too specific and do not apply to acts like fondling, kissing, filming children for pornographic purposes etc. 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. There are many forms of child maltreatment, including neglect, physical abuse, sexual abuse, exploitation, and emotional abuse.

According to the Journal of Child Abuse and Neglect, child abuse is "any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation, an act or failure to act which presents an imminent risk of serious harm".³ In Western countries, preventing child abuse is considered a high priority, and detailed laws and policies exist to address this issue. Different jurisdictions have developed their own definitions of what constitutes child abuse for the purposes of removing a child from his/her family and/or prosecuting a criminal charge.

Susan Orr, former head of the United States Children's Bureau U.S. Department of Health and Services Administration for Children and Families, 2001–2007, states that "much that is now defined as child abuse and neglect does not merit governmental interference".⁴ Douglas J. Besharov, the first Director of the U.S. Center on Child Abuse and Neglect, states "the existing laws are often vague and overly broad"⁵ and there is a "lack of consensus among

¹ "Child abuse – definition of child abuse by the Free Online Dictionary, Thesaurus and Encyclopedia"

² Leeb, R.T.; Paulozzi, L.J.; Melanson, C.; Simon, T.R.; Arias, I. (1 January 2008). "Child Maltreatment Surveillance: Uniform Definitions for Public Health and Recommended Data Elements". Centers for Disease Control and Prevention. Retrieved 20 October 2008

³ Herrenkohl RC (2005). "The definition of child maltreatment: from case study to construct"

⁴ Orr, Susan. "Policy Study 262 Child Protection at the Crossroads: Child Abuse, Child Protection and Recommendations for Reform"

⁵ Philanthropy Roundtable. pp. 1-4.

professionals and Child Protective Services, personnel about what the terms abuse and neglect mean”.⁶

TYPES OF CHILD ABUSE

Child abuse can take several forms⁷ the four main types are physical, sexual, psychological, and neglect⁸. By far the largest category was “neglect”. Often, these are cases in which the primary problem is family poverty.”⁹ According to the 2010 Child Maltreatment Report, a yearly Federal report based on submission by state Child Protective Services Agencies in the U.S., “as in prior years, neglect was the most common form of maltreatment.” The cases were substantiated as follows: neglect 78.3%, physical abuse 17.6%, sexual abuse 9.2%, and psychological maltreatment 8.1%.¹⁰ According to Richard Wexler, the Director of the U.S. National Coalition of Child Protection Reform, of “those labeled “substantiated” or “indicated” by protective workers, relatively few are the kind that leap to mind when we hear the words “child abuse”.

1. Physical Abuse-

Physical abuse involves physical aggression directed at a child by an adult. The American Humane Association defines physical abuse as any “non-accidental trauma or physical injury” to a child¹¹. Among professionals as well as the wider public, people do not agree on what behaviors constitute abuse.¹² In particular, the distinction between child discipline and abuse is often poorly defined. Abuse often results from the indiscriminate use of corporal punishment, although even so-called “ordinary” physical punishment can cause serious harm. Physical abuse often does not occur in isolation, but as part of a constellation of behaviors including authoritarian control, anxiety-provoking behavior, and a lack of parental warmth.¹³ The psychologist Alice Miller, noted for her books on child abuse, took the view that humiliations, spankings and beatings, slaps in the face, etc. are all forms of abuse, because they injure the integrity and dignity of a child, even if their consequences are not visible right away¹⁴

The Human Rights Committee of the United Nations has stated that the prohibition of degrading treatment or punishment extends to corporal punishment of children. Some professionals claim that cultural norms that sanction physical punishment are one of the

⁶ Krason, Stephen M. “The Critics of Current Child Abuse Laws and the Child Protective System: A Survey of the Leading“

⁷ “Child Abuse and Neglect: Types, Signs, Symptoms, Help and Prevention”

⁸ “A Coordinated Response to Child Abuse and Neglect: The Foundation for Practice”. Retrieved 5 March 2015

⁹ National Coalition for Child Protection Reform, Retrieved August 2012

¹⁰ Children’s Bureau, Child Welfare Information Gateway, Protecting Children Strengthening Families. Retrieved May 2012

¹¹ American Humane Association

¹² Noh Anh, Helen (1994), “Cultural Diversity and the Definition of Child Abuse”, in Barth, R.P. et al., Child Welfare Research Review, Columbia University Press, 1994, p. 28

¹³ International Encyclopedia of the Social Sciences, 2008

¹⁴ UN Human Rights Committee (1992) “General Comment No. 20,” HRI/GEN/1/Rev.4.: p. 108

causes of child abuse, and have undertaken campaigns to redefine such norms. Most nations with child-abuse laws deem the deliberate infliction of serious injuries, or actions that place the child at obvious risk of serious injury or death, to be illegal.

2. Sexual abuse

An India NGO named Recovery and Healing from Incest (RAHI) conducted India's first study of child sexual abuse in 1998 called "Recovery and Healing from Incest, Voices from the Silent Zone (New Delhi 1998). The study interviewed 600 English-speaking middle and upper class women out whom 76 percent said they had been abused in their childhood or adolescence. Shockingly 40 percent said they had been abused by a family member mostly an uncle or a cousin. Yet despite the study making its findings public nothing much was done by the government or related agencies to address the problem with seriousness. Selling the sexual services of children may be viewed and treated as child abuse with services offered to the child rather than simple incarceration. In other words Child sexual abuse is a form of child abuse in which an adult or older adolescent abuses a child for sexual stimulation.¹⁵ Sexual abuse refers to the participation of a child in a sexual act aimed toward the physical gratification or the financial profit of the person committing the act¹⁶ Forms of CSA include asking or pressuring a child to engage in sexual activities, indecent exposure of the genitals to a child, displaying pornography to a child, actual sexual contact with a child, physical contact with the child's genitals, viewing of the child's genitalia without physical contact, or using a child to produce child pornography.

Most sexual abuse offenders are acquainted with their victims; approximately 30% are relatives of the child, most often brothers, fathers, mothers, uncles or cousins; around 60% are other acquaintances such as friends of the family, babysitters, or neighbors; strangers are the offenders in approximately 10% of child sexual abuse cases. Effects of child sexual abuse on the victim(s) include guilt and self-blame, flashbacks, nightmares, insomnia, fear of things associated with the abuse, self-esteem issues, sexual dysfunction, chronic pain, addiction, self-injury, suicidal ideation, somatic complaints, depression, post-traumatic stress disorder, anxiety, other mental illnesses including borderline personality disorder and dissociative identity disorder, propensity to re-victimization in adulthood, bulimia nervosa, and physical injury to the child, among other problems.

PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

This new Act provides for a variety of offenses under which an accused can be punished. It recognizes forms of penetration other than peno-vaginal penetration and criminalizes acts of immodesty against children too. The legislators tried to draft a gender-neutral Act, but failed, using the pronoun 'he' in the description of various offenses. With respect to pornography, the Act criminalizes even watching or collection of pornographic content involving children.

¹⁵ "Child Sexual Abuse", Medline Plus, U.S. National Library of Medicine, 2 April 2008.

¹⁶ Guidelines for psychological evaluations in child protection matters, Committee on Professional Practice and Standards, APA Board of Professional Affairs, The American Psychologist 54 (8)

The Act makes abetment of child sexual abuse an offense. It also provides for various procedural reforms, making the tiring process of trial in India considerably easier for children. The Act has been criticized as its provisions seem to criminalize consensual sexual intercourse between two people below the age of 18. The 2001 version of the Bill did not punish consensual sexual activity if one or both partners were above 16 years.

3. Psychological abuse

There are multiple definitions of Child Psychological Abuse:

- a) In 2015, additional research confirmed these 2014 statements of the American Psychological Association. Victims of emotional abuse may react by distancing themselves from the abuser, internalizing the abusive words, or fighting back by insulting the abuser. Emotional abuse can result in abnormal or disrupted attachment development, a tendency for victims to blame themselves (self-blame) for the abuse, learned helplessness, and overly passive behavior.
- b) In 2014, the American Psychological Association stated that:¹⁷
“Childhood psychological abuse [is] as harmful as sexual or physical abuse.” “Nearly 3 million U.S. children experience some form of [psychological] maltreatment annually.” Psychological maltreatment is “the most challenging and prevalent form of child abuse and neglect. Given the prevalence of childhood psychological abuse and the severity of harm to young victims, it should be at the forefront of mental health and social service training.
- c) In 1995, APSAC defined it as: spurning, terrorizing, isolating, exploiting, corrupting, denying emotional responsiveness, or neglect” or “A repeated pattern of caregiver behavior or extreme incident(s) that convey to children that they are worthless, flawed, unloved, unwanted, endangered, or only of value in meeting another’s needs.”

4. Neglect

Child neglect is the failure of a parent or other person with responsibility for the child to provide needed food, clothing, shelter, medical care, or supervision to the degree that the child’s health, safety, and well-being are threatened with harm. Neglect is also a lack of attention from the people surrounding a child, and the non-provision of the relevant and adequate necessities for the child’s survival, which would be a lacking in attention, love, and nurture. Some of the observable signs in a neglected child include: the child is frequently absent from school, begs or steals food or money, lacks needed medical and dental care, is consistently dirty, or lacks sufficient clothing for the weather.

Neglectful acts can be divided into six sub-categories:

- (i) **Abandonment:** when the parent or guardian leaves a child alone for a long period of time without a babysitter.

¹⁷ “Childhood Psychological Abuse as Harmful as Sexual or Physical Abuse”, The American Psychological Association, 8 October 2014.

- (ii) **Physical Neglect:** characterized by the failure to provide the basic physical necessities, such as a safe and clean home;
- (iii) **Supervisory Neglect:** characterized by the absence of a parent or guardian which can lead to physical harm, sexual abuse or criminal behavior;
- (iv) **Medical Neglect:** characterized by the lack of providing medical care;
- (v) **Educational Neglect:** characterized by the caregivers lack to provide an education and additional resources to actively participate in the school system; and
- (vi) **Emotional Neglect:** characterized by a lack of nurturance, encouragement and support;

EFFECTS OF CHILD ABUSE

A 1991 source reported that studies indicate that 90 percent of maltreating adults were maltreated as children. Child abuse can result in immediate adverse physical effects but it is also strongly associated with developmental issues and with many chronic physical and psychological effects, including subsequent ill-health, including higher rates of chronic conditions, high-risk health behaviors and shortened lifespan. Maltreated children may grow up to be maltreating adults.

- a. **Emotionally Effect-** Child abuse can cause a range of emotional effects. Children who are constantly ignored, shamed, terrorized or humiliated suffer at least as much, if not more, than if they are physically assaulted. The effects of abused children can also differ when it comes to babies and young children. Babies and pre-school children who are being emotionally abused or neglected may be overly-affectionate towards strangers or people they haven't known for very long. They can lack confidence or become anxious, appear to not have a close relationship with their parent, exhibit aggressive behavior or act nasty towards other children and animals. Overall, emotional effects caused by child abuse can result in long-term and short-term effects that ultimately affect a child's upbringing and development. Older children may use foul language or act in a markedly different way to other children at the same age, struggle to control strong emotions, seem isolated from their parents, lack social skills or have few, if any, friends.

Abused children can grow up experiencing insecurities, low self-esteem, and lack of development. Many abused children experience ongoing trust issues, withdrawal, trouble in school, and forming relationships.

- b. **Physically Effect-** The immediate physical effects of abuse or neglect can be relatively minor (bruises or cuts) or severe (broken bones, hemorrhage, or even death). In some cases the physical effects are temporary; however, the pain and suffering they cause a child should not be discounted. Rib fractures may be seen

with physical abuse. The long-term impact of child abuse and neglect on physical health and development can be:-

- (i) Shaken baby syndrome. Shaking a baby is a common form of child abuse that often results in permanent neurological damage or death . Damage results from intracranial hypertension after bleeding in the brain, damage to the spinal cord and neck, and rib or bone fractures.
 - (ii) Exposure to violence during childhood is associated with shortened telomeres and with reduced telomerase activity. The increased rate of telomere length reduction correlates to a reduction in lifespan of 7 to 15 years.
 - (iii) Children who experience child abuse and neglect are 59% more likely to be arrested as juveniles, 28% more likely to be arrested as adults, and 30% more likely to commit violent crime.
 - (iv) Impaired brain development. Child abuse and neglect have been shown, in some cases, to cause important regions of the brain to fail to form or grow properly, resulting in impaired development. These alterations in brain maturation have long-term consequences for cognitive, language, and academic abilities.
 - (v) Poor physical health. In addition to possible immediate adverse physical effects, household dysfunction and childhood maltreatment are strongly associated with many chronic physical and psychological effects, including subsequent ill-health in childhood, adolescence and adulthood, with higher rates of chronic conditions, high-risk health behaviors and shortened lifespan.
 - (vi) Adults who experienced abuse or neglect during childhood are more likely to suffer from physical ailments such as allergies, arthritis, asthma, bronchitis, high blood pressure, and ulcers. There may be a higher risk of developing cancer later in life, as well as possible immune dysfunction.
- c. Psychologically Effect-** A study by Dante Cicchetti found that 80% of abused and maltreated infants exhibited symptoms of disorganized attachment. When some of these children become parents, especially if they suffer from posttraumatic stress disorder (PTSD), dissociative symptoms, and other sequelae of child abuse, they may encounter difficulty when faced with their infant and young children's needs and normative distress, which may in turn lead to adverse consequences for their child's social-emotional development. Despite these potential difficulties, psychosocial intervention can be effective, at least in some cases, in changing the ways maltreated parents think about their young children.

Children who have a history of neglect or physical abuse are at risk of developing psychiatric problems, or a disorganized attachment style. Disorganized attachment is associated with a number of developmental problems, including dissociative symptoms, as well as anxiety, depressive, and acting

out symptoms. Health inequality also has its origins in the family, where it is associated with the degrees of lasting affective problems (lack of affection, parental discord, the prolonged absence of a parent, or a serious illness affecting either the mother or father) that individuals report having experienced in childhood.

On the other hand, there are some children who are raised in child abuse, but who manage to do unexpectedly well later in life regarding the preconditions. Such children have been termed *dandelion children*, as inspired from the way that dandelions seem to prosper irrespective of soil, sun, drought, or rain. Such children (or currently grown-ups) are of high interest in finding factors that mitigate the effects of child abuse.

CONCLUSION & SUGGESTION

Ensuring a world free of abuse for children will begin in Kerala, said Social Justice Minister Dr M K Muneer launching the three-month long state level campaign of an Abuse free world for children by the Kerala State Commission for Protection of Child Rights on the Children & rescues Day here on Thursday. The Minister gave the pledge on child rights which was rendered by the children and also launched the Commission & rescues website._ A large number of children in India are sexually abused by known persons like relatives, neighbours, at school, and in residential facilities for vulnerable children.

The government has failed to prevent much of the child sexual abuse from taking place. Additionally, the existing systems of child protection and the stakeholders involved including police, lawyers, media, teachers, parents etc. are simply not doing enough to help victims or to ensure that perpetrators are punished. Most cases go unreported. Poor awareness, social stigma, and negligence remain attached to the issue. There is a culture of silence around it.

A committee appointed by government, found that the government's child protection schemes, "have clearly failed to achieve their avowed objective." A statement released by Louis-Georges Arsenault, UNICEF Representative to India states, "It is alarming that too many of these cases are children. One in three rape victims is a child. More than 7,200 children including infants are raped every year; experts believe that many more cases go unreported. Given the stigma attached to rapes, especially when it comes to children, this is most likely only the tip of the iceberg."