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An Analytical Study on the Prevention of Physical Abuse against Children in India

THENDRALARASI RAJA[1] AND MAGESH KUMAR A[2]

ABSTRACT

One of the cruelest things that could ever happen to a child is abuse. Children is being abused no longer a serious crime in the eyes of the public. There are varies types of abuse such as physical, sexual, emotional and neglect. All of them have a serious impact over the future generation. This research predominantly deals with physical abuse faced by children. The most important thing that influenced the researcher to take up this topic was a video on Face book which portrayed a boy child being terribly abused by his mother. And the only motive of the researcher is to stop the children being victim to these kinds of abuses and the societal must pay great attention to put an end to these crimes. In this doctrinal research by using secondary sources, the cause of child abuse, its impact over children, why is it caused in the first place and the provisions in relation with this crime has been chronologically demonstrated. The main reason why the child abuse is still wandering over the country is due to the inefficiency of the statutory commissions and the lack of intense punishments towards this kind of offences.

Keywords: *Children, Physical abuse, Offence, Punishment, Victim.*

I. INTRODUCTION

"The true character of a society is most clearly shows that how it cares for its children". These powerful words were uttered by Mr. Nelson Mandela, Former President of South Africa. "It's simpler to nurture resilient children than to fix broken adults." These thought full sentences were stated by Mr. Frederick Douglass, abolitionist and statesman. This world has come across many great achievements and many great minds of the world has even gone beyond what mankind could possibly think. When it comes under the perspective of the simple social and psychological connotation, it suggest us only one thing - a person's social life and surrounding circumstances determine what he becomes, when his root is extremely strong he becomes a strong pillar for the community of human race but when it goes wrong he become a destructive pillar for the community of human race. And all these things only determine or go back to one

[1] Author is an Assistant Professor at Vels School of Law, Vels Institute of Science, Technology and Advanced Studies, India.
[2] Author is an Assistant Professor at Vels School of Law, Vels Institute of Science, Technology and Advanced Studies, India.

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final rule or it forms a connection with that of how a child is treated and “today’s seed is tomorrow’s fruit”. Children being the backbone of one's country must be given rights, protection, education and possibly all the essentials for carrying on one's life effectively.(Schröder et al. 2020; Krivacska 1993)

The World Health Organization (1999) laid down the definition for Child physical abuse as “actions or inactions, which result in actual or potential physical harm, that are under the control of or it can be preventable by the parent, carer, or authorised person”(such as a school teacher). The simplified definition of the child physical abuse is given by Medical Author, William C. Shiel Jr. as "Physical child abuse involves intentionally causing physical harm on a child with cruel or malicious intention." such Physical abuse can be the outcome of punching, beating, kicking, biting, burning, shaking, or otherwise harming a child physically.” (Recognizing & Preventing Emotional Child Abuse, 2012).

This research has been made with an ultimate revelation of how to prevent the physical abuse faced by the children.

The aim of this study is to find moral practices which could stop physical abuse faced by children all across the country.

A. The objectives of this study:

The objectives of this study are

- To find the inner meaning of physical abuse towards children,
- To find who is responsible for it and to find the psychological reasons behind abusing a child
- To find provisions regarding child physical abuse and to find ways how to prevent it.

B. Review of Literature

Loveleen Kacker, “Childhood Betrayed: Child Abuse and Neglect in India”, Harper Collins, 2015. This book deals with the real life incidents of child abuse victims and demonstrates a pathway to understand the consequences of such crimes and neglect. It further states that children don’t have the capacity to bear the abuse and cope with it. And the care of government and organisations are needed to wake them out of this cruelty.(“Recognizing Child Abuse: Physical Abuse” 2008).

World Health Organization, “International Society for the Prevention of Child Abuse and Neglect, Preventing Child Maltreatment: A Guide to Taking Action and Generating Evidence”, World Health Organization, 2006. This book assisting the government, NGO’s and gives idea

for the implementation of programmes for spreading awareness about child abuse. The child abuse is not even being recognised as a crime and that's a great threat for young souls. The help of NGOs and other organisations would be of great importance for giving a clean path for the young minds to grow in peace (Wattam 1999).

India Bryce, Yolande Robinson, "Wayne Petherick, Child Abuse and Neglect: Forensic Issues in Evidence", Impact and Management, Academic Press, 2019. This book deals with the victimisation of the children and how its causing impact over the country. It finds a way to stop this abuse. (Greeley 2010).

National Research Council, Institute of Medicine, Committee on Law and Justice, Board on Children, Youth, and Families,Committee on Child Maltreatment Research, Policy, and Practice for the Next Decade: Phase II, "New Directions in Child Abuse and Neglect Research", National Academies Press, 2014. This book provides us a new perspective on how to view the child abuse and neglect. It states that if the young minds are corrupted and destroyed from a very young age then, the path one could take could be disastrous as well, so it is an obligation to stop and prevent physical abuse.(Smith et al. 2020).

Asha Bajpai,"Child Rights in India: Law, Policy, and Practice", Oxford University Press, 2018. This book deals with the power of legislation to prevent this problem and it further states that the government is responsible for protecting the children and safeguarding them from these kinds of problems. (Schröder et al. 2020).

Methodology

The researcher has drafted a doctrinal research paper and a descriptive method of research has been used for the better purpose of enlightening the main aim of this paper. The secondary sources have been used in the form of Journals, Articles, Documentaries, Interpretation of legal frameworks, Books, Newspapers, Research papers etc.

II. DISCUSSION

The primary contributing factors to child physical abuse:

The child abuse has been a hot topic which spreads all across the globe as a wild fire. There are many kinds of child abuse such as Physical, sexual, emotional or psychological and neglect. But this research paper ultimately focuses on the physical abuse faced by the children and how to prevent it. There are many prior factors that causes physical abuse to a child and in the book "Child Abuse and Neglect: Forensic Issues in Evidence, Impact and Management" it has been stated that the societal and religious aspect has lead to the corporal way of punishment to

children. And this kind of bodily punishment to a child in the school was accepted by everyone, that is punishing the rebellious or tough children through physical punishment. In most of the cases the schools were allowed to use Belt, ruler or whip as an instrument to discipline the children.

The reference from the Christian Bible stated that it was an accepted practice to inflict pain on a child to discipline him / her. "He that spareth the rod hateth his son; but he that loveth he chasteneth him betimes" (Proverbs, XIII, 24, King James Version) and "Foolishness is bound in the heart of a child; but the rod of correction shall drive it from him" (Proverbs, XXII, 15, King James Version). But when this concept was misunderstood and when the physical pain of a child went overboard in the name of disciplining him or her , the physical abuse came into play. (Moore 2018a)

It has been determined that the children from age 8 to 14 years are stated to be highly physically abused than that of children from age 1 to 7. Because they have more exposure to the people in the community and more risk to get physically abused than that of other children who sit in home and are secured by their parents. But in most of the cases the physical abuse is also caused by the parents out of stress and frustration. (Moore 2018a; DePanfilis 2006)

But there arises a question in the midst of all these chaos, who is responsible for the physical abuse faced by children and being a victim at this age or in other words who is causing or inflicting the pain on the children. Well there are various phenomena that constitute physical abuse to children. Pointing out towards parents to strangers. Most of the time physical abuse is taking place due to the children's inability to retaliate the pain inflicted on them or they are often neglected and have no one is there to support them or even to talk about this kind of issues. (Reece, Arnold, and Splain 1996)

The physical abuse is caused by the following people who are considered to be a subject material who are ultimately responsible for physical abuse caused to the child most of the time. Parents, Relatives, Neighbor , Strangers, Teachers & Other Childrens (who are their age or elder than them - this kind of stigma often takes place in schools or between street boys) (Solon 2018)

United States National Library Of Medicine as stated under Medline plus that child physical abuse is most of the time taking place at their home and by someone whom they know.

Enduring Impact of Physical Abuse in Childhood

Enhancing children as the backbone of the country, the government has constituted several commissions to safeguard, protect and to give a better life to the children. Some of the

predominant commissions are "The Commission for protection of child rights, 2005" and "National policy for children 1974". (Moore 2018b)

"The Juvenile Justice (Care and Protection of Children) Act, 2000" stated out a provisions relating to the abuse faced by juveniles and children.(Chopra 2015)

The Indian Constitution has laid forth certain Articles which constitute a great support for children, Article 15(3) and Article 39(f) of The Indian Constitution.

The Commission for protection of child rights, 2005, NCPCR, was established by the act of parliament, the main contributory function of this commission is to examine the mental and physical torture of the children and immediately inform it to Taluk or a District legal service authority within 48 hours. This statutory body inquires into complaints made in regard with violation of children rights. It further monitors and reviews the safeguards provided by law to the children and an annual report is sent to the Government. (Elliott 1994)

National policy for children 1974, this policy overall deals with all aspects of safeguarding children from education, Health to preventing them from their exploitation. Under policy and measure (ix) Children shall be protected against neglect, cruelty and exploitation. This policy particularly addresses safeguarding children from neglect, cruelty and exploitation. (Kenny 2018)

Section 23 of The Juvenile Justice (Care and Protection of Children) Act, 2000 predominantly deals with the cruelty to juvenile and within the perspective of this section, the concept child is camouflaged.

Punishment for cruelty to juvenile or child: Whoever, having the actual charge of, or control over, a juvenile or the child, assaults, abandons, exposes or wilfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile or the child unnecessary mental or physical suffering shall be punishable with imprisonment for a term which may extend to six months, or fine, or with both[3].

In the above section it's clear that there are two subjects to whom this section is addressed: "Juvenile and a Child".

Article 15(3) of the Indian Constitution states that "Nothing in this article shall prevent the State from making any special provision for women and children"[4].

[3] Section 23 of The Juvenile Justice (Care and Protection of Children) Act, 2000
[4] Article 15(3) of the Indian Constitution

Article 39(f) of The Indian Constitution states that "children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment"[5]

The following two Articles of the Indian Constitution denotes all but one thing safeguarding the rights of children and providing them with protection and basic health care facilities.

As of now there is only one provision that directly points out the physical abuse of children and this is Section 23 of The Juvenile Justice (Care and Protection of Children) Act, 2000. The rest of the frameworks such as commissions or other constitutional Articles deals with a generic view of safeguarding the children.("Long-Term Consequences of Child Abuse and Neglect" 2006)

III. Conclusion

The government has formed commissions, policy and provisions to safeguard the children but the reason behind the still ongoing crimes against children are unfathomable. The society is not taking the abuse against children as a serious crime, this lethargic attitude is heard in the voice of the physically abused children. There are plenty of provisions to safeguard the sexual offence against children but it's a bitter truth to accept that, there are fewer provisions which directly pin down towards the physical abuse faced by the children. The most critical task above all these crusted problems is that most of the children are physically being abused by their own family. And only when the established commissions are effective and impartial this could be easily eradicated within no time. The most important crust the researcher would like to share is that, Section 23 of The Juvenile Justice (Care and Protection of Children) Act, 2000, defines the physical abuse against child and juvenile but the punishment for the aggressor is highly low, only 6 months imprisonment and fine. The nature of punishment must be aggressive so that crime could be reduced and this is the predominant factor which could prevent the physical abuse faced by the children.

IV. Recommendations

The following recommendations when followed or when this subject matter of "Child physical abuse" is taken seriously, the percentage of this crime could be reduced 70 percentage.

Punishment must be vigorous for aggressors, CCTV surveillance cameras to be installed every corner of the street, Once in 2 months counselling must be conducted by the Government to

[5] Article 39(f) of The Indian Constitution

children to find whether they are abused. Parents must be educated against the child abuse. If any issues relating to the abuse of the children are shared on social media then immediate action must be taken by police by tracing that locality and arresting whoever has indulged in it. Orphanage home must be monitored carefully. Teachers must be given knowledge about physical abuse against children.

Instead of making the children victims, the society must focus on creating a better environment for them because they are the future generation and our country can stand only by them.

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