

Violation of Child Rights in Institutions

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ABSTRACT

Childhood is an important formative stage of human development as it holds the potential to the future development of any society. Children who are brought up in an environment which is conducive to their intellectual, physical, social health, grow up to responsible and productive member of society. The time has come to reexamine the saying, "spare the rod and spoil the child". Children are at the receiving end of the rod both at their homes and schools from parents, Teachers and non-teaching school authorities. Child abuse has many forms physical, emotional, sexual, neglect and exploitation. These are potentially or actually harmful to the child's health, survival, dignity and development are abuse. Child sexual abuse is a serious problem in India as it is in many parts of world today. Abuse can be conducted by an adult or another child who is developmentally superior to the victim. This includes using the child for pornography, sexual material, prostitution and unlawful sexual practices. Emotional abuse is also act of causing harm to child's development. when they could have been within reasonable control of person responsible for the child.

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KEYWORDS: Children, childhood, physical abuse, sexually abuse

INTRODUCTION

Children are the most precious gift of god. Children of today are the potential city ten of tomorrow. Children ought to be raised an environment where in sustain opportunity of education conducive their social, moral physical development¹. Children are Mirror who reflect the future image of nation. The purpose of school is not just imparting formal education to student and also secure to certificate and degrees as passport to jobs. Childhood involves the most formative year in life of an individual. A period of childhood is spent in school and teacher has major role in adjustment of child in society and formation of his personality. The teacher play crucial role in respect of the development of child's personality. But in modern day teachers play contrary to perception, Instead of understanding co-operation. Sometime they indulge in abusing child physically sexually, emotionally. According to UNICEF violence against children can physical and mental abuse, injury, neglect treatment, exploitation and sexual abuse. Violence may take place in homes, schools, Institutions orphanages, residential care facilities, on the streets, in the workplaces, in prisons and in place of detention. Such violence can affect normal development of a child impairing their mental, physical, social being².

PHYSICALLY ABUSE IN SCHOOLS

When a child goes to school, this authority is delegated to school teachers who entitled to inflict reasonable corporal punishment and it may necessary for purpose of school discipline.³In regina U.S hoply⁴. colkburn L.J. observed "By law of England, a parent or a school master may for purpose of correcting what to evil in child, inflict moderate and reasonable corporal punishment, always however within this condition that is moderate and reasonable.

Physical degrading humiliating punishment apart from direct denial of child right, can also indirect basis of denial of children's right. Sometimes children run away from home or stop going to school just because they have been subjected to degrading be violent punishment in school. NCPCR (National Commission for Protection of child right) has expanded the definition of corporal punishment. It cover any forms of adverse treatment such as running in school ground, standing for long hour, beating with ruler, pinching, slapping, child sexual abuse. The National Commission for Protection of child right has taken seriously issue of physical abuse. In case of any form of corporal punishment parent can lodge FIR & teacher can be punished for act⁵. The commission has directed the State to create special awareness among children through complaint, Children have right to speak against violative punishment. All school should have complaint box for students to give their guidelines and

¹ Nirmla Krishna Marthi children. In India a legal prospective ministry of information broadcasting govt. of India, 2009, p.1

² Childlineindia.org.in (last accessed in 10 April 2019)

³ Child Right & law, Book Delhi publishing p.93

⁴ 1860 2F &F 202 (206): 115 ER 1024

⁵ Sonia Sarkar: Teachers can be jailed for calling a kid as stupid, 16th Nov,2007, times of India New Delhi.

suggestions. To the fear of teachers or other authorities. Children often silent and submit to violence without questioning. The study of child abuse⁶ sought to establish the extent of physical abuse in schools, 65% school going children reported having faced corporal punishment. Teachers sometimes also indulge in different kind of abuse of their student such as compelling for tuition whether the student can afford extra money for tut or not, otherwise he failed in examination. The news items regarding death of children because of being punished by teachers.

The latest directive also stated that every school including hostels, juvenile home shelter home and other institution meant for children must have forum where children express their views.⁷ A child in school was beaten up with stick on head by teacher for refusing to attend this private institution class. She had been suffering from as major complication in brain which has aggregated due to the assault resulting in her death.⁸

2. The purpose of India national Policy on education to abolish physical punishment in school has not yet been made a law. In certain states amendments of education rules which prohibit physical punishment in school. In response of PIL⁹ of the Delhi High Court strict domes prouision of physical punishment in Delhi school education Act, 1973 as bring inhuman an dignity of children. Very high percentage of corporal punishment was reported in govt. schools and Muncipate schools as compared to private schools.

SEXUAL ABUSE IN SCHOOL

Teachers are also involved in abusing children sexually. They misuse their position and power and often involved in exploiting children sexually. Teachers also threaten student that if they refuse sexual relationship or make public, their relationship, they will be failed in examination. Poor children suffering in both the conditions generally do not reveal these facts either to the parents or to the authorities. It is very often reported in newspaper that some male teachers ganged up to rape a helpless girl. Incident, girl of Nehru garden govt. school in Jalandhar made a written complaint to school principal that they were sexually exploited by sport coach¹⁰ since long period time. A survey conducted by sumvaad¹¹ of 348 girl student 24% had experience sexual abuse their teachers. children are also abused in educational Institution in various ways also.

ABUSE AND NEGLECT OF CHILDREN IN JUVENILE INSTITUTIONS

These institutions were visualized as comprehensive child care for fulfilling need of children. Comprehensive child care

⁶ Study of child abuse India 2007 Ministry of women & child welfare, govt. of India 2007. The state reporting higher percentage of corporal punishment in NGO run schools were UP, Kerla, Delhi.

⁷ Study of child abuse India 2007, Ministry of women & child welfare govt. of India (2007).

⁸ Protect our children strong child abuse law needed times of Network 13 July 2009.

⁹ Parent forum for Meaningful education v. UOI 2001, AD Del 20: AIR 2001 Del 212:2001 (89) DLT705

¹⁰ Times news network, Patan Gujarat sex scandal Times of India Feb 2008

¹¹ Times News Network 60 Punjab School Girls accuse, 3 march 2008, Times of India, New Delhi

units for fulfilling the needs of children in different circumstances. Such custodial may be classified as follows:-

1. Juvenile Institutions, variously called Remand home, observation home, reformatories, approval schools, certified schools, borstals and juvenile jails receiving mostly juvenile delinquents;
2. Children's Home run on behalf of social welfare boards by governmental or voluntary organizations which receiving children who are in need of care and protection, neglected, abused and destitute children;
3. Protective homes receiving rescued minor girls from brothels;
4. Orphanages receiving abandoned and orphaned child;
5. Institutions for handicapped children;
6. Mental health Institutions for mentally ill children.

following are the categories of children who are generally brought to these institutions.

1. Victimized Children

- a. Victims of cruelty;
- b. Victims of immoral practices;
- c. Employed in begging;
- d. Employed in other illegal activities¹².

Apart from this under the Juvenile justice (Care and protection of Children) Act, 2000, there are two categories of children who require institutional care:

1. Children in need of care and protection¹³ who are placed in children's homes¹⁴ and shelter homes.¹⁵
2. Juvenile in conflict with the law¹⁶ who are kept in observation homes¹⁷ and special homes.¹⁸

Children in conflict with the law, they are to be kept in observation homes and special homes with the aim to reform the child so that he or she becomes a responsible citizen of the nation. Although these homes are not jails but there is an element of confinement and these homes are meant to run as correctional institutions. As these children are already deprived children, their psychological needs are greater, physical abuse within these homes puts a lot of trauma and stress on them and defeats the whole purpose of rehabilitating and correcting these children.

Children in need of care and protection are the children (i) who are found without any home or settled place or abode and without any ostensible means of subsistence (who is found begging or who is either a street child or a working child)¹⁹ (ii) who resides with a person (whether a guardian of the child or not) and such person,

- a. Has threatened to kill or injure the child and there is a reasonable likelihood of threat being carried out, or
- b. Has killed, abused or neglected some other child or children and there is a reasonable likelihood of the child in question being killed, abused or neglected by the person,

¹² Childlineinindia.org.in (last accessed 10 April 2019)

¹³ Section 2(d), juvenile justice (Care and Protection of Children) Act, 2000

¹⁴ Section 34, Ibid

¹⁵ Section 37, Ibid

¹⁶ Section 2(1), Ibid

¹⁷ Section 8, Ibid

¹⁸ Section 9, Ibid

¹⁹ Section 2(d)(i) added by // Amendment Act, 2006

(iii) who is mentally or physically challenged or ill children or children suffering from terminal diseases or incurable diseases having no one to support or look after, (iv) who has a parent or guardian and such parent or guardian is unfit or incapacitated to exercise control over the child,

(v) who does not have parents and no one is willing to take care of him or whose parents have abandoned him or who is missing and is a run away child and whose parents cannot be found after reasonable enquiry, (vi) who is being or is likely to be grossly abused or illegal acts, (vii) who is found vulnerable and is likely to be inducted into drug abuse for trafficking (viii) who is being or is likely to be abused for unconscionable gains, (ix) who is a victim of any armed conflict, civil commotion or natural calamity.

SEXUAL ABUSE INSIDE THE INSTITUTIONS

There has been a significant increase in the number of cases of child sexual abuse in juvenile institutions. Regularly such cases come to light, but there is no procedure laid down to deal with cases of child sexual abuse within the institutions. Very often superintendent and Members of the Managing Staff themselves are involved in rape and sexual abuse of inmates (children in the institutions) which goes unreported most of the time. The victims do not complain for fear of further exploitation and physical abuse²⁰ Meek submission of inmates to the illegal activities of the authorities is equated with their consent. Section 376-C of the IPC has been added to deal with such type of custodial rapes and seductions.²¹

The old Superssion of Immoral Traffic in Women and Girls Act, 1954 provided for the establishment of institutions for care, protection and rehabilitation of rescued women and girls from brothels and dens of prostitution. These institutions are variously called protective homes, Mahila Sadan, Nari Niketan etc, Young girls in these protective homes are never safe and are compelled to lead immoral life. In fact, protective homes are licensed places for flesh trade. In Upendra Bakshi v. State of U.P. ²²it was alleged that protective homes of Agra were centres for flesh trade businesses. The supervisors and keepers of the protective homes were acting.

SUGGESTION FOR THE STAKE HOLDERS

Use positive discipline

The idea of 'positive discipline' techniques concentrate on reinforcing positive which respects the inherent dignity of the child, and seeks to find solutions based on child's evolving capacities.

Children's voices in the Classrooms:

Rule-making:

Children have to be encouraged to respect the need to maintain class decorum. This can be done by firstly involving

²⁰ · Section 376, IPC Punishment for Rape, whoever, being on the management or on the staff of the jail remand home or other place of custody established by or under may law for the time being enforced or of a women's or children's institution takes advantage of his official position commits rape or any inmate of such jail, remand home, place or institutions etc. shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may be for life and shall also be liable to fine.

²¹ Ibid

²² (1983) 2 WSCC 308: 1983 SCC (Cri) 430

children in making the rules of class-behaviour and discipline.

Dispute-Resolution:

Resolution of class-dispute should also involve children, like the organization of 'bal adalat'. This class-room practice starts with starting the issue of the dispute before the class. Then the involved particles (children) present their arguments justifying their actions. After discussing the issue, the entire class decides the directions to give. The entire exercise is facilitated by the teacher.

Forum for Child Right:

It should campaign on abolishing corporal punishment. Programmes to sensitize teachers and school managements about the harmful effects of corporal punishment and the immediate need to stop it should be conducted.

Teaching Methods:

Participative methods like discussion, heuristic method, project method, co-operative and collaborative methods, etc, to be used in curriculum transaction. The class environment should be non-intimidating.

Co-curricular and extracurricular activities:

For the co-circular, extracurricular, annual day celebration, sports day and other events every child should be given chance to participate.

Suggestion Box:

Every institution shall have a suggestion box which is accessible to everyone- students, teachers, parents and staff. This box should be opened regularly.

Redressal Mechanism

In case of child abuse a committee constituting a 3-member enquiry team of which 2 are women and one should be from an NGO not working in that school should conduct investigation and submit report within 15 days, in which the team can recommended that the accused be warned, or suspended, or dismissed, In all cases the accused person shall be asked not to discharge his/her duties pending enquiry.

Social Audit:

A community social audit of the school will increase awareness amongst the community about the school practices, regularity of teacher attendance and teaching, condition of school amenities, etc. Knowledge being the first step towards action, this will also build ownership amongst the community for the school.

CONCLUSION

Its duty to state look after the child and ensure full development of his personality. There is no provision of IPC to protect the right of children and punish. It has been noted that 114 juvenile had been just lodged in Tihar Jail and later to observation homes between October 2010 and August 2011 This is clear violation of child right. Violence is reptuated against children in every part of the world. Children are risk of life threatening abusing on street, in schools, where they work and in institutions. Many cases, children are be trade by the very individual responsible for their protection and well being their teachers, their employers, their guardians. Violence against children in excusable, and it will not end without be effective action by state. State must ensure that violence against children,

including corporal punishment, is prohibited by law and law strictly enforced. Children and their family must have access to effective mechanism file to complaint against the abuse. It is hope that government will take to action and to spot efforts to eliminate the scourge of violence against children.

Reference:

- [1] Nirmla Krishna Marthi *children. In India a legal prospective* ministry of information broadcasting govt. of India, 2009, p.1
- [2] Childlineindia.org.in (last accessed in 10 April 2019)
- [3] Child Right & law, Book Delhi publishing p.93
- [4] 1860 2F &F 202 (206): 115 ER 1024
- [5] Sonia Sarkar: Teachers can be jailed for calling a kid as stupid, 16th Nov,2007, times of India New Delhi.
- [6] Study of child abuse India 2007 Ministry of women & child welfare, govt. of India 2007.The state reporting higher percentage of corporal punishment in NGO run schools were UP, Kerla, Delhi.
- [7] Study of child abuse India 2007, Ministry of women & child welfare govt. of India (2007).
- [8] Protect our children strong child abuse law needed times of Network 13 July 2009.
- [9] Parent forum for Meaningful education v. UOI 2001, AD Del 20: AIR 2001 Del 212:2001 (89) DLT705
- [10] Times news network, Patan Gujarat sex scandal Times of India Feb 2008
- [11] Times News Network 60 Punjab School Girls accuse, 3 march 2008, Times of India, New Delhi
- [12] Childlineinindia.org.in(last accessed 10 April 2019)
- [13] Section 2(d), juvenile justice (Care and Protection of Children) Act, 2000
- [14] Section 34, Ibid
- [15] Section 37, Ibid
- [16] Section 2(1), Ibid
- [17] Section 8, Ibid
- [18] Section 9, Ibid
- [19] Section 2(d)(i) added by // Amendment Act, 2006
- [20] Section 376, IPC Punishment for Rape, whoever, being on the management or on the staff of the jail remand home or other place of custody established by or under may law for the time being enforced or of a women's or children's institution takes advantage of his official position commits rape or any inmate of such jail, remand home, place or institutions etc. shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may be for life and shall also be liable to fine.
- [21] Ibid
- [22] (1983) 2 WSCC 308: 1983 SCC (Cri) 430

