

CHILD ABUSE IN INDIA: PROBLEMS, CONCERNS, POLICIES & LEGAL PROVISIONS

Rajesh Kumar Sharma

Research scholar, Amity University,
Uttar Pradesh, India

Abstract— This article examines against Child abuse or child maltreatment in India. Child abuse or child maltreatment is physical, sexual, or psychological maltreatment or neglect of a child or children, especially by a parent or other caregiver. Child abuse may include any act or failure to act by a parent or other caregiver that results in actual or potential harm to a child, and can occur in a child's home, or in the organizations, schools or communities the child interacts with.

The terms child abuse and child maltreatment are often used interchangeably, although some researchers make a distinction between them, treating child maltreatment as an umbrella term to cover neglect, exploitation, and trafficking. Different jurisdictions have developed their own definitions of what constitutes child abuse for the purposes of removing children from their families or prosecuting a criminal charge. The World Health Organization (WHO) defines child abuse and child maltreatment as "all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power."

The Constitution of India guarantees several rights to children and enables the State to make provisions to ensure that the tender age of children is not abused. Even though India is a signatory to a host of International Covenants and Instruments focusing on Child Protection, these along with the existing domestic legal mechanisms have not been able to provide the necessary systems which could prevent child abuse. The 12th Five Year Plan (2011-2016) of the Ministry of Women & Child Development has unequivocally stated that "Strict measures are required to ensure that abuse of the child for sexual purposes is prevented". The National Policy for Children, 2013, recognizes that "childhood is an integral part of life with a value of its own". One of the key priorities of the Policy mandates the State to

"create a caring, protective and safe environment for all children, to reduce their vulnerability in all situations and to keep them safe at all places, especially public spaces and "protect all children from all forms of violence and abuse, harm, neglect, stigma,

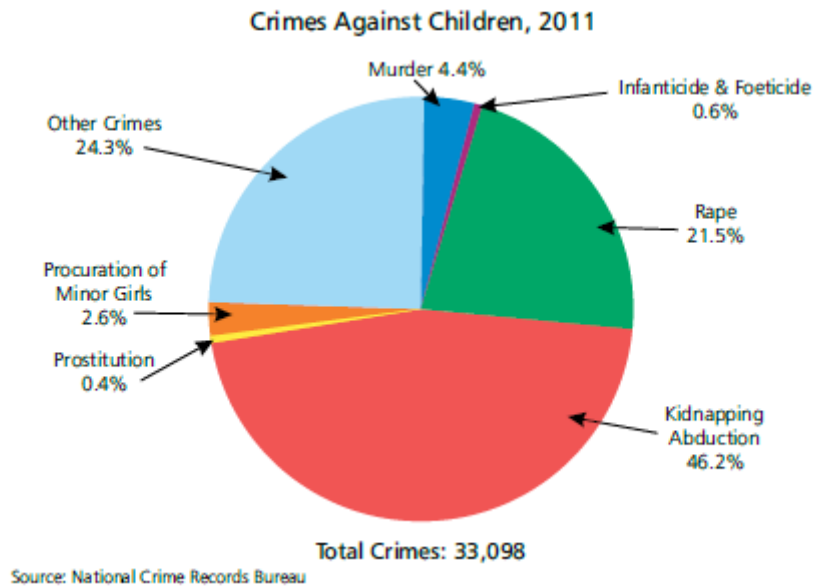
discrimination, deprivation, exploitation including economic exploitation and sexual exploitation, abandonment, separation, abduction, sale or trafficking for any purpose or in any form, pornography, alcohol and substance abuse, or any other activity that takes undue advantage of them or harms their personhood or affects their development.

Index Terms— Child abuse, exploitation, psychological maltreatment, criminal charge.

I. INTRODUCTION

Child Abuse was and continues to be, one of the most heinous crimes designed and perpetuated by human beings against some of the most vulnerable and defenseless sections of the community. It is a malaise on a society that prides itself on the rule of law, democracy and the various freedoms enshrined in the Constitution. Globally, it has been recognized and seen as a particularly burdensome challenge, and numerous instruments, from the Geneva Declaration of the Rights of the Child of 1924 to the United Nations Convention on the Rights of the Child and the The Stockholm Declaration and Agenda for Action have called upon nation States to create and enhance Child Protection Systems tensure that "*in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world*".

Study of Child Abuse, Ministry of Women & Child Development, Government of India, 2007



**Delhi (UT) contributes 4.86% of rape against children
in comparison to the all India total.**

National Crime Records Bureau; 2012 report

Study of Child Abuse, Ministry of Women & Child Development, Government of India, 2007

II. EFFECT

Child abuse can result in immediate adverse physical effects but it is also strongly associated with developmental problems 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 1991 source reported that studies indicate that 90 percent of maltreating adults were maltreated as children. Almost 7 million American infants receive child care services, such as day care, and much of that care is poor.

A. Emotional 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. According to the Joyful Heart Foundation, brain development of the child is greatly influenced and responds to the experiences with families, caregivers, and the community. Abused children can grow up experiencing insecurities, low self-esteem, and lack of development. Many abused children experience ongoing

difficulties with trust, social withdrawal, trouble in school, and forming relationships.

Babies and young children can be affected differently by abuse than their older counterparts. 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. 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. Children can also experience reactive attachment disorder (RAD). RAD is defined as markedly disturbed and developmentally inappropriate social relatedness, that usually begins before the age of 5 years. RAD can present as a persistent failure to start or respond in a developmentally appropriate fashion to most social situations. The long-term impact of emotional abuse has not been studied widely, but recent studies have begun to document its long-term consequences. Emotional abuse has been linked to increased depression, anxiety, and difficulties in interpersonal relationships (Spertus, Wong, Halligan, & Seremetis, 2003). Victims of child abuse and neglect are more likely to commit crimes as juveniles and adults.

Domestic violence also takes its toll on children; although the child is not the one being abused, the child witnessing the domestic violence is greatly influential as well. Research studies conducted such as the "Longitudinal Study on the Effects of Child Abuse and Children's Exposure to Domestic Violence", show that 36.8% of children engage in felony assault compared to the 47.5% of abused/assaulted children. Research has shown that children exposed to domestic violence increases the chances of experienced behavioral and emotional problems (depression, irritability, anxiety, academic problems, and problems in language development).

Overall, emotional effects caused by child abuse and even witnessing abuse can result in long-term and short-term effects that ultimately affect a child's upbringing and development.

B. Psychological Effect

Children who have a history of neglect or physical abuse are at risk of developing psychiatric problems or a disorganized attachment style. In addition, children who experience child abuse or 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. Disorganized attachment is associated with a number of developmental problems, including dissociative symptoms, as well as anxiety, depressive, and acting out symptoms. 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. Additionally, children may find it difficult to feel empathy towards themselves or others, which may cause them to feel alone and unable to make friends. 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.

Victims of childhood abuse also suffer from different types of physical health problems later in life. Some reportedly suffer from some type of chronic head, abdominal, pelvic, or muscular pain with no identifiable reason. Even though the majority of childhood abuse victims know or believe that their abuse is, or can be, the cause of different health problems in their adult life, for the great majority their abuse was not directly associated with those problems, indicating that sufferers were most likely diagnosed with other possible causes for their health problems, instead of their childhood abuse. One long-term study found that up to 80% of abused people had at least one psychiatric disorder at age 21, with problems including depression, anxiety, eating disorders, and suicide attempts. One Canadian hospital found that between 36% and 76% of women mental health outpatients had been sexually abused, as had 58% of women and 23% of men schizophrenic inpatients. A recent study has discovered that a crucial structure in the brain's reward circuits is compromised by childhood abuse and neglect, and predicts Depressive Symptoms later in life.

In the case of 23 of the 27 illnesses listed in the questionnaire of a French INSEE survey, some statistically significant correlations were found between repeated illness and family traumas encountered by the child before the age of 18 years. According to Georges Menahem, the French sociologist who found out these correlations by studying health inequalities, these relationships show that inequalities in illness and suffering are not only social. 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.

Many children who have been abused in any form develop some sort of psychological problem. These problems may include: anxiety, depression, eating disorders, OCD, co-dependency, or even a lack of human connections. There is also a slight tendency for children who have been abused to become child abusers themselves. In the U.S. in 2013, of the 294,000 reported child abuse cases only 81,124 received any sort of counseling or therapy. Treatment is greatly important for abused children.

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

III. CAUSES

Child abuse is a complex phenomenon with multiple causes. No single factor can be identified as to why some adults behave violently toward children. The World Health Organization (WHO) and the International Society for Prevention of Child Abuse and Neglect (ISPCAN) identify multiple factors at the level of the individual, their relationships, their local community, and their society at large, that combine to influence the occurrence of child maltreatment. At the individual level, such factors include age, sex, and personal history, while at the level of society, factors contributing to child maltreatment include cultural norms encouraging harsh physical punishment of children, economic inequality, and the lack of social safety nets. WHO and ISPCAN state that understanding the complex interplay of various risk factors is vital for dealing with the problem of child maltreatment.

The American psychoanalyst Elisabeth Young-Bruehl maintains that harm to children is justified and made acceptable by widely held beliefs in children's inherent subservience to adults, resulting in a largely unacknowledged prejudice against children she terms *childism*. She contends that such prejudice, while not the immediate cause of child maltreatment, must be investigated in order to understand the motivations behind a given act of abuse, as well as to shed light on societal failures to support children's needs and development in general. Founding editor of the *International Journal of Children's Rights*, Michael Freeman, also argues that the ultimate causes of child abuse lie in prejudice against children, especially the view that human rights do not apply equally to adults and children. He writes, "the roots of child abuse lie not in parental psycho-pathology or in socio-environmental stress (though their influences cannot be discounted) but in a sick culture which denigrates and depersonalizes, which reduces children to property, to sexual objects so that they become the legitimate victims of both adult violence and lust

Parents who physically abuse their spouses are more likely than others to physically abuse their children. However, it is impossible to know whether marital strife is a cause of child abuse, or if both the marital strife and the abuse are caused by tendencies in the abuser. Sometimes, parents set expectations for their child that are clearly beyond the child's capability. When parents' expectations are far beyond what is appropriate to the child (e.g., preschool children who are expected to be totally responsible for self-care or provision of nurturance to parents) the resulting frustration caused by the child's non-compliance is believed to function as a contributory if not necessary cause of child abuse. Most acts of physical violence against children are undertaken with the intent to punish. In the United States, interviews with parents reveal that as many as two thirds of documented instances of physical abuse begin as acts of corporal punishment meant to correct a child's behavior,

while a large-scale Canadian study found that three quarters of substantiated cases of physical abuse of children have occurred within the context of physical punishment. Other studies have shown that children and infants who are spanked by parents are several times more likely to be severely assaulted by their parents or suffer an injury requiring medical attention. Studies indicate that such abusive treatment often involves parents attributing conflict to their child's willfulness or rejection, as well as "coercive family dynamics and conditioned emotional responses". Factors involved in the escalation of ordinary physical punishment by parents into confirmed child abuse may be the punishing parent's inability to control their anger or judge their own strength, and the parent being unaware of the child's physical vulnerabilities.

Some professionals argue that cultural norms that sanction physical punishment are one of the causes of child abuse, and have undertaken campaigns to redefine such norms.

Children resulting from unintended pregnancies are more likely to be abused or neglected. In addition, unintended pregnancies are more likely than intended pregnancies to be associated with abusive relationships, and there is an increased risk of physical violence during pregnancy. They also result in poorer maternal mental health, and lower mother-child relationship quality.

There is some limited evidence that children with moderate or severe disabilities are more likely to be victims of abuse than non-disabled children. A study on child abuse sought to determine: the forms of child abuse perpetrated on children with disabilities; the extent of child abuse; and the causes of child abuse of children with disabilities. A questionnaire on child abuse was adapted and used to collect data in this study. Participants comprised a sample of 31 pupils with disabilities (15 children with vision impairment and 16 children with hearing impairment) selected from special schools in Botswana. The study found that the majority of participants were involved in doing domestic chores. They were also sexually, physically and emotionally abused by their teachers. This study showed that children with disabilities were vulnerable to child abuse in their schools.

Substance abuse can be a major contributing factor to child abuse. One U.S. study found that parents with documented substance abuse, most commonly alcohol, cocaine, and heroin, were much more likely to mistreat their children, and were also much more likely to reject court-ordered services and treatments. Another study found that over two-thirds of cases of child maltreatment involved parents with substance abuse problems. This study specifically found relationships between alcohol and physical abuse, and between cocaine and sexual abuse. Also parental stress caused by substance increases the likelihood of the minor exhibiting internalizing and externalizing behaviors. Although the abuse victim does not always realize the abuse is wrong, the internal confusion can lead to chaos. Inner anger turns to outer frustration. Once aged 17/18, drink and drugs are used to numb the hurt feelings, nightmares and daytime flashbacks. Acquisitive crimes to pay

for the chemicals are inevitable if the victim is unable to find employment.

Unemployment and financial difficulties are associated with increased rates of child abuse. In 2009 CBS News reported that child abuse in the United States had increased during the economic recession. It gave the example of a father who had never been the primary care-taker of the children. Now that the father was in that role, the children began to come in with injuries.

IV. DOMESTIC POLICIES AND LEGISLATIONS POLICIES/ PROGRAM IN INDIA

1. National Policy on Education, 1986
2. National Policy on Child Labour, 1987
3. National Nutrition Policy, 1993
4. Report of the Committee on Prostitution, Child Prostitutes and Children of Prostitutes and Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children, 1998
5. National Health Policy, 2002
6. National Charter for Children, 2004
7. National Plan of Action for Children, 2005
8. The Integrated Child Protection Scheme, 2009
9. National Policy for Children, 2013
10. Legislations Indian Penal Code, 1860
11. Guardian and Wards Act, 1890
12. Hindu Adoption and Maintenance Act, 1956
13. Probation of Offenders Act, 1958
14. Orphanages and Other Charitable Homes (Supervision and Control) Act, 1960
15. Bonded Labour System (Abolition) Act, 1976
16. Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1987
17. Immoral Traffic Prevention Act, 1986
18. Child Labour (Prohibition and Regulation) Act, 1986
19. Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994
20. Persons with Disabilities (Equal Protection of Rights and Full Participation) Act, 2000
21. Juvenile Justice (Care and Protection of Children) Act, 2000
22. The Information Technology Act, 2000
23. Commissions for Protection of Child Rights Act, 2005
24. Prohibition of Child Marriage Act 2006
25. Protection of Children from Sexual Offences Act, 2012
26. National Policy for Children, 2013

V. DOMESTIC LEGAL PROVISIONS CONSTITUTIONAL BASIS

The Constitution of India is a living, dynamic constitution which ensures to all its citizens certain values enshrined therein.

Article 14: The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India;

Article 15: The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them;

Article 15 (3): Nothing in this article shall prevent the State from making any special provision for women and children;

Article 19(1) (a): All citizens shall have the right (a) to freedom of speech and expression;

Article 21: Protection of life and personal liberty-No person shall be deprived of his life or personal liberty except according to procedure established by law;

Article 21A: Free and compulsory education for all children of the age of 6 to 14 years;

Article 23: Prohibition of traffic in human beings and forced labour-(1) Traffic in human beings and beggars and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law;

Article 24: Prohibition of employment of children in factories, etc. - No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment;

Article 39: The state shall, in particular, direct its policy towards securing: (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength;

Article 39(f): 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.

The latest legislation in India covering child abuse is the Protection of Children from Sexual Offences Act, 2012. The Act defines various forms of sexual offences including:

- Penetrative Sexual Assault
- Sexual Assault
- Sexual Harassment
- Use of child for pornographic purposes

The reality of the issue however, belies the existence of such systems and legislations. Moreover, the existing mechanisms, particularly ones dealing with sexual abuse, give detailed procedures on the handling of a case post occurrence; very few if any deal with prevention.

VI. IMPORTANT WEBSITES & NUMBERS

Special Police Unit for Nanakpura, Women & Children Duty Officer: Police Station: 011-24672777 Reporting a Child in Distress Delhi Police Department of Women & Child Development, Govt of NCT of Delhi Directorate of Education, Govt of NCT of Delhi Delhi Commission for Protection of Child Rights Delhi Police/Indian police Child Line Child Helpline Delhi Police Women/Girls Helpline	http://dpjju.com/index.php?option=com_content&view=article&id=161&Itemid=216	South Moti Bagh, New Delhi 011-24673366 http://dpjju.com/ http://www.delhipolice.nic.in/ http://wcddel.in/ http://www.edudel.nic.in/ www.dcpdr.delhi.gov.in 100 1098 1291	1091
--	---	---	------

REFERENCES

- [1] World Health Organization (1999): Report of the Consultation on Child Abuse Prevention; Geneva, http://www.who.int/violence_injury_prevention/violence/neglect/en/
- [2] Pinheiro, P. S. (2006): World Report on Violence against Children; United Nations Secretary-General's Study on Violence against Children; United Nations, New York <http://www.violencestudy.org/r25>
- [3] International Society for Prevention of Child Abuse and Neglect (2006): World Perspectives on Child Abuse, Sixth Edition, <http://www.ispcan.org>
- [4] Sen, S & Nair P. M. (2005): Trafficking in Women and Children in India; Orient Longman Pvt. Ltd., New Delhi
- [5] Save the Children and Tulir (2006): Abuse among Child Domestic Workers- A Research Study in West Bengal, and Save the Children (2005): Child Domestic Work: A Violation of Human Rights-Assessment of Situation in Delhi City
- [6] Pagare, D. et. al. (2004): Sexual Abuse of Street Children Brought to an Observation Home; Delhi.
- [7] Save the Children and Tulir (2006): Abuse among Child Domestic Workers- A Research Study in West Bengal
- [8] OregonStateUniversity, Physical Abuse, <http://oregonstate.edu/instruct/hdfs444/physabuse.html>
- [9] RAHI (1998): Voices from the Silent Zone- A Study on Women's Experiences of Incest and Childhood Sexual Abuse; Delhi
- [10] Human Rights Watch, Street Children, <http://hrw.org/children/street.htm>
- [11] As per the NHRC Report on Trafficking in Women and Children in India published in 2005, out of the respondent, 25.9% of women and children trafficked for commercial sexual exploitation were from Andhra Pradesh
- [12] Save the Children and Tulir (2006): Research on Prevalence and Dynamics of Child Sexual Abuse among school going children in Chennai.