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## SILENT SCARES: EXAMINING THE LEGAL INADEQUACY IN ADDRESSING VERBAL AND EMOTIONAL ABUSE OF CHILDREN IN INDIA.

~ *Haasini Sreenidhi*

### ABSTRACT

“Children typically experience violence at the hands of the people they trust most.” - UNICEF. Verbal abuse is the most prevalent form of abuse that a child goes through in India, and it is yet the least recognised form of child abuse. Unlike physical abuse, verbal abuse never leaves scars or visible injuries on a child, but it leaves them with something deeper, which makes it very difficult to address and identify the effect of it on the child's psychological, emotional and social development. Although India already has established legal mechanisms that protect its children from abuse, the regulation of parental verbal abuse remains limited. This paper critically examines the existing framework that governs child protection laws in India, with particular emphasis on the treatment of verbal and emotional abuse within the family. This paper identifies the gap between legislation and enforcement, and the process of legal reforms aimed at strengthening the protection of children from non-physical forms of abuse, which balances parental rights with the best interests of the child.

**Keywords:** Verbal abuse, child psychology, social development, child protection laws.

### INTRODUCTION

In India, child abuse has been socially and legally studied entirely in physical and, most recently, sexual terms. From the enactment of the Protection of Children from sexual offences act 2012 to the Juvenile Justice Act 2015, there have been significant changes in recognising children as also having their own set of rights and individuals who deserve statutory protection. Yet a form of abuse that is the most pervasive, the least visible or talked about, and continues to escape legal attention is emotional and verbal abuse.

Verbal abuse includes humiliation, threats, persistent criticism and degrading and foul language which is directed at a child by a parent, teacher or caregiver - leaves no physical injuries, but its psychological consequences are well documented in clinical literature, which lead to anxiety, long-term impairment of self-worth, social functioning and depression. In India, such conduct is normalised and an accepted means of nurturing discipline or correction in cultural and familial situations that reflect institutional authority over a child. The normalisation is a gap in the law because conduct that would, in many other contexts, be recognised as abusive becomes normal when it is absorbed into the everyday vocabulary of the upbringing of a child, and the same escapes both social condemnation and legal recognition.

Indian law has evolved in its understanding of “harm” in the context of children, most notably through Section 2(14) of the Juvenile Justice (Care and Protection of Children) Act, 2015<sup>1</sup>, which defines a child in need of care and protection. Verbal abuse does remain an implicit or secondary consideration, with the framework primarily designed for physical and sexual harm. There exists no such definition of verbal abuse as a child protection law in India. In addition to that, victims of purely verbal abuse have no clear legal protection framework or safety net or even enforcement agencies to contact, which can include Child welfare committees, police and courts; lack of definitional clarity is needed to identify, document and act upon such abuse.

This paper seeks to examine these questions:

1. To what extent do the existing legal frameworks in India recognise verbal and emotional abuse as a form of child abuse?
2. What are the gaps in definition and enforcement that are preventing effective legal enforcement for verbal abuse of children?
3. How do comparative jurisdictions define and address emotional/verbal abuse of children within their statutory framework, and can India enforce the same reforms in its country?
4. What legislative and institutional reforms are necessary to ensure enough protection against verbal and psychological abuse of children in India?

## **LITERATURE REVIEW**

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<sup>1</sup> Section 2(14) of the Juvenile Justice (Care and Protection) Act, 2015

This study rests on the Study on Child Abuse: India 2007, conducted by Kacker, Varadan and Kumar for the Ministry of Women and Child Development<sup>2</sup>, with support from UNICEF, Save the Children and Prayas, which remains the only national survey on the maltreatment of Children in India. This covers over 12,000 children across thirteen states. This study found that forty nine percent of children reported emotional abuse, alongside sixty-nine per cent reporting physical abuse and the other fifty-three per cent reporting sexual abuse. Despite these numbers, the Indian legal literature has viewed emotional abuse as a subcategory rather than a problem with its own right. Commentary on the Juvenile Justice Act, 2015 usually notes only that Act, which defines child abuse broadly enough to be physical, sexual and economic maltreatment, without really examining how verbal abuse is proved or enforced.

While Indian commentaries do discuss verbal abuse, they discuss it as more adult-focused laws, with the Bharatiya Nyaya Sanhita along with the Domestic Violence Act and the sexual harassment at the Workplace Act rather than a child protection statute. Psychological research does fill a part of this legislative gap by showing real and lasting harm, where adults with a history of emotional abuse show measurable deficits in executive control and harms comparable to physical abuse.

When we compare this literature to that of Sweden's 1979 reform, Sweden offers a more useful framework that India has not fully engaged with. Sweden's children and parents code was significant because it went beyond just corporal punishment to prohibit "any other humiliating treatment" of children, putting physical and verbal abuse on equal legal safeguards in a way that India does not. Lawmakers in Sweden were specifically worried that banning only physical punishment would just lead to abuse of children in mental and verbal forms like threats or ridicule, but later the studies found no evidence of this happening.

When we take both of these together, comparatively we see a clear gap; strong data shows us that verbal and emotional abuse is very common in India, but the Indian legal framework has not connected the data to a serious level to provide safeguards for children who go through this almost every day. Despite Sweden's framework being so strong and well interpreted

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<sup>2</sup> Study on Child Abuse: India 2007, conducted by Kacker, Varadan and Kumar for the Ministry of Women and Child Development

internationally, it has not quite been able to evaluate or add to the JJ Act, POCSO and BNS Framework on this specific issue

## **RESEARCH METHODOLOGY**

This paper adopts a doctrinal research method that primarily relies on statutory provisions, constitutional text and judicial precedents. Where relevant, a comparative approach is undertaken to examine how selective foreign jurisdictions have addressed emotional and verbal abuse within their child protection statutes, in order to lay out potential model reforms for India.

## **LEGAL FRAMEWORK OF THE CONSTITUTION, JJ ACT AND POCSO**

The Constitution of India does not explicitly mention verbal abuse, but it does set the framework for how children should be treated. Article 21 mentions the right to live with dignity; it does not just talk about the right to stay alive; it means that a child who is constantly humiliated, abused, criticised or insulted is being denied dignity, even though the Constitution does not say it directly. Article 39(e) and Article 39 (f) ask the government to ensure that children are protected from abuse and that each child is given the chance to grow up freely and with dignity, though these are directive principles and they can't be enforced directly by the court on their own. Article 15(3) allows the state to make special laws for children, and Article 21A gives children the right to education, which connects to school-based verbal abuse since teachers are often named as the perpetrators in the data discussed earlier. When these articles are taken together, they certainly give an idea of protection and dignity, but none of them clearly give out an enforceable right to children against verbal abuse; they just set the foundation without providing the tool.

The Juvenile Justice (Care and Protection) Act, 2015 comes very close to actually punishing verbal or emotional abuse. Section 75 mentions that if a person in charge of a child - a parent, teacher or any caregiver of the child- assaults, abandons, exposes or neglects the child in a way that causes them psychological problems or physical suffering, the caregiver can be punished up to three years in jail, a fine of ₹1 lakh or both. If someone hurts them physically or mentally and leaves them alone, abuses them and does not take proper care of them, they can be punished up to three years in jail and ₹1 lakh or both. If the same crimes are committed by an individual working or owning a childcare institution, the punishment rises to five years and ₹5 lakh; if this leads to serious harm like a disability or a mental illness, then it rises to a minimum of three years, which is extendable to ten years with a ₹5 lakh fine.

The problem is that “mental suffering” is nowhere mentioned or defined in the Act. There is no explanation which interprets the word “mental suffering” or even what counts as it, whether one incident is enough or whether there is a pattern required, or what kind of proof one should submit - a psychologist's report or a teacher’s statement would be needed to establish it. The problem is that, to enforce a particular law or action, there needs to be sufficient evidence or a well-defined procedure, which is why police and Child Welfare Committees rarely invoke Section 75 of the JJ Act in purely verbal or emotional cases. In reality, this section is only used for physical assault or institutional neglect, like, for example, when something they did at the hospital led to the death of newborn babies. There are very few case precedents that also deal specifically with verbal abuse in respect to children, and most of the reported cases involve physical injury. So while Section 75 of the Act could cover verbal abuse on paper, its vagueness creates a gap for enforcement.

The Protection of Children from Sexual Offences (POCSO) Act, 2012, is ruled out as a solution, but not entirely. The POCSO exists purely to address sexual offences against children - it mainly aims to focus on pornography, sexual assault and sexual harassment. But the only place “verbal” conduct appears is in Section 11 of the POCSO Act, which criminalises verbal and non-contact acts, such as sexual remarks, showing pornography to a child or gestures, but this only applies when the verbal conduct has a sexual element attached to it. Ordinary verbal abuse - shouting, insults, humiliation, threats with no sexual context does not fall within the POCSO Act’s scope, because the Act was never built to address such harm.

When all of these Acts are read together, the Constitution does provide the spirit for protection, but it is not an enforceable right. POCSO does not apply at all unless sexual in nature. The BNS’s chapters about children are revolving around trafficking, abandonment and exploitation, while general insult and intimidation were only designed for adult, public-order disputes rather than repeated abuse that a child experiences from a caregiver which leaves a single undefined phrase - “mental suffering” in the Section 75 of the JJ Act - as the only legal framework for verbal abuse of children in India and the framework that is least enforced for the purpose of practice.

### **S.C. NARANG V. STATE (NCT OF DELHI) & ANR. 2025 <sup>3</sup>**

The facts of the case revolve around the sexual assault of a four-year-old girl at a Delhi school. The accused child was under the age of seven and was legally incapable of committing an offence, the police filed the case against the adults managing the school which included the principal, two teachers and the chairman of the school's managing committee - under the Section 75 of the Juvenile Justice (care and protection) act, 2015 on the theory that they had failed to perform their duty of taking care of the victim. The chairman challenged his own summons all the way to the Supreme Court, where Justice Abhay S.Oka and Justice Ujjal Bhuyan held that Section 75 of the JJ Act cannot be applied unless it is shown that the accused had the actual charge of the victim child or control over the victim child. The court further held that even if the chairman was morally responsible, moral responsibility alone is not sufficient to invoke the reference to "the child" in Section 75, and that the chairman cannot be responsible for every child from kindergarten to class 12 and have individual control over every child in the institution.

Though this precedent does not directly address verbal abuse, it reveals that the judiciary is reading Section 75 of the JJ Act as a whole. The Supreme Court had the opportunity to interpret "cruelty" and the caregiver relationship broadly, thereby extending the section's proactive reach. It chose to interpret the scope of the Section narrowly, thereby tying liability tightly to the specific individual who had direct and actual charge of the child. If the apex court is unwilling to expand the stretch of the Section 75 to cover an institutional chain then it becomes difficult to imagine capturing the far more diffuse, low-visibility and very thin conduct that constitutes verbal or emotional abuse- an insult, a pattern of criticising remarks and a caregiver's habitual humiliation of a child none of which leaves a physical mark on the child but certainly ensures it leaves a mental remark on the child's psychology going forward in life.

### **THE 1979 REFORM: STATUTORY TEXT AND INTENT**

On the 1<sup>st</sup> of July 1979, Sweden became one of the world's first countries to explicitly ban corporal punishment of children through an amendment to their parenthood and guardianship code, which mentions that children are entitled to care, security and a good upbringing, and children are entitled to be treated with respect to their individuality and may not be subjected

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<sup>3</sup> S.C Narang v. State (NCT of Delhi) & Anr. 2025 INSC 688

to corporal punishment or any other sort of humiliating treatment. The vote in the Swedish parliament was nearly unanimous. What makes the provision different from any other Indian law is the phrase “any other humiliating treatment” in the same sentence as the ban on corporal punishment. There is no separate, harder-to-prove standard for non-physical harm and physical and verbal maltreatment are mentioned together on the same breath, and they are both equally prohibited conduct.

This was not an accident while drafting; it was legislative history showing that the Swedish lawmakers knew that making a narrower reform would backfire. Commentary on the reform notes that the law included not only corporal punishment but also mentally humiliating treatment, such as ridiculing, frightening, threatening or locking up a child, because the lawmakers knew that if the scope of the punishment was tied to physical abuse, it would eventually lead to verbal/emotional maltreatment. The Swedish lawmakers treated verbal or emotional abuse as a secondary concern that would be picked up later but as a foreseeable risk that had to be closed off in the same piece of legislation. This is the clearest point in contrast to the Indian legal position at present. India’s JJ Act, BNS, and POCSO frameworks, examined earlier in this paper, show that there is no equal anticipation. Verbal abuse was never built into the framework, and no foundation was laid for it either. If at all, it exists as an accident in the loose wording of Section 75 of the Juvenile Justice (Care and Protection) Act, 2015.

### **WHAT INDIA CAN AND CANNOT BORROW**

Sweden's reforms were possible because, in 1979, it had a unanimous political consensus and a relatively small, homogeneous population; conditions like that do not map onto India's present situation, given its population, diversity, and the practical difficulty of monitoring compliance across millions of households.

Secondly, Sweden’s reform heavily relies on a very well-resourced social welfare and child services infrastructure that responds to violations without relying on criminal prosecution, whereas India's child welfare committees are frequently understaffed and they are inconsistently resourced across states, which creates a gap where the effectiveness of enforcing any reform would not work unless it is paired with institutional investment. Thirdly, as mentioned earlier, in Indian culture, verbal abuse has been normalised, and it is an acceptable parenting tool for inculcating discipline, because it has been accepted in that it will create more resistance to an explicit ban in India than it did in the 1970s in Sweden.

What India can borrow, on the other hand, is the drafting technique rather than the whole institutional framework, which names humiliation and degrading verbal treatment on the same footing as physical harm within the provision that child caregivers are already subject to. Sweden's framework suggests that explicit textual naming, without harsh penalties attached, can shift both enforcement practices and social norms over time.

## **FINDINGS AND ANALYSIS**

The analysis in this paper traced every possible source of protection against verbal abuse of children in Indian Law, the Constitution, the Juvenile Justice (Care and Protection) Act, and the Prevention of children against sexual offences act - and they collapse into one phrase "mental suffering" in Section 75 of the JJ Act because the other provisions of the POCSO don't apply in this context at all. The Constitution provides a basic framework and serves as a tool, but not a solution. This is a case of Indian law being silent on child abuse to an extent because it does have layered and multi-statute coverage for physical and sexual offences but none for mental and verbal offences, which is the category for empirical research, which is nearly as prevalent as physical abuse and reported by roughly half of the Indian children.

Reading through the statutory analysis, the case law and the socio-cultural material together tells us why a gap exists and why it is worth separating them because of different kinds of fixes. First, there was a drafting failure; unlike Sweden, India did not name "humiliating treatment" explicitly and at an equal level of physical punishment, and the Indian legislators have never made an affirmative choice to name verbal or emotional abuse independently as a category to harm a child. The Parliament is required to define the term "mental suffering", which was given in Section 75 of the JJ Act, because this just folded into a section whose focus is assault, abandonment and neglect and not a purpose-built standard.

Secondly, there is an evidentiary failure, where "mental suffering" exists on paper and there is no guidance for rules, threshold or illustrative examples for how a child welfare committee should act upon such a situation. Physical abuse leaves a medical record; sexual abuse triggers POCSO's detailed and forensic machinery, but verbal abuse leaves nothing but the testimony of a child who is often too young or too dependent on the abuser to safely report it.

Third, there is a normalisation failure; the introduction and the literature review both point to verbal assault being normalised to correct a child as ordinary and even necessary when it comes to parenting. Sweden's own drafting history shows that this is not just an Indian problem; Swedish legislators anticipated it in 1979 and addressed it head-on, whereas India failed to address it.

Bringing this together, Indian law does recognise that a child can be harmed in other ways rather than physical force, but it has never built the definition, the evidentiary standard or the institutional response to make that recognition operative. This is not a case where reform requires creating an entirely new concept for verbal abuse, because the concept of "mental suffering" already exists in the JJ Act. What is missing is the right definition and interpretation and the right procedure for enforcement of such act.

## **CONCLUSION**

This paper set out to examine whether Indian law provides enough protection to children against verbal abuse, and the answer on the evidence assembled here is that India has built a detailed, layered legal architecture to address physical and sexual harm to children - the JJ Act, POCSO, AND THE BNS each contribute distinct, overlapping protections in those categories, but when it comes to verbal abuse, the same framework collapses into a single phrase that is undefined which is "mental suffering" in Section 75 of the JJ Act. This shows that the phrase is unlitigated by choice and is merely a coincidence.

The comparison with Sweden was instructive because it shows a gap which is an unavoidable feature of child protection law. Sweden's law did not require inventing a new legal concept or a harsher criminal penalty, but it required more explicit naming of humiliating treatment in the ban on physical punishment.

On this basis, three modest but concrete steps would meaningfully close the gap this paper has identified. First, the Parliament or the Ministry of Women and Child Development should define Section 75 of the JJ Act with more examples and illustrations so that the standard is more enforceable. Second, the child welfare Committees need clear evidentiary guidance for establishing verbal and emotional abuse without relying on a young child's testimony, which draws corroboration from teachers, counsellors or documented behavioural indicators. Thirdly, given that the BNS does recognise mental cruelty in the marital context, the same drafting

template should be extended in some form to the child protection framework, closing the inconsistency that mental abuse can happen to a wife but not to a child.

None of this requires India to import Swedish law entirely, but the parliament does need to finish a sentence that is half written. Section 75 says that a child cannot be caused unnecessary mental suffering - the law simply needs to say clearly and specifically what that means. Until it does, half of India's children who go through this emotional abuse in survey after survey will continue to have, in law, almost nothing to point to.

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