

Child abuse and child punishment by parents from the perspective of Islamic Law

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Abstract: Children are the most vulnerable class of society and loving them roots in rationality, personal and social emotions of human beings. Living in family is the first opportunity which prepares the bed for children's interactions with others. Children have rights in family which are stressed by Holy Lawgivers. Some of these rights are financial, some are emotional ones and some of them are training rights. It is obvious that deliberate deprivation of children from their rights stressed by Holy lawgivers, can be considered as child abuse factors. In our national and religious culture, children are considered as gift from God. Family is responsible for their kindness, care, growing. Main question is that what is child abuse? Which one are its consequences? Finally, we studied the child punishment by parents from Islamic Law perspective.

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Introduction

According to Jurisprudence, Child or kid is a mature person who has not got the religious maturity. Among Islamic sects, Shafi'i and Hanabli believe that maturity is in 15 years old for both males and females and Maliki believes that it is in 17 years old. Hanafi says that male's maturity is in 10 years old and females' is in 17 years old (Heydari, 2010). Imami sect says that male's maturity is in 15 years old but females' in 9 (lunar year). There are some other characteristics for maturity such as armpit hair, respect etc. which are added by jurists (Najafi & Karimi Qumi, 2002: 42). Children are the most vulnerable class of society and loving children roots in rationality, personal and social emotions of human beings. In spite of this situation, in different parts of the world children are deprived from security, comfort and on the whole from their natural rights which are necessary for their growth and development. This most vulnerable class has changed to the weakest class in the world. In this situation, International Convention of Children Rights, with more than 9 decades history appreciating these social crises and trying to support the basic and natural rights of children, is accepted and approved in the best level (Tebyan Happy Family Group in Zanjan, 2012). Now, the main question is that what is child abuse phenomenon? What are its consequences? Finally, we try to study the child punishment from Islamic Rights' perspective. These days, child abuse is considered as one of the priorities in social health and treatment issues in different countries of the world. Child abuse, in different forms, is blamed and considered as a crime in the way that there are

judicial punishments for that. In 20th century, as the result of scientific and sociological studies on family, family is introduced as one of the most important places for children and their growth. Through developing different sciences in contemporary century, there has been much more attention to children. Now, different sciences have focused on children in families. This theory says that sociology and the other sciences must support the children as the weak member of family against family and social pressures (Eezazi, 1996:137). Child abuse is defined as physical, sexual, emotional maltreatment with children and ignoring them (the free dictionary, 2010). In United States of America, there are centers for disease control and prevention which consider child abuse as any action or set of actions by parents or the other caregivers that leads to damage and threat of children (Leeb. R.T: Paulozzi, L.J., 2008). Child abuse may happen in the house or interaction with the other organizations such as schools or Child Societies. There are four kinds of child abuse: neglecting children, physical abuse, emotional and psychological abuse, sexual abuse. Different judicial fields expanded their definitions to cover different areas of child abuse. According to Child Abuse and Ignorance Journal, child abuse is any action by mother, father or caregiver which leads to death, serious physical and emotional damage, sexual harassment or exploitation which probably leads to serious hurts (Harnkouhel, 2005:414). Adult's behaviors have deep and main effect on children's personality and their habits. Physical punishment means using physical force causing pain without hurt of damage, for training, controlling behavior of

children. Physical punishment has long run and short run effects on children's body and spirit. During the history, maltreatment with children has been common in society, but during recent years, there has been much more serious attention to this issue in the way that it has been considered as a problem in society. It is said that maltreatment and child abuse is present in every sect, cultures: either rural or civic ones. There are different reasons and causes related to maltreatment and child abuse. An environmental model on child abuse can show different factors such as parents or social factors related to emergence of maltreatment (Kumaraswamy, 2010:24). Provisions of the Universal Declaration of Human Rights, Geneva Convention in 1924 on Children Rights, Children Rights Observation Convention in 1959, Articles 23-24 of International Political Rights and Citizenship Convention, Article 40 of International Convention for social, political and cultural rights and also Children Rights Committee in 1989 are examples which emphasizes the children's rights before, after being born and also during their growth. Retention of human beings to rights of this class in society, as the result of universal conscious awareness, is somehow related to Islam religion which has stressed on this issue before. Universal child Rights Conventions are somehow affected from religions. Islam, as the most complete religion, has emphasized observation of children's rights in the way that in many verses of Quran, we can see some statements for observation of children's rights especially the homeless and orphans (Zanjan Tebyan Happy Family Group, 2012). Based on psychology science, some of training scholars state that punishment is only harsh and undesirable way of training and also according to problems and disadvantages of punishment, they suggest that it should not be used as a training method because:

1. Temporary effect of punishment on punished person in comparison with punishing person
2. causing resentment and hatred in punished person
3. Causing children fearful and damages the children's personality (Ghanji, 1992).

Children Rights in Family

Family is the first group in which children interact with each other. Children in family have some rights emphasized by legislator. Some of these rights are financial, some are emotional and some are training ones. It is obvious that deliberate deprivation of children from their basic needs can be considered as some factors of child abuse. In our national and religious culture, child is a gift from God in the way the being kind, take care, growth and training them are parents responsibilities. However, this fact that

children are abused harassed by their parents and the others shows this fact that we have some problems in this area (Pournaji, 1999:5). According to WHO reports, child abuse has become a main universal problem in public health field. Recently WHO estimated that about 40 million children, in 4-5 years old, suffer from ignorance and child abuse. They need health and social care (Seiiedi, 2007:39).

Any physical and mental damage, sexual harassment and exploitation and ignoring the basic needs of children and teenagers under 18 by the other members of family is called Child Abuse (Madani, 2004:20).

A: Financial Rights of Children:

a. Alimony

Alimony is financial right of child in family. Then, jurisprudent forces child head to pay the alimony. Child head is firstly father, then grandfather and finally child's ancestors if they can afford it. Otherwise, his/her mother and father and then mother and her fathers have to accept the expenditures of child in family.

b. Inheritance

Inheritance is a financial right of child in family. If one member a family dies, based on inheritance law in Islam, child will benefit from this opportunity. Stressing on this right in Islam is in the way that even the embryo will inherits if it was born alive.

c. Heading child

One of parent's legal responsibilities is to head orphan children (Zanjan Tebyan Happy Family Group, 2012).

B: Emotional Rights

a. Right for visiting the parents (if they are legally separated from each other)

One of children's emotional rights is to prepare necessary situation for getting use from the parent's emotions and kindness. If parents are legally separated, child heading will be by either mother or father. It will be indicated by the court. In spite of being separated, parents have right to visit their child and children must not be deprived from this opportunity. Then, children have right to visit his/her parents even in the situation that he or she does not support the child's life. Having especial attention to children's needs, especially in childhood, Islam stresses that visiting parents is child right from one hand and calls it the parent's rights from the other hand.

b. Nondiscrimination among children by parents

Islam's aim is to clear nondiscrimination and perform justice. Quran in verse 8 of Maede says that justice makes people closer to virtue. Justice and lack of discrimination are rights necessary for

everybody. One of groups who must be treated fairly is children. Prophets and Imam's fair behaviors reflect their attention to lack of discrimination in behaving with children in family and society. Studying the financial rules in Islam such as alimony, inheritance, religiosity etc, we can clearly see that from the sacred jurisprudent point of view there is no difference between children in financial rules and rights, since that there is no difference between the poor and the rich in heritage. Alimony is the other case related to children and their rights. Differences in social statuses make no difference in amount of atonement. There is no also difference in child or adult's atonement or inheritance.

c. Kindness and answering the emotional needs of children by legal head of child

Today, different psychological studies verify that one of the basic needs of children is their emotional need. There may be so many criminals who found themselves criminal as the result of emotional lacks. Islam often emphasizes the answering children's needs. There are many examples in prophets and Imams' behaviors and life style which show their attention to children's emotional needs. Prophet Mohammad (peace be upon him) knows that when parents kiss their child, it makes them closer to God. He says that when we make children happy, God will make parents family in Day of Resurrection. In fact, based on many narrations in Islam, lack of observing the children's right is among affairs which leads to wrath of God, especially if children are damaged psychologically and lead to child abuse.

Observing the Identity rights of children

Identity rights of children are for example having appropriate name, formally and legally attributed to parents, through surname and formal identification documents, Islam and paying attention to child life before being born. It is obvious that naming child even before being born affects the relations between parents and children. Therefore, parents are advised to name the children before being born. On the other hand, effect of name on children's spirit and psycho either in childhood or adulthood, is an issue which is verified by psychological studies. In other words, parent's responsibility is to accept their child and name them because child is their own one and have to know them as their parents (Zanjan Tebyan Happy Family Group, 2012). Studies in Iran show that families mainly believe that it sometimes seems necessary to use physical punishments. Parents' view towards physical punishment roots in their cultural values and measurements, since studies show this fact that desirable view towards physical punishment can predict their behaviors in some

situations. Studying the effects of culture on parents view is valuable and important. It is obvious that children's humiliation, conservative ideologies, religion and ethnicity have main role in definition of maltreatment with children. For example, in cultures, such as Jamaican one, harsh and violent treatment with children is considered as a norm (Oveisi, 2010:160). Physical punishment can be found in both developed and developing countries in different higher and lower layers of countries. There have been limited studies on physical punishment in developing countries. However, there is very limited number of studies about cultural norms (such believes, religious customs, view and values) related to physical punishment of children and child abuse in Iran. All those studies have used a quantitative perspective for recognizing the cultural norms (Ibid). Adults, who have experience child abuse in their childhood, have low self esteem. These people also suffer from depression, misery and anxiety. They mainly tend to use alcohol and commit suicide. Damages of child abuse lead to pain, losing part of body, fearfulness, physical disability and finally death (Soutoodeh & Bahari, 2007: 99). Lack of participation in group works, incompatibility with others in family and school, disability in accepting the responsibility, low social communications, isolation, ignoring the regulations and rules in school, lack of trusting the others, low verbal communication with others, delinquency symbols especially in maturity which are along with robbery, destruction, causing disorder etc are among consequences and results of violence and physical punishment in childhood (Seiiedi, 2007:114). As the result of physical and age situations, children are more vulnerable than the others against abuse and violence, in spite of this situation, they benefit from economical, law and social supports (Seiiedi, 2007:13).

Generally, parents who regularly use physical punishment, will probably experienced depression and use alcohol and illegal drugs, they have problem with each other, experienced sexual harassment and try to have autocracy style in life. There is high rate of physical punishment in poor environments and also among young parents. In addition, children, experiencing physical punishment and violence, have received less kindness and warm reactions from their family members (Learly, 2007:1). In a study by Safavi (1993), findings show that 76% of abused children were boys and 24% were girls. Nourozi (1991) did a study on 1175 girls and 1065 boys aged 14 – 18 years old. He came to this conclusion that in this group, girls have been significantly abused (emotional and sexual harassment, ignorance) more than boys. There was significant difference between physical abuse of girls

and boys. Hybard et al. (1992) studied 82 teenagers and found that most of people, who had experienced sexual harassment, were women: 82% of them who experience the physical punishment were males and 91% who had experienced different kinds of harassment, were men, too. Men and women were equally had been ignored (Yousefvand, 2003:39).

Results of ignoring children rights in three levels:

We categorize the factors and causes of physical punishment and ignoring the children's rights in three levels: macro, middle and micro. In macro level (social and cultural system) influential factors and causes of physical punishment and ignoring the children's rights are as follows:

- Cultural values and measures
- Conservative ideology
- Religious believes and customs
- Ethnicity
- Unemployment and chronic poverty
- Lack of supportive systems
- Autocratic culture
- Autocratic child training style
- Unsuitable housing
- Population growth and crowded families

In middle level (Family system) we have some causes and factors leading to physical punishment and ignoring the children's rights:

- Residence
- Tension and disagreements between parents
- Social isolation of parents
- Low communication with relatives
- Autocratic child training style
- Problems in parents' communications
- Low income and education in of parents
- Incompatibility in marriage
- Kind of house

In micro level, there are some causes and factors leading to physical punishment and ignoring the children's rights:

- Disability of child in learning
- Social and behavior disability of child
- Child gender
- Parents age
- One parent family
- Parent's addiction
- Crowded Family

Main Social and individual consequences of physical punishment and ignorance of children

Effects of family are so important that it can lead person to misery, happiness or success. Family, as the most important and first social statues, is place in which people start the membership. It is so

important in socialization and training children, solving financial problems present everywhere and especially the youth problems such as unemployment which may lead them to crime and delinquency.

Main consequences of physical punishment and ignoring the children's rights can be summarized as follows:

- Low self esteem
- Wrong believes and thoughts
- Aggression and violence
- Anti social behaviors
- Violent crimes
- Anxiety and depression
- Addiction and tendency towards using alcohol
- Committing suicide

Main social consequences of physical punishment and ignoring the children's rights can be as follows:

- Problems in relation between parents and the children
- Lack of participation in group works
- Incompatibility with others in home and school
- Disability in accepting the responsibility
- Low social communications
- Ignoring the rules and regulations of school
- Causing disorder

Conclusion

Before international community passes documents such as Children Rights Convention, Islam has focused and emphasized on child rights and observation of it in society and invited the societies in different forms with different examples. Based on the above mentioned issues, we offer our suggestions as follows:

1. culturalization and institutionalizing the child rights through religious trainings and Child Right Commitment
2. training the rules and regulations to children and punish them if they deviate from these rules and regulations
3. We should consider the children's capability in learning the rules and regulations. That is, the rules must be in harmony with their age, needs and abilities. We must also make the children responsible to their works and observation of rules and regulations
4. Improving the awareness of people about children rights in family and consequences of child abuse in future. It can be done through mass media.
5. Identifying the children's needs such as emotional and physical ones to families and regular warning them to prevent any ignorance and being indifference to children's needs. Again, it must be done through mass media.

6. finally, improving the parents education level and their and formation about training children through mass s media
7. Weakening the autocracy culture in social interactions and improving the reasoning strategy, logic and tolerance in individual and social interaction which lead to observing the children's rights.

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