

Development of Children and Punishments; A Review on the Legal Framework Pertaining to the Imposition of Corporeal Punishments in Schools

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Abstract

Corporeal punishments can be identified as an act of coercion that is utilized to ensure compliance and discipline, which can be traced a long way back in history. It is quite well known that the same is used in various degrees to discipline children at schools and even within the unit of family. However, research suggest that such punishments may lead to devastating negative effects on the well-being of children. Thus, the claims made suggesting the fact that punishments are imposed in the best interests of the children and thereby contribute to the effective development of children may be considered to be ineffective due to lack of evidence and due the severity of the consequences of imposing corporeal punishments. Thus, the purpose of this research was to conduct a dialogue on the capability of the branch of criminal law to ensure protection for children against acts of violence within the school system. To achieve the said objective, the application of Sections 308A (1995 Amendment) and 341 of the Penal Code, among various other legal instruments within the Sri Lanka jurisdiction, were considered through utilizing the epistemological approach and the black letter approach of qualitative research. The research findings exemplified the fact that the relevant Sections which were considered within the purview of the present research has potential in terms of ensuring protection for children from acts of cruelty within educational institutions, especially schools, yet, with room for improvement.

Keywords: Corporeal punishments; Best interests; Children; Child rights

Introduction

“While Corporal Punishment does not amount to torture in itself in the instant case, the practice of infliction of physical or mental punishment which disregards the inherent

dignity of a child amounts to inhuman or degrading punishment.”¹

As per Article 1 of the United Nations Convention on the Rights of the Child (hereinafter referred to as UNCRC) a child is identified as a person whose age is below 18

¹ *HM Karunapala and others v Premakumara Siriwardena* [2022] (Supreme Court of Sri Lanka)

years, that is in the absence of legal provisions under which the age of majority can be obtained at an earlier age. Ensuring protection for children in a manner that paves the way for their effective development is considered to be key state responsibility as per various national and international legal instruments, including the UNCRC.² Article 28 of the UNCRC is quite specific in terms of ensuring the fact that children should not be subjected to cruel, inhuman and degrading treatment. Within the ambit of the said Article, the obligation of the state to ensure that children are not subjected to torture and should be treated with respect and dignity clearly exemplifies the internationally accepted standard pertaining to the manner in which children should be treated.

In line with the requirements of Article 3 of the UNCRC, in the best interests of children, Article 27 (13) of the Second Republican Constitution (1978) of Sri Lanka has recognized the obligation of the state to

promote the interests of children and youth with special care to ensure their effective development in physical, moral, social, religious and mental dimensions while guaranteeing that they are not discriminated and exploited.³ Thus, a presumption can be made suggesting that Sri Lanka has identified the importance and the vitality of ensuring a friendly atmosphere for children so that their development can be sound and effective. However, the practicality of the assured standards is a matter that can be subjected to scrutiny, which is an objective of the present research that is attempted to be reached via the issue of corporeal punishments.

Corporeal punishments can be identified as the act of imposing bodily pain or harm as a means of punishing an individual for a certain reason or reasons.⁴ The same is defined by the United Nations Committee on the Rights of the Child as any physical force that is imposed to cause any harm or discomfort irrespective of how legitimate it can be.⁵

² 'Child Rights and Why They Matter' (*Unicef.org*, 2022) <<https://www.unicef.org/child-rights-convention/child-rights-why-they-matter#:~:text=The%20healthy%20development%20of%20children,water%2C%20housing%20and%20environmental%20pollution.>> accessed 3 September 2022.

³ In terms of the international sphere, The Universal Declaration of Human Rights (hereinafter referred to as UDHR) and the ILO Convention No. 182 (1999) on the Worst Forms of Child Labour, among many such standards on various disciplines as such, stresses on the importance of ensuring protection for children in terms of matters that can impose negative implications on their effective development.

⁴ 'Corporal Punishment' (*Encyclopedia Britannica*, 2022) <<https://www.britannica.com/topic/corporal-punishment>> accessed 20 June 2022.

⁵ "Any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Most involves hitting ("smacking", "slapping", "spanking") children, with the hand or

with an implement – whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion (for example, washing children's mouths out with soap or forcing them to swallow hot spices). In the view of the Committee, corporal punishment is invariably degrading. In addition, there are other non-physical forms of punishment which are also cruel and degrading and thus incompatible with the Convention. These include, for example, a punishment which belittles, humiliates, denigrates, scapegoats threatens, scares or ridicules the child."

'General Comment No. 8 (2006): The Right Of The Child To Protection From Corporal Punishment And Other Cruel Or Degrading Forms Of Punishment (Arts. 19; 28, Para. 2; And 37, Inter Alia)' (UN Committee on the Rights of the Child (CRC) 2007) <<https://www.refworld.org/docid/460bc7772.html>> accessed 20 June 2022.

Corporeal punishments may be perceived as an acceptable and preferred method of punishment for various crimes in states worldwide, mainly due to the deterrent effect that it injects into the minds of potential offenders. Thus, the possibility of the same perspective and the belief being used to punish children, supported by the justification of disciplining children, should not be considered as trivial. The practice of inflicting pain on discipline-related concerns can be observed, especially in terms of children, when various incidents and case law precedents are considered within the Sri Lankan context.

Adding to the aforementioned point of discussion, the increase of the complaints received by the National Child Protection Authority, from 905 to 2413 from the year 2009 to 2018, on cruelty to children further increases the vitality of considering various productive mechanisms that can be utilized for the purpose of tackling acts of inflicting corporeal punishments.⁶ Thus, in a state of time where due consideration of child safety should be ensured, a question remains as to how effective the Sri Lankan legal system is in terms of ensuring protection for children in the school system, especially from punishments that may hinder their effective physical and mental development of children. Therefore, the purpose of this research is to identify and evaluate the salient features and precedents in Sri Lanka, mainly on Section 341 and Section 308A of the Penal Code, on

imposing corporeal punishments for children mainly within the school system.

Materials and Methods

The research was conducted with the view of developing a brief dialogue on the manner in which Sri Lanka has attempted to guarantee protection for children from corporeal punishments, mainly by considering the application of Section 341 of the Penal Code and Section 308A of the Penal Code (Amendment) Act, No. 22 of 1995. Coinciding with the intentions of the research, the epistemological approach and the black letter approach of qualitative research has been utilized by the writer to evaluate and illustrate the practical applications of the relevant statutory provisions, supported by case laws and scholarly perspectives. Further to the same, for the purposes of the research, a brief emphasis on probable obstacles, legal and social, that might affect the application of such laws as intended by the legislature in the paradigm of cruelty to children were also considered.

Results and Discussion

The UNCRC, for which Sri Lanka is a signatory, expressly and unconditionally requires state parties to the Convention to “*take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention*”

⁶ Gunasekara, M., 'Child Protection In Sri Lanka Is A National Crisis - Colombo Telegraph' (*Colombo Telegraph*, 2020)

<<https://www.colombotelegraph.com/index.php/child-protection-in-sri-lanka-is-a-national-crisis/>> accessed 6 September 2022.

as per Article 28 (2). However, according to a research conducted in 2018 with a sample of 459 teachers and 948 students from six districts in Sri Lanka, it is reported that in certain cases teachers have utilized aversive methods of punishment such as psychological aggression and corporeal punishments within the education system including the acts of beating with a stick, kneeling, throwing of an item at the child, caning and pulling an ear, among various other methods of punishment.⁷ However, interestingly, it was noted by the research that hitting by the hand is the most commonly used method of punishment within the school system.⁸

The findings of the research further enumerated that more than 70% of the students have experienced some form of physical or psychological aggression whereas more than 50% of the students have experienced at least a single incident of physical abuse as a punishment at their respective schools.⁹ However, it should also be noted that the research has further identified that over 70% of the students indicated instances of positive disciplinary methods, where the students are educated on the correct course of behaviour by the teacher without resorting to violence. Such positive

practices can be considered as a glimpse of hope that can make a real contribution to the effective development, physical and mental,¹⁰ of children without bringing about negative implications on the lives of children that are triggered by corporeal punishments, among other forms of punishments.

When corporeal punishments are considered, even though a notion exists between the members of the society that such punishments might ensure the wellbeing of the child, in other words, promote the best interests of the child, the negative repercussions that such methods might have on the wellbeing of children should also be considered.¹¹ In responding to the aforementioned objective, considering the position of the World Health Organization (hereinafter referred to as WHO) is of utmost importance. It is recognized by the WHO that corporeal punishments can result in harmful physiological and psychological responses which may subsequently lead to the development of feelings such as guilt, sadness, stress and change the brain structure

⁷ 'Sri Lanka | Global Initiative To End All Corporal Punishment Of Children' ([Endcorporalpunishment.org](https://endcorporalpunishment.org), 2022) <<https://endcorporalpunishment.org/reports-on-every-state-and-territory/sri-lanka/#:~:text=In%20the%20first%20large%20scale,punishment%20in%20the%20past%20term.>> accessed 20 June 2022.

⁸ *ibid*

⁹ de Zoysa, P., Senarath, U., & de Silva, H., 'Disciplining In Sri Lankan Schools: A Cross-Sectional Study' (2018) 36 *Journal of Interpersonal*

Violence <https://pubmed.ncbi.nlm.nih.gov/30379110/> accessed 20 June 2022..

¹⁰ Carroll, P., 'Effectiveness of Positive Discipline Parenting Program on Parenting Style, and Child Adaptive Behavior' [2022] *Child Psychiatry & Human Development* 1349.

¹¹ Smith, B., 'The Case Against Spanking' (<https://www.apa.org>, 2022) <https://www.apa.org/monitor/2012/04/spanking#:~:text=Many%20studies%20have%20shown%20that,mental%20health%20problems%20for%20children> accessed 20 June 2022.

as how it functions, which might lead to further challenges and complications.¹²

Furthermore, to accumulate justifications to evaluate whether imposing corporeal punishments should be considered as a concern or otherwise, an article on 'Daily News' dated April 29th of 2019 which reported multiple incidents of suicide by children triggered due to various physical punishments can be cited.¹³ The article, via citing a research conducted in the United States of America, has further identified multiple harmful physical and mental conditions that may result due to the process of utilizing corporeal punishments to discipline children. Such conditions include anxiety disorders, substance abuse or dependence and personality disorders that can occur at a later stage in the lives of children as a result of excessive punishments used against them irrespective of the purposes behind the acts of punishment.¹⁴ Thus, it can be established as a conclusion that punishments, including corporeal punishments, that are directed towards children consist of a clear potential to impose widely negative effects on the wellbeing of children in multiple dimensions.¹⁵ Such tendency to cause harm to the wellbeing of children can therefore be considered as a justification to include acts of imposing

physical punishments to children to the governing law as it can provide a clarity on the matter of imposing punishments. The research does not stress on the fact that no punishment methods should be utilized in the best interests of children. The reason for the aforesaid statement is due to the researches done by various scholars that introduce effective methods of disciplining children as opposed to violent corporeal punishment methods. For instance, the Canadian Paediatric Society has indicated various methods of disciplining, which is changing the behaviour of a child and not physical punishments, that can be utilized based on the age group to which a child belongs.¹⁶

In analyzing the Sri Lankan position on the imposition of corporeal punishments, few of the recent developments that should be considered are the Circular No. 12/2016 of the Ministry of Education, the Penal Code (Amendment) Act, No. 22 of 1995, in addition to the Second Republican Constitution and the Children and Young Persons Ordinance, No. 48 of 1939 which introduced provisions that can be used to impose a reasonable degree of control over subjecting children to corporeal punishments. Section 308A of the Penal Code (Amendment) Act, No. 22 of 1995 specifically identifies cruelty against children

¹² 'Corporal Punishment And Health' (*Who.int*, 2022)
<<https://www.who.int/news-room/fact-sheets/detail/corporal-punishment-and-health#:~:text=Corporal%20punishment%20triggers%20harmful%20psychological,that%20support%20dealing%20with%20danger.>> accessed 20 June 2022.

¹³ Perera, U., 'Hurt That Doesn't Heal' (*Daily News*, 2022)
<<https://www.dailynews.lk/2019/04/29/features/184056/hurt-doesn%E2%80%99t-heal>> accessed 20 June 2022.

¹⁴ *ibid*

¹⁵ Ateah, C. A., Secco, M. L., & Woodgate, R. L., 'The Risks And Alternatives To Physical Punishment Use With Children' (2003) 17 *Journal of Pediatric Health Care* <https://pubmed.ncbi.nlm.nih.gov/12734459/> accessed 20 June 2022.

¹⁶ 'Effective discipline for children' (*National Library of Medicine*, 2004)
<<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2719514/>> accessed 19 July 2023.

as a punishable offence. The importance of the Section is clearly depicted by the manner in which it is utilized as portrayed by the statistics from The National Child Protection Agency which reported 2741 cases under Section 308A in the year 2021.¹⁷ A person found guilty under the Section can be subjected to imprisonment of either description for a term not less than two years and not exceeding ten years, in addition to the obligation to pay fines and compensation, as the case may be.

The notable aspect within the aforementioned Section is the 'persons' who can be responsible under cruelty against children, which only include, persons having the custody, charge or care of the child. Thus, it should be noted that Section 308A will not be applicable to every person even though the individual has conducted himself/herself in a way that resulted in causing harm to a child, which amounts to cruelty. Thus, the said factor denotes that if a person does not come within the meaning of the term 'person', as per the wording of the Section, imposes harm to a child, such person may be prosecuted under a different legal provision such as grievous hurt under Section 311 of the Penal Code as opposed to Section 308A.¹⁸

Considering the aforementioned matters under the current point of discussion, it can therefore be understood that a teacher who might punish a student under such capacity

can be held liable under Section 308A as a student can be considered to be a child who is under the protection and care of teachers during the time that they spend at schools. In support of the same perspective that can be observed in Section 308A, Section 82 of the penal Code further mentions the fact that nothing that is done in good faith for the benefit of a child or a person who is unsound of mind by a person, with the consent that is expressed or implied by a person who has lawful charge of such person or is the guardian, can be considered as an offence. Credit should be given to the Section for having exceptions included to the main idea of the Section itself, yet, the standards pertaining to good faith can be quite subjective and the same can differ from circumstance to circumstance. Thus, the writer is of the opinion that such standard may lead the courts towards complications in deciding cases involving violence against children by way of punishments.

However, as noted by Mr. Prasanth Lal De Alwis (PC), the question of the standard required for an act to be 'willful' in terms of Section 308A of the Penal Code can also be identified as a moot point.¹⁹ For instance, Black's Law Dictionary defines the term 'willful' as "*proceeding from a conscious motion of the will; intending the result which actually conies to pass*", which represents a higher degree of motivation and the need to bring about the results intended from a

¹⁷ 'Statistics | National Child Protection Authority' (*Childprotection.gov.lk*, 2022) <<https://www.childprotection.gov.lk/resource-centre/statistics-3>> accessed 6 September 2022.

¹⁸ 'BASL Sinhala Webinar 2.39 - ළමයින්ට එරෙහි වධහිංසාව සහ නීතිය' (*Youtube.com*, 2022)

<<https://www.youtube.com/watch?v=Ii0kblOW6Qw>> accessed 20 June 2022.

¹⁹ *ibid*

certain act. The question that might arise due to a strict interpretation provided to the term 'willful' in terms of corporeal punishments in the process of utilizing Section 308A is in instances where a teacher punishes a student as a disciplinary mechanism and injures the student subsequently. In such cases, the possibility of an argument being made suggesting that the necessary degree of intention required to be held accountable under the Section is not satisfied because the teacher has imposed punishments with the intention of disciplining the child, as opposed to willfully imposing harm to the child, should not be disregarded.

To further elaborate the point of argument made in the former paragraph, in the case *Mohomad Mustapha Faiz v. The Attorney General*²⁰ where a distinction was made by the court between a willful act to bring a determined or expected harm and a spontaneous reaction without any malice, ill-will, hatred or venom can be considered.²¹ The child, in the present case, has not complied with a request made by a teacher to fetch a certain amount of cool water from a

nearby house as the student was suffering from an injured toe. The teacher, subsequently to rejection by the student to comply, has used a cricket bat and struck the student/victim in the legs few times and injured the student/victim, which led to the present case under discussion. Under such circumstances, a reasonable interpretation of the judgement with due respect to the court can be made saying that a person who decides to assault or strike a person with an object such as a cricket bat may have a certain intention to cause harm in the process of doing so. However, the requirement for the act being 'Willful' has made a significant impact on the outcome of the judgement as the actions of the accused were referred to as 'severe discipline' as opposed to 'cruelty'.

Even though the aforementioned judgment appears to be providing an acceptable justification for not finding the teacher/accused criminally liable for measures taken to discipline a child, such a perspective might contradict the international standards that are applicable for the same.²² For instance, Article 1 of the UDHR firmly

²⁰ *Mohomad Mustapha Faiz v The Attorney General* [2011] Court of Appeal (Court of Appeal).

²¹ "'Wilful' connotes a deliberate intention on the part of the doer as opposed to an inadvertent act. Considering the facts that led to this incident, it is apparent that this is not the result of a pre-meditated or preplanned act. It was more a sudden reaction and in the absence of any evidence of personal animosity or a vendetta the act is devoid of any venom or vengeance. Whether asking the child to bring a bottle of cool water from a neighbouring house is permissible or not is not the point of argument in this instance. Whether it is permissible or otherwise, as the child had not complied with the request the appellant had reacted in the manner as unfolded in evidence. His manner of approaching the situation could be viewed as excessive. However as evident from the whole episode it was a spontaneous reaction without any

malice, ill-will, hatred or venom, which if been present would have led to the inference of such act being 'wilful'."

Mohomad Mustapha Faiz v The Attorney General [2011] Court of Appeal (Court of Appeal).

²² "The child has to be prepared for responsible life in a free society in the spirit of understanding, peace, and tolerance. The use of Corporal Punishment is antithetical to these values. We cannot subject the child to torture and still expect him to act with understanding, peace and tolerance towards others and be a protagonist of peace and love. It was probably for this reason Mahatma Gandhi said that "if we are to reach real peace in this world, and if we are to carry on a real war against war, we shall have to begin with children, And if they will grow up in their natural innocence, we won't have to struggle, we won't have to pass fruitless idle resolutions, but we shall go from

stresses that all humans are born equal and free and are entitled to dignity and rights whereas Article 3 stipulates that every person has the right to life, liberty and security. Furthermore, it is also stated in Article 5 of the UDHR, similarly to Article 7 of the International Covenant on Civil and Political Rights, that no person shall be subjected to any torture, cruel, inhuman or degrading treatment in addition to the former provisions considered from the UNCRC.

Thus, it is questionable as to whether there is a sufficient degree of respect that the law provides to the physical integrity and dignity of a child when he/she is subjected to corporeal punishments due to the influence of complications involving legal terms. Further to the same, if physical punishments are acceptable, how can a limit be drawn, who can decide the same? Such questions remain moot when due consideration is provided to the laws discussed formerly. However, alternatively, another notable aspect that can be considered in light of the Section under consideration is the obligation that is imposed on governments via Article 19 of the UNCRC. The Article specifically states and imposes an obligation on the government to do everything within their capability to ensure the fact that children are protected from all forms of violence, neglect, abuse and bad treatment from parents and any such person who has accepted the responsibility of looking after them. Thus, even though the standards pertaining to the Sections that are discussed thus far can be high, a positive

perspective in terms of satisfying the requirements of Article 19 of the UNCRC can be identified and presumed.

In addition to Section 308A, it should also be noted that Section 341 of the principal enactment (Penal Code) can also be utilized in ensuring protection for children from acts of cruelty. The Section finds any act of criminal force which may annoy, fear or injury to the person against whom such force is directed to be a punishable offence.²³ When considering the aforementioned provision, a reasonable person might find it difficult to relate the same to a punishment imposed by a teacher on a student, which is addressed by Illustration (i) under Section 341. The illustration indicates “*a schoolmaster, in the reasonable exercise of his discretion as master, flogs B, one of his scholars. A does not use criminal force to B, because, although A intends to cause fear and annoyance to B, he does not use force illegally.*”, which raises a question as to whether a teacher is permitted to punish a student without any fear of consequences imposed by law.

In the effort to discover a solution for the said question, it can be noted that the terms ‘reasonable exercise’ and ‘discretion’ provides a certain degree of flexibility for a teacher who might exercise force on a student, by way of a corporeal punishment, which might provide a sound opportunity to evade the application of this Section. Therefore, Section 341, according to the

love to love and peace to peace, until at last all the corners of the world are covered with that peace and love for which, consciously or unconsciously, the whole world is hungering.”

Parents Forum for Meaningful Education vs Union of India and Another 89 (2001) DLT 705

²³ *ibid*

writer, can be considered as a Section which approves reasonable punishments imposed by teachers on students, as per illustration (i), which may reflect the societal norms that existed when such a law was initially introduced.²⁴

The Circular No. 12/2016 of the Ministry of Education has also provided clear guidelines in terms of maintaining discipline within the school system. According to section 1 of the same, discipline is basically acting according to values that are accepted by the culture of the School. One of the most notable aspects that can be noted within the Circular is Section 2.1, which recognized the impact of corporeal punishments and the duty of teachers towards maintaining discipline via a proper disciplinary committee. Even under circumstances where disciplinary standards are violated by the students, the measures that are recommended to remedy the situation does not involve corporeal punishments but includes methods such as suspensions and efforts to raise awareness of disciplinary standards.

In support of the said standards, it should not be overlooked that Sri Lanka also has a rich line of judicial precedents in the regime of fundamental rights with regard to corporeal

punishments. It can be agreed that subjecting a child to corporeal punishments is a violation of human rights.²⁵ Cases as such that are decided by the Supreme Court of Sri Lanka suggests the capability of an aggrieved child to initiate cases involving the breach of fundamental rights against corporeal punishments under Article 11 of the Constitution. For instance, the decision provided by Kulatunga J. in the case of *Bandara V Wickremasinghe*²⁶ can be considered.²⁷ Thus, positive light is shed by the judiciary of Sri Lanka by accepting the possibility to utilize the jurisdiction of fundamental rights in ensuring protection for children from cruelty irrespective of the existing offences regarding the same in the Penal Code, among other specific laws on the same. Thus, it is quite clear that ensuring protection for children mainly within the school system is quite extensive subject to the challenges discussed within the purview of this research.

Conclusion

Corporeal punishments do not consist of a guarantee that there will be discipline but contain the tendency to lead to a cycle of violence due to the impact that it can have on the mental health of the victims.²⁸ When the

of fundamental rights by executive or administrative action.” “This Court must by granting appropriate relief reassure the petitioner that the humiliation inflicted on him has been removed, and his dignity is restored. That would in some way guarantee his future mental health, which is vital to his advancement in life.”

²⁸Choi, B., 'Cycle Of Violence In Schools: Longitudinal Reciprocal Relationship Between Student'S Aggression And Teacher'S Use Of Corporal Punishment' (2017) 36 *Journal of Interpersonal Violence*

²⁴ Ibid

²⁵Knox, M., 'On Hitting Children: A Review Of Corporal Punishment In The United States' (2010) 24 *Journal of Pediatric Health Care* <https://pubmed.ncbi.nlm.nih.gov/20189062/> accessed 20 June 2022.

²⁶ *Bandara V Wickremasinghe* (1995) 2 SLR 167

²⁷ “I agree that discipline of students is a matter within the purview of schoolteachers. It would follow that whenever they purport to maintain discipline, they act under the colour of office. If in doing so, they exceed their power, they may become liable for infringement

legal instruments and their practical application as depicted in the former parts of this discussion are considered, it is questionable to a certain extent as to whether the attempt made to mitigate and overcome the effects of corporeal punishments to children at schools is effective and efficient. It is quite clear that the Sri Lankan legislature has made timely efforts in bringing various methods of protection via statutory amendments to mitigate corporeal punishments, yet, the findings suggest that there is a need to develop in terms of practical application.

Alternatively, it should further be noted that the existing legal instrument can still be effectively utilized in a manner that can ensure and guarantee the best interests of children at schools while combining the law with continuous education and raising awareness,²⁹ by ensuring proper reporting of incidents and continuous monitoring, among other options. An argument can be made in favour of corporeal punishments and the protection provided to guardians and parents of children about certain types of punishments, yet, the law in such regard should be thorough and certain which will depict a clear standard in terms of the acceptable course of conduct even in the process of acting in the best interests of the child. Hence, the writer believes that Section 308A and Section 341, which formed a significantly important role within the current

research, can therefore be considered as Sections with justifications with room for improvement in terms of their practical application and usage in the context of child development and wellbeing and thereby promote the best interests of children.

“... interpretation of a child’s best interests must be consistent with the whole Convention, including the obligation to protect children from all forms of violence and the requirement to give due weight to the child’s views; it cannot be used to justify practices, including corporal punishment and other forms of cruel or degrading punishment, which conflict with the child’s human dignity and right to physical integrity.”³⁰

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²⁹Bassam, E., et al., 'Corporal Punishment Of Children: Discipline Or Abuse?' (2018) 13 *Libyan Journal of Medicine* <https://www.tandfonline.com/doi/full/10.1080/19932820.2018.1485456> accessed 20 June 2022.

³⁰ UN Committee on the Rights of the Child (CRC), 'General Comment No. 8 (2006): The Right Of The Child To Protection From Corporal Punishment And Other Cruel Or Degrading Forms Of Punishment (Arts. 19; 28, Para. 2; And 37, Inter Alia)' (2007) <https://www.refworld.org/docid/460bc7772.html> accessed 20 June 2022.

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