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Children in Need of Care and Protection in India: Needs, Concerns and Predicaments

Nancy Mengi

Department of Social Work Central university of Jammu Rahya Suchai Bagla, Dist Samba, J&K, India Email: nancyarvind@gmail.com, Ph: 9419894782

ABSTRACT

The paper attempts to present an analytical view of the varied factors which impact the multidimensional development of children. Childhood is recognized as the most crucial period of a person's life as it conditions the child's response to the situations of life. There are both apparent and unapparent social hazards to the healthy development of a child. Family and society, often regarded as a safe haven for the child, willfully ignore this aspect. There is a need to be conscious of psycho social state of children who are in need of care and protection. In a way, the ability of an individual to contribute to the society in adulthood is potentially determined by the childhood experiences. Though in Indian society, generally, not much focus is laid upon this aspect. Children are not accorded their due share in the developmental process of the country and least efforts are made to bring them to the mainstream. This has a long-standing impact on the physical, social, psychology, mental and moral development of a child. The paper opens a discussion regarding the developmental needs of children and also the impediments presented for the reason of their being abused and neglected- orphan, abandoned, child beggars and trafficked.

KEYWORDS: child development, psycho-social impact, emotional needs, emotional hazards, positive childhood

***Corresponding author:**

Dr. Nancy Mengi

Assistant Professor, Department of Social Work
Central university of Jammu Rahya Suchai Bagla,
Dist Samba, J&K, India

Email: nancyarvind@gmail.com, Ph: 9419894782

INTRODUCTION

The future of any country relies heavily on the quality of children that a nation possesses at any point in time. A country's future is carved by its children who have the potential of becoming responsible citizens and a utilitarian human resource. The investment made in the upbringing of this younger generation is a crucial determining factor in the development of any nation. As an extension to this, we can claim that children are the future of society, nation and the mankind. The childhood years have a substantial bearing on the personality development and efficiency of an individual. In a way, the ability of an individual to contribute to the society in adulthood is potentially determined by the childhood experiences. Though in Indian society, generally, not much focus is laid to this aspect. Children are not accorded their due share in the developmental process of the country and least efforts are made to bring them to the mainstream. The majority of children in our society are subject to maltreatment in one form or the other which in clear terms is a violation of child protection issues. This has a long-standing impact on the physical, social, psychology, mental and moral development of a child. A child, who does not have a healthy childhood, comes across many compromising situations, which not just directly impact the social functioning of the child, but also lead to psycho-social repercussions that may last even for a lifetime. As a result, the children after reaching adulthood continue to struggle in the personal sphere only and are most unlikely to become capable of contributing to the society.

Theoretically, a human life is divided into childhood, adolescence, adulthood and old age. The first stage of life is of paramount importance as the experiences in this stage are capable of influencing the behavior, ability and capability in the other three stages of life. That is why the importance of childhood can never be undermined; rather it deserves supreme importance as it has a significant influence on other stages of life. The childhood period is further bifurcated into infancy/babyhood, early childhood, late childhood, pre-puberty and adolescence. A child comes into existence at the time of conception of the fetus as the right to life extends to the unborn baby. The national and international statutes have decreed to give special protection to the foetus during the gestation period, with the exception of there being a threat to the life of the mother and apparent contraindications regarding physical or mental health conditions.

DISCUSSION

The infancy period is the period that starts at birth and continues till one month of age. This is a stage characterized by highest dependency for survival on the primary caretakers in the environment. The next period is babyhood which starts right from the time; the child crosses the infancy stage and grows up to two years. The child in this period starts undertaking activities which

are peculiar to human beings like walking, speaking and socializing. At around three years of age, the child reaches the pre-school stage and takes its first step towards socialization with teachers and peers, but is again largely dependent on family for the fulfillment of basic survival needs including security. Then comes the late childhood in which the child is exposed to a formal education system and seeks out independent socialization. The development that takes place in all these stages is progressive from one stage to another. Realizations of milestones in the predecessor stage ensures the active realization of goals in the following stages. The pre-puberty stage which follows next is characterized by upheaval of emotions and hormonal changes in the body, resulting in identity crises and difficulty in striking a balance with self and the societal expectations. The changes in physical endowments also start surfacing as the child enters the reproductive age. The adolescence age is a symbolic end of childhood and beginning of adulthood.

The foundation that is laid in the childhood has significant bearing on the entire life span of a human being. A childhood which is spent in the state of acute deprivations leads to distortions in the personality of the individual. This can very well be understood through Abraham Maslow's description of 'hierarchy of needs'. A child, who has to grapple for the fulfillment of own basic physical and emotional needs in the most crucial years of growth and development, is seldom capable of reaching the state of self-actualization and thereby lacks the ability of problem solving and adjustment to the changing demands of the environment. He explains that the availability of adequate resources for sustenance like food, shelter, clothing, health, sleep etc. is important; also it is equally important to have a secure environment where there is safety from hazards to life, health and emotional well-being. It also implies the availability of social security measures which accrues from financial security as well as social protection which goes beyond the lofty barrier of class, creed, gender or age differentials. Maslow is of the firm view that when an individual reaches the stage of self-actualization, only then s/he is able to constructively contribute to the society. This stage arrives only when the person's own needs particularly physiological, safety, emotional (love/ belongingness) and esteem are adequately met. In context of children, the family environment plays a catalytically important role. It is the family which plays a very prominent role in providing safety to an individual from all kinds of uncertainties and difficult life situations. But the reality for some children is gruesome, when they are exposed to abuse in the family environment which is otherwise considered to be the safest haven for an individual. The family environment may turn hostile for varied reasons such as poverty, unemployment, family breakdown, migration, unhealthy lifestyles, crime against children, natural and manmade disasters, religious differences, social ostracization, armed conflict, exploitation of the health and strength of children, denial of rights of children, etc. The contemporary families are themselves going through a major social change and are drifting away from their

traditional roles of provider of care and protection; rampant urbanisation is an attributing factor. It may also lead to family dysfunction, which is a state of disorder in the family's pattern of functioning. It implies failure on the part of family members to fulfil basic, socially expected tasks and functions, which are needed for its survival or wellbeing of its members (Prasad, Khasgiwala, Vaswani, 2009)¹.

Documentation Centre for Women and Children National Institute of Public Cooperation and Child Development (2009)² states that the neglect on the part of family members may lead to child abuse which is defined as the "Acts or omissions by a caregiver leading to actual or potential damage to health and development, and exposure to unnecessary suffering to the child". Many times, child abuse is meted by those who are themselves responsible for the care and safety of children. In a study conducted by Ministry of Women and Child Development (2007)³ it was revealed that in 83% of the cases parents were the emotional abusers. Even when the children are reared in normal family situations, they may still have to fall in the category of children in need of care and protection. Sometimes it is the care and protection which they lack the most in life, though being brought up in the family setting. They may also become victimized due to parental neglect. This deprivation arising out of neglect and familial abuse grossly affects the quality of nurture and opportunity to grow in a conducive environment. The neglect and apathy that these children face grossly affects their mental health and their susceptibility to lead a positive life. They remain to be the disguised victim of abuse because direct cognizance of abusive acts of parents is rarely taken. The bitter truth remains that children in need of care and protection also lack the pure love and affection of their near and dear ones. They are mostly neglected, exploited, emotionally hurt and abused. This lowers their self-confidence and ability to develop trust on others and form healthy relationships with significant others in their environment like guardians, parents, caregivers, peers etc. They are generally not empathetically understood and are often termed as deviants and social hazards. This oblivious attitude is resultant of the failure on the part of the society to recognize the importance of fulfillment of their social and emotional needs. This may lead to the development of the faulty personality traits in the child. A child, who does not receive affection and love from his environment, fails to learn the worth of these emotions and does not value them at later stage in his own life. This may sound to be a hypothetical construct for pure science, but love and emotional bonding has the propensity to develop social bonds. An affectionate touch forms the construct of development psychology as it acts as a stimulant for developing the sensory system in the young ones and also boosting the circulation of blood in the body. The love and affection accorded to the children, develops an invisible shield around them and gives a sense of protection, enabling them to grow up as emotionally and physically fit adults. But an absence of these emotions does severe intangible harm which is not just

psychological but has an impact on their academic, health and social development. The values that one imbibes through observation of behavior and conduct of the family members have a long lasting impact than million words of wisdom or bookish knowledge.

Though it is foremost the responsibility of the natural parents or guardians to provide for the care of children, but if they fail to do so or are incompetent to guard the interest of the child; the state assumes the responsibility of the guardian of the child. For these children, the government and the civil society have to play the role of the savior and protect them from succumbing to the vagaries of unfavorable situations. These children are also broadly categorized as children in need of care and protection and a detailed definition is provided in the Juvenile justice Act (2015)⁴. As per section 2 clause, 14 of the Juvenile justice Act, 2015, the definition of children in need of care and protection has been very exhaustively drafted. “Child in need of care and protection” means a child— (i) who is found without any home or settled place of abode and without any ostensible means of subsistence; or (ii) who is found working in contravention of labor laws for the time being in force or is found begging, or living on the street; or (iii) who resides with a person (whether a guardian of the child or not) and such person— (a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or (b) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or (c) has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person; or (iv) who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee; or (v) who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated to care for and protect the safety and well-being of the child; or (vi) who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him; or (vii) who is missing or runaway child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or (viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or (ix) who is found vulnerable and is likely to be inducted into drug abuse or trafficking; or (x) who is being or is likely to be abused for unconscionable gains; or (xi) who is victim of or affected by any armed conflict, civil unrest or natural calamity; or (xii) who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage (Esch, Stefano, 2005)⁵.

The vulnerability requires special protection and care primarily from the state because of the failure of the parents or guardian in doing so. The transition of a child from the care of the parents/guardian to the care of civil society/ government may turn out to be a time-consuming ordeal accompanied with harsh experiences during this journey. The Juvenile Justice Act clearly specifies that the proceedings regarding the child in need of care and protection have to take place in the child welfare committee, but nevertheless, during the pendency of the case, a child may have to face many difficulties ranging from putting in words the atrocities faced and developing understanding about the new experiences of being in the difficult situation. It is generally believed that children by their very nature, develop trust on another person indubitably and this may make them land into jeopardy if the person in context holds malicious intentions against them. They may not be able to realize and raise their voice against any wrongdoing done with them.

The word Orphan children commonly imply for those children who have lost one or both parents. These children lack the family environment and the social bonding and security that emanates from the institution of the family. In almost every society on earth, the main function of a family is procreation and rearing up of children. A child is composed of genetic endowments inherited from the parents and also learns the art of living in the process of developing social and emotional bonding with parents and significant others in the environment. The parents are also expected to provide the best possible care and nurturing, limited only by their available resources and social support from the state. The absence of one or both parents from the family directly implies lack and absence of social and emotional security which is also accompanied by economic insecurity. The social support that a family provides to a child makes it possible for the child to learn the societal customs and values; have a support system to lean to when the life poses difficult experiences. A family plays a pivotal role in the life of a human until s/he is able to form a family of her/his own. Often orphan children are devoid of love, affection and supervision and develop an apathetic attitude towards life.

Abandoned children are those who are disowned by the biological parents for reasons that weigh more than the best interest of the child from the parent's viewpoint. An abandoned child goes through a situation of grave turmoil because s/he is devoid of the love, affection and emotional bonding of the parents in the same way as orphan children are. This generates a feeling of mistrust for others for having been rejected by own parents. Sometimes the child does not even know about his/her origin. This leaves a very deep psychological scar. There are no clear cut known factors behind abandonment but the general observation reveals that factors such as societal taboos associated with illegitimacy, lack of economic support, the death of one of the parents, gender of the child, neglecting attitude of the parents, physical or mental abnormality etc are main factors behind

abandonment of children. When the parents refrain from their most vital function that is childcare; the child goes through mammoth difficulties in sustaining life. Jawahar Devi Birla Institute of Home Science (1999)⁶ compiled a document using abstracts of various studies conducted mainly in the field of children in difficult circumstances. The various studies deal with manifold subjects, i.e. adoptive parents, behavior problems of children, personality traits of institutionalized orphan girls, pre-school children living in slums, children of mentally ill parents, physically handicapped children, mental illness, adolescent girls, juvenile delinquents, runaway children, etc. It was found that mother's love is an important factor which influenced adolescent's institutionalized girl's psychological development. In the matter of parental relationship, it was observed that the father did not play a very important part while the mother did in the lives of girls. The poverty of mother's love had very adverse effect as a result of which girls tended to be lonely and even neurotic. It was revealed that social maturity and intellectual capacity (in terms of abstract and logical thinking) of orphan girls as compared to non-orphan girls were low, where as the neurotic tendency of orphan girls as compared to non-orphan girls was high. Children coming from deprived backgrounds had differential levels of development, and their deprived backgrounds called for special interventions for different categories of children. Good parenting was found to be an important factor contributing to positive outcomes.

Child beggary is also an organized crime which is carried out unrestrained in our country. Children are employed in child beggary because of their ability to arouse the sympathy of the masses. Even in some families, the parents promote children to earn the living for the entire family by means of begging on streets, religious places, market and residential areas. Forced child begging takes on different forms. The research shows that children may be forced to beg by their parents or guardians. Others are exploited in this way by third parties, including cases of children trafficked into begging by informal networks or organized criminal gangs, forced child begging linked to drug addiction in India (Delap,2009)⁷. These children can be easily spotted on streets in a state of acute deprivation. They are also exposed to health hazards attributable to air and noise pollution as well as road accidents. They also become the victim of the wrath of the public. The physical and mental development of child beggars is severely compromised for which lack of education is not the only cause. They are under constant threat to their life and are also severely exposed to other hazards like drug abuse, petty thefts, organized crime etc. Child beggars are devoid even of the most basic of human necessities, like healthy food, shelter, clean water, sanitation, proper clothing, health care, education, family bonding, safety, value education, etc.

Trafficking of young children amounts to severe exploitation of children via other crimes associated with trafficking vis a vis, child labour, beggary, child prostitution, child marriage, induction into drug abuse and militancy. Human trafficking implies sale and purchase of human

beings like commodity and the person dealing in humans acquires a kind of property right over those who are purchased. Though we have the Immoral Traffic Prevention Act in force but the lack of knowledge about the legal provisions and compulsions of life due to economic necessities, lead to the highest degree of oppression in the life of vulnerable children. The state of deprivation bars the poor families from having access to basic amenities of life. And this provides enough reasons for getting lured by the lofty promises for a stable job, marriage, education, money etc. The poverty struck states of our country constantly supply cheap human labour. The National Human Rights Commission (NHRC) Action Research Study (2005)⁸ found that a majority of trafficking victims belong to socially deprived sections of society, including Scheduled Castes, Scheduled Tribes, etc. Children from drought-prone areas and places affected by natural or human-made disasters are also more likely to fall prey to traffickers. And mostly young boys and girls are at risk of exploitation for sex, labour in domestic, industrial and entertainment sector, drug addiction and other unlawful endeavors. These situations not only cause separation of children from their parents but children also come in conflict with the law. This makes their situation adverse because the abuse of the rights of these children makes them stand at odds with the law. Instead of having the legal system offering them protection against the abuse of their rights, they become accountable for breach of law. These children require a lot of care and protection from the stigma that gets associated with them by virtue of coming in conflict with the law. The law of the country, though being child-friendly in nature, does not guarantee absolute protection to children from the aftermath of their deeds performed knowingly or unknowingly under compulsive conditions.

CONCLUSION

All categories of children which are discussed here in this paper pertain to those children who are regarded as children in need of care and protection. By virtue of their status, they are either exposed to sour experiences attributable to physical, sexual, emotional, mental abuse or neglect. Physical abuse is an act against children which involves, kicking, battering, shaking, or arduous work and it may also produce the 'battered-child syndrome' in the victim thereby seriously impairing child's growth and mental and emotional development. Similarly, emotional and sexual abuse not only affects them physically but also poses hazards to social, emotional and mental development. In the Indian context, where mental and emotional health is accorded least priority; the vulnerable child is not given due attention. An abusive situation can lead to erratic patterns of behavior in the child and compromise her/his ability to adapt to the society. The care in the initial years of life is of paramount significance in the development of not just the child but also the society as a whole. Even the children living in the families are not immune to abuse, but the sad part is that this often goes unnoticed and unchecked. Child neglect is another form of abuse in which the person who is

responsible for the upbringing and care of the child fails to do her/his duty properly and jeopardises the child by exposing him to hazardous situations which would otherwise have been prevented. The study by Prayas Institute of Juvenile Justice (2007)⁹ assessed the inter-connected factors associated with child abuse to develop a comprehensive understanding of the phenomenon; evaluated the magnitude and forms of child abuse; aimed to sensitize the public about the serious danger of prevalence of child abuse, especially child sexual abuse in society; assessed the existing legal framework to deal with the problem; and attempted to draw inferences. The survey was carried out across 13 states and covered a sample size of 12,447 children. It was found that younger children, 5-12 years of age, reported a higher level of abuse. Boys, as compared to girls, were equally at risk of abuse, and persons in trust and authority were major abusers. 70% of the abused child respondents never reported the matter to anyone. It was observed that two out of every three children were physically abused. Out of 69% children who were physically abused in 13 sample states, 54.68% were boys. It was found that over 50% children in all the 13 sample states were being subjected to one or the other form of physical abuse, 88.6% were physically abused by parents, 65% school going children reported facing corporal punishment, and 50.2% children worked 7 days a week. 53.22% children reported that they faced one or more forms of sexual abuse, and 21.9% children reported facing severe forms of sexual abuse. Children in Assam, Andhra Pradesh, Bihar and Delhi reported the highest incidence of sexual assault. In 83% cases parents were the abusers and 48.4% girls wished they were boys.

The discussion also leads us to consider the severe emotional turmoil that the children have to face at three levels- when the child is actually going through difficult circumstances, during the pendency of proceedings against child abuse and lastly but not the least, the long term psychological impact of the whole process which s/he goes through. In situations where the abuse is meted out by a trustworthy person, the trauma is even more severe. In fact, the fear of being ridiculed, penalized and social pressure prevents them from seeking any remedial action. It is the need of the hour to arouse ourselves about the impact of the psychological harm that accrues to the children in need of care and protection, even if they are rescued from the difficult circumstances. The slightest of exposure to unpleasant situations in life leads to a permanent scar in the minds of the young ones. That is why; there is a need of sensitizing the parents and the society extensively about the importance of a happy childhood. The prima facie approach should be to avoid or mitigate the possibility of exploitation or harm of any nature to the children. The connection of a shattered childhood with the impaired social functioning in the later part of the life needs to be explained to parents and caregivers. The personality of an adult has its root in the conditioning that an individual receives as a child. Certainly, there are situations which may be beyond the control of individuals but

in most of the cases, a child becomes the victim of neglect caused by the parents and family members. The distorted relations among the parents also impact the quality of childhood. It is not necessary that a child will be vulnerable to a difficult situation only due to the direct impact of situations on own life but also due to the impact that percolates to her/him due to breakdowns in the family member's lives. These circumstances play a pivotal role in determining the psychological strength that a child will possess throughout his life. This is best explained by the System's approach in Family. The family forms part of the micro system and is responsible for the primary socialization and adjustment of the child. A child who is denied this opportunity optimally in his initial years will probably reflect the maladjustment in later stages. So the experiences in the childhood are determinant of the personality framework of an individual. The personality of a person determines the person's ability to frame inference of the situation and exhibit a positive or negative response while handling the situation.

Sengupta (2001)¹⁰ revealed that the children who witness violence on their mothers in the family are affected in various ways. Often they remain neglected and hence are called 'victims of domestic violence'. In Indian society, very few services are available for women who face violence within their family as patriarchy accepts this violence as normal. This study documented the effects of violence on children/ adolescents who witnessed abuse of their mothers by their fathers; and compared the differences, if any, of the effects on boys and girls keeping in mind the fact that a girl is brought up to consider marriage to be the only goal of her life. Data was collected from professionals from different fields whose clients had experience domestic violence and their children. 250 mothers from Kolkata were selected for the study. Findings revealed that the use of violence towards children as a method of teaching discipline is still supported by a majority of adults in India. About 21% of the students undergo physical/ emotional abuse at their homes, and 26% admit witnessing the abuse of their mothers. Another very important aspect that came out of this study is how continuing abuse affects women's relationship with their children. Many women do their utmost to protect their children from abuse, and from the knowledge of the violence, they are experiencing. The mother's silence makes it more difficult for the child to voice his/her experiences and feelings. A number of women expressed that all the pleasures and expectations they had from life depended on their children. It is normal for them to abuse their children if they fail to live up to the high standard of expectations these women have set up.

It is a proven fact that all the stages of a child's life are interdependent to each other because experiences of the preceding stage impact the healthy realization of the developmental tasks in the succeeding stage. The failure in the realization of the development tasks leads to various hazards which mark the failure in social adjustment as per expected roles. The faulty development results in

the incompetence of the person in leading a life with meaning and purpose. And we instantly become judge mental in condemning the person for the wrong doings, least realizing that s/he is not solely responsible for the makeup of personality traits. It is the environment which plays a pivotal role in shaping the personality of the person. This also determines how a person will respond to the life situations even in future. Little do we realize that the physical, social, economic and environmental factors have a significant influence on life of an individual. It is not just the loss of the person but of the mankind as a whole because a society as a whole is composed of the smaller parts which are the individuals. The quality of the individuals determines the strength of the society and if the attention is not paid to the child population, the society is very likely to be composed of people who are not endowed with positive personality traits. We need to be aware of the psychological needs and factors which impact the mental health of the child population; only then the children in need of protection will be benefited by our effort of providing child protective norms and child-friendly system. The highest aim should be that any child, who comes in contact with the law, is restored back to the normal situation with least or no psychological harm. Presently, it is the physical restoration which is receiving the attention but the quantum of psychological harm which accompanies the child for the rest of the life needs to be minimized and ideally erased in the whole process. The dire reality is that this ideal situation is a misnomer in our society and the children continue to grapple with the challenges to their innocence in very many varied ways whose impact cannot be quantified in absolute numbers.

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