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A comparative study of child abuse in educational institutions of India and China

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Abstract

Child abuse is a violation of the basic human rights of a child. It can be virtually visualized in educational institutions globally either in the form of corporal punishments or physical abuse and as an emotional abuse as well as neglect and also in the different forms of mild or severe sexual abuses. Hosting the world's first- and second-largest education system by China and India respectively and also by being two of the most populous nations, the problem of child abuse cannot be isolated from both the countries. In educational institutions it exists as an inalienable part of the system. Both the governments have taken initiatives to control it, check it and eradicate it. Various legislations and acts support the mission of both the governments. However at the level of implementation, it is not much successful in both the country. There is not a single law aimed at safeguarding children and protecting them against various forms of abuses & assault, which is a serious lacuna against this background and is needed urgently.

This paper will focus on child abuse in educational institutions, the laws, legal loopholes, and The Protection of Children against the abuses.

Keywords: Child Abuse, Physical Abuse, Sexual Abuse, Neglect, Policies

1. Introduction

Children are the greatest gift to humanity and their exploitation is one of the most heinous crimes imaginable. It is an appalling violation of their trust and an ugly breach of our commitment to protect the innocent. Child abuse is a state of emotional, physical, economic and sexual maltreatment meted out to a person below the age of eighteen and is a globally prevalent phenomenon. It occurs when the parent, guardian, teacher or other person responsible for the child's welfare inflicts or allows to be inflicted upon the child physical or mental injury or engages in acts or omissions that present a substantial risk of physical or mental injury to the child, including injuries sustained as a result of excessive corporal punishment. According to *Child welfare act*, child abuse is "The physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened." According to *WHO*, "Child abuse or maltreatment constitutes all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power. Child abuse is a violation of the basic human rights of a child and is an outcome of a set of inter-related familial, social, psychological and economic factors. The problem of child abuse and human rights violations is one of the most critical matters on the international human rights agenda.

India is home to almost 19 percent of the world's children. More than one third of the country's population, around 440 million, is below 18 years. According to one assumption 40 percent of these children are in need of care and protection, which indicates the extent of the problem. In India, as in many other countries, there has been no understanding of the extent, magnitude and trends of the problem. The growing complexities of life and the dramatic changes brought about by socio-economic transitions in India have played a major role in increasing the vulnerability of children to various and newer forms of abuse. Child abuse has serious physical and psycho-social consequences which adversely affect the health and overall well-being of a child. In a country like India with its multicultural, multi-ethnic and multi-religious population,

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the problems of socially marginalized and economically backward groups are immense. Within such groups the most vulnerable section is always the children. Traditionally in India, the responsibility of care and protection of children has been with families and communities. A strong knit patriarchal family that is meant to look after its children well has seldom had the realization that children are individuals with their own rights.

China constitutes the world's largest population. The ever-growing economy in China is assumed to be a risk factor contributing to the increase of child abuse rates. Families living in rural areas and in poverty have difficulties in providing sufficient care for children. The term 'Child Abuse' has different connotations in different cultural milieu and socio-economic situations. A universal definition of child abuse in the Chinese context does not exist and has yet to be defined. Prevailing gender bias in China has caused neglect and abandonment of girl child specially. Increasing number of working parents have little time to communicate with and care for their children when they have to work for long hours away from home which has created an environment conducive to child victimization. When children are unsupervised by their parents, they may be at an increased risk of becoming involved in and exposed to violence and abuse outside the home like in schools. Several researchers defined child abuse as physical maltreatment, psychological aggression, corporal punishment, nonviolent discipline, and neglect (*Chan, Brownridge, Yan, Fong, & Tiwari, 2011*). The definition of general child abuse given by Hong Kong Medical Coordinators on Child Abuse was most comparable to the WHO definition of child abuse. Their definition stated that abuse includes any act of omission or commission by a person entrusted with the care and control of a child that endangered or impaired the child's physical, psychological, or emotional health and development (*Hong Kong Medical Coordinators on Child Abuse, 2003*).

Rationale:-

In due course of time India and China have faced similar conditions and challenges in education during their rapid industrial and social transformation. China and India host the world's first- and second-largest education systems respectively and both of the country started building their national education systems under comparable conditions in the late 1940s. Apart from this, both of the country are in the stage of their development i.e. both are assumed to be a developing country where Per capita GDP are almost similar i.e. India(62US\$) and China(65US\$) . India and China are two of the fastest growing economies of the world along with being two of the most populous nations too. The sheer size of their economies has an immense bearing on the natural resources and status of development of the world as a whole. Both the countries encompasses multiple cultures, however suffer with social inequality and made provisions to bring socially and economically backward people to main stream of the nation .If compared globally, India and China are closer to the magnitude of child abuse as compare to global scenario. So there is a need to critically analyze that in spite of various plans and policies, acts and legislations, why the magnitude of child abuse is high in both countries.

Types of Child Abuse; Comparative Account

Physical Abuse: In Indian context, Physical abuse is the inflicting of physical injury upon a child. This may include burning, hitting, punching, shaking, kicking, beating or otherwise harming a child. The parent or caretaker may not

have intended to hurt the child. It may, however, be the result of over-discipline or physical punishment that is inappropriate to the child's age. However in Chinese context, Physical maltreatment is defined as being injured from a beating occurring without provocation by parent. Corporal punishment was defined as the use of physical punishment for disciplining children (*Lau et al., 2005*). Serious maltreatment was defined as one or more of the following: intracranial bleeding, fracture, burning or scalding, poisoning, skin or soft tissue laceration, strangulation or smothering, sexually transmitted disease, pregnancy, and nonorganic failure to thrive (*Lee, Li, Kwong, & So, 2006*).

Sexual Abuse: In Indian context, Sexual abuse is inappropriate sexual behaviour with a child. It includes fondling a child's genitals, making the child fondle the adult's genitals, intercourse, incest, rape, sodomy, exhibitionism and sexual exploitation. To be considered 'child abuse', these acts have to be committed by a person responsible for the care of a child (for example a baby-sitter, a parent, or a daycare provider), or related to the child. If a stranger commits these acts, it would be considered sexual assault and handled solely by the police and criminal courts.

In contrast, in Chinese context, Sexual coercion was defined as the act of forcing other individuals through violence, threats, or deception to engage in sexual behavior against their will (*Cheng et al., 2001*). Others defined child sexual abuse as unwanted touch and forced sex (*Chan, Yan, Brownridge, Tiwari, & Fong, 2011*).

Emotional Abuse: In Indian context, Emotional abuse is also known as verbal abuse, mental abuse, and psychological maltreatment. It includes acts or the failures to act by parents or caretakers that have caused or could cause, serious behavioral, cognitive, emotional, or mental trauma. This can include parents/caretakers using extreme and/or bizarre forms of punishment, such as confinement in a closet or dark room or being tied to a chair for long periods of time or threatening or terrorizing a child. Less severe acts, but no less damaging, are belittling or rejecting treatment, using derogatory terms to describe the child, habitual tendency to blame the child or make him/her a scapegoat.

The meaning of child abuse in Chinese context is more or less similar. It includes humiliation, harsh treatment, ignoring, shouting, speaking rudely, Name calling, and Use of abusive language.

Neglect: In both Indian as well as Chinese context, the meaning of neglect is same. It is the failure to provide for the child's basic needs. Neglect can be physical, educational, or emotional. Physical neglect can include not providing adequate food or clothing, appropriate medical care, supervision, or proper weather protection (heat or cold). It may include abandonment. Educational neglect includes failure to provide appropriate schooling or special educational needs, allowing excessive truancies. Psychological neglect includes the lack of any emotional support and love, never attending to the child, substance abuse including allowing the child to participate in drug and alcohol use.

Comparative Account of magnitude of Child Abuse in India and China:-

It is very clearly emerged fact that globally across different kinds of abuse; it is young children, in the 5-12 year group, who are most at risk of abuse and exploitation. In Indian context, most prevalent form of child abuse is that of **Physical**

abuse. A study by Ministry of Women And Child Development reflects that two out of every three children are physically abused here. Out of 69% children physically abused 54.68% are boys. Over 50% children are being subjected to one or the other form of physical abuse. Out of those children physically abused in family situations, 88.6% were physically abused by parents. 65% of school going children reported facing corporal punishment i.e. two out of three children were victims of corporal punishment and 62% of the corporal punishment was in government and municipal school. The State of Andhra Pradesh, Assam, Bihar and Delhi have almost consistently reported higher rates of abuse in all forms as compared to other states and most children did not report the matter to anyone. In contrast, in China, The rate of corporal punishment is between 4 and 58 percent in Hong Kong, depending on the severity of the violence and whether the prevalence is lifetime or annual (Lau et al., 2005; Tang, 2006)^[7]. Physical abuse prevalence ranged from 4 percent to 44 percent (Chan, 2011b) in Hong Kong; 9 percent to 79 percent in mainland cities (Lee et al., 2011) and 27 percent in other provinces (Xiao, Li & Ye, 2008). In Taiyuan, physical maltreatment prevalence ranged from 17 percent (Shen, 2009a, 2009b) to 22 percent .A range of 2 to 33 percent has been reported among the Chinese immigrants in the United States (Lau, Takeuchi, & Algeria, 2006). The huge discrepancy in rates can be accounted for by the differences in sample size and gender composition of the studies. Boys are often found to have a higher chance of experiencing physical punishment than girls. Boys are also more likely to be beaten without provocation (Lau et al., 2005).

Sexual Abuse: - A study by Ministry Of Women And Child Development, India reflects that 53.22% children reported having faced one or more forms of sexual abuse. Andhra Pradesh, Assam, Bihar and Delhi reported the highest percentage of sexual abuse among both boys and girls and 21.90% child respondents reported facing severe forms of sexual abuse and 50.76% other forms of sexual abuse. Children on street, children at work and children in institutional care reported the highest incidence of sexual assault. 50% abuses are persons known to the child or in a position of trust and responsibility. In all the situations, most children did not report the matter to anyone. According to WHO, one in every four girls and one in every seven boys in the world are sexually abused. *Virani (2000)* states, the WHO found that at any given time, one of ten Indian children is the victim of sexual abuse. But *Lois J. Engel Recht*, a researcher quotes studies showing that over 50 per cent of children in India are sexually abused, a rate that is higher than in any other country. Likewise if we focus on China, it's found that In Hong Kong, sexual abuse prevalence ranges from 0.9 percent to 2 percent (Chan, Yan, et al., 2011). In mainland cities, the rates range from 0.6 percent to 22 percent for sexual abuse (*Lee et al., 2011*), and 4.2 percent for sexual contact (*Lao, Parish, & Laumann, 2008*). The rate of sexual abuse in Taiwan was reported to be 2.5 percent (Yang, Yang, et al., 2008).

Emotional or Psychological Abuse and Neglect:- As per the report of Ministry Of Women And Child Development,(India),Every second child reported facing emotional abuse and Equal percentage of both girls and boys reported facing emotional abuse. In 83% of the cases parents were the abusers. As a result of abuse, it was found that 48.4% of girls wished they were boys. In China, Only a few studies

have investigated the problem of child psychological abuse. In Hong Kong, the prevalence of psychological maltreatment ranges from 69 percent to 78 percent (*Leung, et al., 2009*). In mainland China, the reported rate was 4 percent in a few provinces (*Xiao et al., 2008*).

The number of studies on the issue of **neglect** is also limited. The prevalence in Hong Kong ranges from 21 percent to 36 percent (*Chan, Brownridge, et al., 2011*). In mainland cities, the rate ranges from 2 percent to 27 percent (*Xiao et al., 2008*). In another form of child victimization, an excessive mortality rate of female fetuses and infants was reported in many cities and provinces in mainland China, with the highest male-to-female birth rate of 138 to 100 reported in Jiangxi, and a national average female-to-male infant mortality ratio of 1.465 (*Attane, 2009*).

Government Initiatives To Prevent Child Abuse In Educational Institutions:-

In the Indian context, acceptance of child rights as primary inviolable rights is fairly recent, as is the universal understanding of it. On the policy level, the definitions of child maltreatment proposed by WHO or the measures to protect children under the United Nations Convention on the Rights of the Child (UNCRC) are well recognized at the government level, and the Chinese government has committed to follow the UNCRC. The child protection legal framework in mainland China was formed by emphasizing child protection in the PRC Constitution and has been implemented through a number of laws, including the Protection of Minors Act, the Law on Preventing Juvenile Delinquency, the Compulsory Education Law, the Maternal and Infant Health Protection Act, the Law on Adoption, and other policy-based 65% of school going children face corporal punishment i.e. two out of three children are victim of corporal punishment.

National and international efforts to prevent child abuse in India:-National Policy for Children, 1974

It ensures the equality of opportunity and special assistance to all children belonging to the weaker sections of the society, such as children belonging to the Scheduled Castes and Scheduled Tribes and those belonging to the economically weaker sections, both in urban and rural areas. also Children who are socially handicapped, who have become delinquent or have been forced to take to begging or are otherwise in distress, shall be provided facilities of education, training and rehabilitation and will be helped to become useful citizens. It focuses that Children shall be protected against neglect, cruelty and exploitation

Child Labor (Prohibition and Regulation) Act, 1986

An act to prohibit the engagement of children in certain employments and to regulate the conditions of work of children in certain other employments.

Convention on the Rights of the Child (CRC) 1989

Article 19 of CRC States that Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. It also mentions Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the

child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Juvenile Justice (Care and Protection of Children) Act, 2000

It's an Act which has consolidated and amended the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under this enactment.

National Plan of Action for Children, 2005

The National Plan of Action for Children, 2005 commits itself to ensure all rights to all children up to the age of 18 years. The Government shall ensure all measures and an enabling environment for survival, growth, development and protection of all children, so that each child can realize his or her inherent potential and grow up to be a healthy and productive citizen. This calls for collective commitment and action by all sectors and levels of governments and partnership with families, communities, voluntary sector, civil society and children themselves.

National Child Labor Project (NCLP)

It is made for the rehabilitation of child labor. Under this scheme, Project Societies at the district level are fully funded for opening up of Special Schools/Rehabilitation Centers for the rehabilitation of child laborers. These Special Schools/Rehabilitation Centers provide non-formal education, vocational training, supplementary nutrition and stipend to children withdrawn from employment.

INDO-US Child Labor Project (INDUS):

The Ministry of Labor, Government of India and the US Department of Labor have initiated a project aimed at eliminating child labor in 10 hazardous sectors across 21 districts in five States namely, Maharashtra, Madhya Pradesh, Tamil Nadu, Uttar Pradesh and NCT of Delhi.

Government initiatives to prevent child abuse in China:-

China has ratified major international documents with regard to children's rights protection. China's domestic legislation also provides protection for a wide range of children's rights. The reality, however, is disputable.

U.N. Convention on Rights of the Child 1989

The convention was declared in the year 1989 but China government adopted it in 1992. It protects a wide range of children's rights through domestic legislation and by ratifying and joining the relevant international treaties. The PRC Constitution provides for the state protection of children, and prohibits maltreatment of children.

The PRC Law on the Protection of Minors

It was first passed in 1991, and revised in 2006). It is also known as Minors Protection Law. The newly revised Minors Protection Law entered into force on June 1, 2007. This law sets up

Responsibilities of the families, the schools, and the government with regard to the protection of children's rights,

and judicial protection, as well.

Law of the People's Republic of China on the Protection of the Rights and Interests of Women 1992

It explicitly prohibit corporal punishment of the female child (art. 23), and under the Law on the 2 Prevention of Juvenile Delinquency 1999, families of children in work-study schools must not impose physical punishment on them (art. 36). Optional Protocol to the Convention on Rights of Child on the Sale of Children, Child Prostitution, and Child Pornography 2000 (2003)

Committee on the Rights of the Child (Nov. 2005)

"The Committee is concerned that in mainland China the existing regulations banning corporal punishment in schools are unevenly implemented. It is also concerned that corporal punishment in the home is not banned and continues to be socially acceptable. "The Committee urges the State party, in all areas under its jurisdiction: a) to explicitly prohibit by law corporal punishment in the family, schools, institutions and all other settings, including penal institutions; b) to expand public education and awareness-raising campaigns, with the involvement of children, on alternative non-violent forms of discipline in order to change public attitudes about corporal punishment.

Law on the Protection of Minors (2006)

As per this law, Corporal punishment is prohibited in kindergartens and nurseries. Article 21: states that "Teaching and administrative staff in schools, kindergartens and nurseries shall respect the personal dignity of the minors, and may not subject them to corporal punishment or corporal punishment in disguised form, or commit any other act that humiliates the personal dignity of the minors." Article 63 states: "...Where a teaching or administrative staff member of a school, kindergarten or nursery subjects a minor to corporal punishment or corporal punishment in disguised form, or to any other act that humiliates the personal dignity of the minor, the unit where the staff member works or the department at a higher level shall instruct him to rectify; and if the circumstances are serious, he shall be given a sanction according to law." There appears to be no explicit prohibition in other early childhood care (crèches, family centers, etc) or in day care for older children (day centers, after-school childcare, child minding, etc).

Universal Periodic Review (2009)

The recommendations were made and were accepted by the Government on various aspects like Continue enhancing the quality of life of its people through the enjoyment of economic, social and cultural rights and pursuant to international standards (*Nicaragua*). It "attached more importance to the protection of rights of the child through national plans for economic and social development.

Discussions and Interpretations:-

Independent India has taken large strides in addressing issues like child education, health and development. However, child protection has remained largely unaddressed. But there is now a realization that if issues of child abuse and neglect are not addressed, it will affect the overall progress of the country. Realizing this, the Government of India is focusing on child issues and created a new Ministry of Women and Child Development. MWCD has taken significant steps to address the issue of child protection by setting up a National

Commission for the Protection of Child Rights, amending the Juvenile Justice (Care and protection of Children) Act 2000 and the Child Marriage Restraint Act 1929, launching the Integrated Child Protection Scheme (ICPS) and the proposed amendments to the ITPA and the draft Offences against Children (Prevention) Bill. However, all these efforts need further supplementation through the creation of adequate knowledge base on child protection. "Child abuse" is a general term used to describe different abusive acts committed against children. The Indian society, like most societies across the world, is patriarchal in structure where the chain of command is definite and inviolable. In such power structures parents, both fathers and mothers, consider their children as their property and assume a freedom to treat them as they like. Thus, not only do parents and teachers adopt harsh methods of disciplining children, there is also little opposition to this harshness. The underlying belief is that physical punishment encourages discipline in children and is for their betterment in the long-run. In Chinese context Corporal punishment is widely accepted by the public of China and is considered to be distinct from physical abuse. As described by *HK Law (2012)*, despite the clear intention to hurt and inflict pain, which is part of corporal punishment, professionals used the lack of an intention to harm to differentiate corporal punishment from physical abuse.

The subject of child sexual abuse is still a taboo in India. There is a conspiracy of silence around the subject and a very large percentage of people feel that this is a largely western problem and that child sexual abuse does not happen in India. Part of the reason of course lies in a traditional conservative family and community structure that does not talk about sex and sexuality at all.

Parents do not speak to children about sexuality as well as physical and emotional changes that take place during their growing years. As a result of this, all forms of sexual abuse that a child faces do not get reported to anyone. The girl, whose mother has not spoken to her even about a basic issue like menstruation, is unable to tell her mother about the teacher or neighbor who has made sexual advances towards her. This silence encourages the abuser so that he is emboldened to continue the abuse and to press his advantage to subject the child to more severe forms of sexual abuse. Very often children do not even realize that they are being abused.

Following a number of high profile cases of the deaths of young children as a result of parental abuse and neglect, new child laws are reportedly being drafted to address implementation of existing child laws and to strengthen protection for very young children... Of those who had been physically punished, 42% of boys and 41% of girls said they were punished for being "disobedient", 33% of boys and 25% of girls for being "naughty", 25% of boys and 18% of girls for having poor results at school, and 25% of boys and 45% of girls for being "willful".

Children often experience various forms of violence in schools. Research shows that one in every four children in China has experienced school bullying in the past 30 days (Cheng et al., 2010). The figure is even higher in Hong Kong, where more than two-thirds of the school-aged children reported being bullied (Wong et al., 2008). In a study in the Anhui province (Ye et al., 2004), most violence experienced by children happened at school (46 percent), followed by at home (28 percent) and at By agreeing to undertake the obligations laid down in the declaration and the convention (by ratifying or acceding to them), national governments agree to "respect and ensure" the rights identified by the convention.

By ratifying the convention, states are also obliged to "undertake all appropriate legislative, administrative and other measures for the implementation" of the best interests of the child (United Nations, 1989).

In general, the Chinese government is willing to make policy and laws to deal with social problems. For example, the Chinese government has introduced a series of regulations and policies for child protection in the past two decades, including the Regulations on Prohibiting of Using Child Labor and Provisions of the Special Protection of Minor Workers that aim at protecting child and adolescent workers. However, supporting services are not always comprehensive. The provincial level child protection committees are primarily serving as a coordinating organization rather than a law enforcement mechanism. No specialized organization is present to offer assistance to children in need, and it is likely that vulnerable children will face

Challenges when seeking help. The Chinese government has committed to provide better protection of the rights of children in the country. On the national level, the 2000-2010 National Program of Action for the Development of Children outlines the national action to be taken to further promote healthy and sustainable child development in China. In addition, the primary target governing child protection is the Law of the People's Republic of China (PRC) on the Protection of Minors, which was originally passed in 1991 and then revised in 2006. The newly revised Protection of Minors Act was enacted on June 1, 2007. It incorporates the principles of the UNCRC into its legislation, and lists the responsibilities of families, schools, and the society for the protection of children's rights and the judicial protection of these rights.

But there is lack of data on offences or crimes against children. The only source of data presently available in India was with the National Crime Records Bureau. Although this data was useful, it constituted a miniscule of the total crimes/violence committed against children. The reason for this is that very often crimes against children are either not reported or cognizance is not taken and also that some crimes against children are not covered under existing legislations. Though gaps in information were at all levels, child abuse in educational institutions being an issue shrouded in secrecy, emerged as the most burning issue which needs to be focused primarily by the guardian then by the society and finally by the legislations and government.

Conclusion:

Child abuse is a dark reality that routinely inflicts our daily lives but in a majority of cases it goes unnoticed and unreported on account of the innocence of the victim, stigma attached to the act, callousness and insensitivity of the investigating and the law enforcement agencies, etc. Merely enacting legislation will not be enough unless this is followed by strict enforcement of the law with accountability defined. Also, parents, teachers and others in the community have a vital role to protect children from various forms of exploitation and abuse. Children are the country's greatest human resource and a measure of the country's social progress lies in the wellbeing of its children: that they are healthy, educated, safe, and happy and have access to life opportunities. It is our duty that Child abuse should be combated as early as possible. Besides government, many independent agencies and NGOs can work together for the betterment of children. This will help both the countries shine bright and develop in a crime free way, as children are the leaders of tomorrow.

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