

## Children In Conflict With Laws

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### ABSTRACT

The motivation for selecting this topic for a detailed examination is to present issues concerning the study of children in India's Juvenile Justice System. This paper provides The detailed children's right must be made in light of this perspective. The notion of The concept of juvenile delinquency gave rise to the juvenile justice system. The youth Children are unable to comprehend life's unusual situations. They are not easily adaptable to the legal framework and criminal law processes. As a result, the Juvenile Justice System is only designed to meet the needs of children in need of care and protection, as well as children in conflict with the law. One of the primary functions of the Juvenile Justice System has been to provide children with specialized and preventive treatment services.

The children of the country are a vital resource. We are responsible for their nrisheeds and care. As a result, it is critical that we help children. Children are always innocent and have no concept of good and evil. Furthermore, they are less physically and mentally fit than adults. Children developed into good citizens, physically fit, mentally alert, and morally healthy, endowed with the necessary skills and motivations for society. Equal development opportunities for all children during the growth period should be our goal, as this would serve our larger goal of reducing inequality and ensuring social justice.

**Keywords:** Juvenile Justice System, Preventive Treatment Service, Constitutional Law.

### INTRODUCTION

The innocence and purity of a child are present from birth. Nurturing a child is a vital component of their development, and if they are given the proper care and attention, they will mature into useful members of society. Children perform well when their environment is encouraging and supportive of them. The physical, psychological, moral, and spiritual growth of children equips them to recognize their abilities. A hostile environment, a lack of basic needs, inadequate parental supervision, and other factors, on the other hand, might convert a child into a juvenile delinquent. In India, juvenile delinquency is a societal issue that affects not just children, but also their families, communities, and society. As a result of a child's illness, family members suffer.

India has the world's largest child population, with children accounting for around 38 to 40 percent of the country's total population. According to India's National Policy for Children, children are recognized as a national resource. On the other hand, adversity continues to befall Indian youngsters.

The rate of crime among minors in legal trouble increased from 1.7 percent to 2.5 percent between 2005 and 2015, according to data from the National Crimes Records Bureau. In 2015, the number of cases filed under the IPC against adolescents who broke the law increased by 0.8 percent. There were 33,526 instances of children breaching the law in 2015. There were 18,939 incidents in 2005. In a 2015 report, the National Cancer Research Board (NCRB) stated, "These figures have drawn attention to the psychosocial difficulties that children with legal conflicts experience in India."

### RECENT ISSUES OF CRIMES BY CHILDREN IN INDIA

Since 2012, there has been much discussion among government officials, non-governmental organizations, the media, and the general public about crimes committed by juveniles under the age of 18. A 16-year-old Delhi teen murdered a four-year-old boy in October 2012. A 23-year-old medical student was raped by six males, one of whom is a juvenile, in December of

2012. A 22-year-old photographer was raped by five guys in Mumbai's Shakti Mills in August of 2013. One of the defendants is a minor. In September of 2013, a 12-year-old girl was raped by five boys ranging in age from 12 to 16 years old. (Delhi: The Times of India, September 22, 2013) At the time of the Nirbhaya gang-rape 12, one of the six men involved was a child.

Despite extensive efforts by various stakeholders to enhance the education, health, economy, policies, and programs for children in India, crime has continued to climb. Professional social workers should give particular attention to the psychological components of adolescent misbehavior in this situation.

### **Indian Scene**

India! Women are revered as goddesses in the name of Durga. All three goddesses, Laxmi, Saraswati, and Kali, are humiliated as women or girls. We also celebrate women's grandeur and womanhood in public, referring to her as "Grahlakshmi," despite the fact that she has been accused of Kleptomania and licentiousness on occasion. This has been going on for hundreds of years, all the way back to the Vedic era.

In order to locate a husband and establish a lasting hearth, Indian women go through a number of religious rites and make religious sacrifices. Their Brahminic faith, on the other hand, lowers the lady, according to Manu. A woman does not have a spiritual existence apart from her husband. Her ambition is to marry him one day. Her money must be gained through him, and only in his service. "Woman has been seen as a snare to man's rectitude but an impediment to his best interests by the sages of India" woman has been regarded as a snare to man's rectitude but an impediment to his best interests by the sages of India.

The greatest method to judge a country's growth, according to scholars, is to look at how it treats women. Many writers have made the connection between cultural levels and how women are treated, concluding that there is a strong link between the law and women's status, as well as low cultural levels in society.

The involvement of women in various aspects of life has supported the evolution of value that has counted for what can be characterized as all-round progress. Her position acts as a barometer for assessing the cultural norms of any era.

In Indian history, there was a time when women and men were treated equally. Women have a major position in Vedic civilization. They were given complete autonomy in pursuing their spiritual and intellectual aspirations.

The wife is said to have been the husband's companion in both good and bad times, mistress of the household, and participant in all of his temporal and spiritual pursuits throughout the Vedic era. Throughout this time, women actively participated in agriculture and collaborated with males in the production of bows and arrows, as well as other public utility products. Women were also granted prominent positions in the religious sector.

Religious life was an all-important and engrossing component of people's daily lives throughout this time, and women actively participated in it. Women have a long history of making significant societal sacrifices. The lady of the house not only attended but also played a key role in several important 'Yagnas' held during the Vedic and post-Vedic periods. Remarriage of widows was permitted during this time. As a result, women had the same, if not higher, status as men during the Vedic period.

### **CAUSES**

Poverty is the major cause of child labour, according to LO. A child's wages are sometimes critical for his or her own survival as well as the survival of the family in poor homes.

#### **Cultural causes**

Many cultures, particularly those where the informal economy and small household businesses thrive, have a cultural tradition of children following in their parents' footsteps; however, girls' education is undervalued in many cultures, and these girls are pushed into child labour, such as providing domestic services.

#### **Macroeconomic causes**

For the majority of human history, global socioeconomic conditions have favoured widespread child labour. The demand and supply sides of the equation are used to arrive at this conclusion.

##### **Offences Alleged to be committed by Children**

The Juvenile Justice System assumes that a child offender is a product of unfavorable environment and is entitled to a fresh chance to begin his life. The offences may have been committed without any criminal intent on certain occasions. The child probably lacks foresight on the repercussions/consequences of his actions. It is accepted that a child offender should not be given punishment based on the kind of offence he /she has committed but should be given an individual treatment which is reformative in nature and which is based on his /her need, psychological and social background.

According to National Crime Record Bureau, a total of 31,396 cases of "children in conflict with law" (CCL) were reported in 2015 and the rate of crime committed by them was 2.1 per cent. However, a majority of these cases are petty crimes and

are preventable by providing proper guidance and counselling to children and economic strengthening of their families. An analysis of children who were in conflict with law shows that majority of them belonged to economically weaker section (42.5 per cent). Around 11.5 per cent of them were illiterate while another 43.4 per cent were educated up to primary level only ( Crime in India 2015: Compendium ; NCRB).

#### Types of Crimes Committed by children

Various types of offences committed by children in conflict with law have been defined under the JJ Act, 2015 as follows:

1. Petty offences : Petty offences include the offences for which the maximum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment up to three years.
2. Serious Offences : Serious offences include the offences for which the punishment under the Indian Penal Code or any other law for the time being in force is imprisonment between three to seven years.
3. Heinous Offences : Heinous offences committed by children in conflict with law include the offences for which the minimum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment for seven years or more.

Delinquency exhibits a variety of styles of conduct or forms of behavior. Each of the patterns has its own social context, the causes that are alleged to bring it about, and the forms of prevention or treatment most often suggested as appropriate for the pattern in question.

Howard Becker (1966: 226 - 38) has referred to four types of delinquencies:

- individual delinquency
- group-supported delinquency
- organized delinquency
- situational delinquency

#### **Individual delinquency**

This refers to delinquency in which only one individual is involved in committing a delinquent act and its cause is located within the individual delinquent. Most of the explanations of this delinquent behavior come from psychiatrists. Their argument is that delinquency is caused by psychological problems that primarily stem from defective/faulty/pathological family interaction patterns.

#### **Group - supported delinquency**

In this type, delinquencies are committed in companionship with others and the cause is located not in the personality of the individual or in the delinquent's family but in the culture of the individual's home and neighborhood. The studies of Thrasher and Shaw and McKay talk of this type of delinquency. Research findings suggest that most young children who became delinquent was because of their association and companionship with others who were already delinquent. Unlike the psychogenic explanations, this set of ideas focuses on what is learnt and who it is learnt from rather than on the problems that might produce motivation to commit delinquencies.

#### **Organized delinquency**

This type refers to delinquencies that are committed by formally organized groups. These delinquencies were analysed in the United States in the 1950s and the concept of "delinquent sub - culture" was developed. This concept refers to the set of values and norms that guide the behavior of group members to encourage the commission of delinquencies, award status on the basis of such acts and specify typical relationships to persons who fail outside the groupings governed by group norms.

#### **Situational delinquency**

The above - mentioned three types of delinquencies have one thing in common. In all of them, delinquency is viewed as having deep roots. In individual delinquency (according to the psychogenic explanation), the roots of delinquency lie primarily within the individual. In group - supported and organized delinquencies (the sociogenic explanation), the roots (of delinquency) lie in the structure of the society with emphasis either on the ecological areas where delinquency prevails or on the systematic way in which social structure places some individuals in a poor position to compete for success.

Situational delinquency provides a different perspective. Here the assumption is that delinquency is not deeply rooted, and motives for delinquency and means for controlling it are often relatively simple. A young man indulges in a delinquent act without having a deep commitment to delinquency because of less developed impulse - control and/or because of weaker reinforcement of family restraints, and because he has relatively little to lose even if caught. David Matza is one scholar who refers to this type of delinquency. However, the concept of situational delinquency is undeveloped and is not given much relevance in the problem of delinquency causation. It is a supplement to rather than a replacement of other types.

#### **Inquiry by the board**

In order to ensure fair and speedy inquiry, the board takes the following steps for inquiry:

1. At the time of initiating the inquiry by the board, the board must be satisfied that the child who is in conflict with the law is not subjected to any ill-treatment by the police officials or any other persons, this also includes a lawyer, a probation officer. Moreover, if the board recognizes that the child has been subjected to ill-treatment, then it will take corrective steps for the same.
2. Under the relevant provisions of the act, the proceedings against the child who is in the conflict with the law must take place in the simplest manner. This is done to ensure care for the child and the child is given a child-friendly atmosphere.
3. The child, when brought before the board, must be given the opportunity of being heard and adequate participation in the inquiry process.
4. In an inquiry, the cases of “petty offenses” are disposed of by the board through summary proceedings.
5. In an inquiry, the cases of “serious offenses” are disposed of by the board in accordance with the Code of Criminal Procedure, 1973 under the procedure for trial in summons cases.
6. In an inquiry, if the case is found to be of “heinous offense”:
  - 
  - The child who is below 16 years of age as on the date of when the offense was committed, shall be disposed by the Board under clause (e).
  - The child who is above the age of 16 years as on the date of when the offense was committed by him, shall be dealt in accordance with the manner stated under [Section 15](#) of the Juvenile Justice (Care and Protection of Children) Act 2015.
  - The board reserves a right to pass any orders which necessary deems fit for the child. The board can send the child to an observation home or a place of safety or a fit facility or can bail him out if it deems it.
  - After the procedure of inquiry, if the Board is satisfied with the circumstances of the child, it can transfer the child to the Committee if a child is in need of protection and care.
  - **The preliminary assessment into heinous offenses:** The board does a preliminary assessment into “heinous offense” committed by the child as per [Section 15](#) of the Juvenile Justice (Care and Protection of Children) Act.
1. When a heinous offense is alleged to have been committed by the child, who has completed the 16 years of age, the board shall conduct a preliminary assessment pertaining to the mental and physical capacity to commit such an offense, his ability to understand the nature and consequence of the offense he has committed. Moreover, the Board can pass any order under provisions of sub-section (3) of [Section 18](#) of the Juvenile Justice Act, 2015. Furthermore, It is mandatory for the board to take the assistance of experienced psychologists or psycho-social workers or any other expert suitable for the job.
2. When the Board is satisfied with the procedure of preliminary assessment it will dispose of the matter in accordance with the trial in summons case mentioned under the trial of summons case under Criminal Procedure Code, 1973.

#### **Orders regarding the child**

[Section 18](#) of the Juvenile Justice (Care and Protection of Children) Act, 2015 talks about the orders regarding the child found to be in conflict with the law.

It states that:

1. Allow the child to go, if there is compliance with the procedures of inquiry and there is counseling given to the child or to his parents or guardian.
2. The board can even direct a child to participate in group counseling and activities of a similar nature.
3. It can also issue an order that the child must perform community service under the supervision of the organization and institution appointed by the board.
4. The board can order the child or his parents or guardian to pay the fine, provided that if the child is working the provisions of labor law are not violated.
5. The board can allow the child to be released on probation for his good behavior and can place him under the care of a parent or guardian or a fit person. The board will execute a bond with such a person, with or without surety that person will work for a child’s good conduct and well being for not exceeding 3 years.
6. The board can direct the child to be released on probation of his good conduct under the care and supervision of a fit facility which will ensure good behavior and well-being of the child for a period not exceeding 3 years.
7. The board can even direct the child to be sent to a special home for not exceeding 3 years in order to provide reformatory services such as education, development of skills, counseling, behavior modification therapy, psychiatric support.

In addition to the orders mentioned in (a) to (g); the board can pass orders to:

- Attend school
- Attend vocational training center
- Attend a therapeutic center
- Prohibit a child from visiting a particular place
- order the child to undergo a de-addiction program

1. The board after the preliminary assessment under the Section 15 of the act can pass an order if at all there is a need of trial of the child as an adult, then the Board will order the transfer of the child's case to the **Children's Court** which has the requisite jurisdiction for dealing such type of offenses.

### **Provisions regarding the Child runaway**

[Section 26](#) of the Juvenile Justice Act talks about the provisions regarding the Child runaway in conflict with the law.

The aforementioned provision states that any police officer can take charge of the child who has run away from a special home or an observation home or place of safety or any other care of a person or an institution where the child is placed.

Further, the child must be produced within 24 hours preferably before the board has passed the order or the nearest board where the child was found.

Then, the Board will ascertain the reasons behind running away from the child and it can pass necessary orders of sending the child back to the institution or person or any other place that the board thinks is fit for the child. Along with this, the board must also issue additional directions of special steps to ensure that the child's interests are protected.

It is pertinent to note that, no additional proceedings can be instituted against the child.

### **The apprehension of a child alleged to be in conflict with the law**

[Section 10](#) of the Juvenile Justice (Care and Protection of Children ) Act talks about the apprehension of a child alleged to be in conflict with the law.

The following is the Stepwise procedure to be followed for the apprehension of the child in a conflict of law:

1. Firstly, the police will inform the Special Juvenile Police Unit about the same. After this, the case will be forwarded to Child Welfare Police Officer of the concerned police station and in order to keep a record of the case, there will be an entry made in the track child portal.

2. Secondly, there will be the filing of DDR in case of Petty offense, an FIR will be filed for serious crimes or heinous crimes which will depend upon the nature of offense which the alleged child has committed.

*Note:* FIR is recorded by the police for cases involving cognizable offenses. The other reports records and cases involving non-cognizable offenses are recorded in daily diary register (DDR).

1. Thirdly, the child will be sent for a medical examination. This examination shall be carried out by designated Child Wellbeing and Protection Officer (CWPO) or Special Juvenile Police Unit (SJPU). Furthermore, the information about the apprehension shall be sent to the parents and Probation officer to carry out the investigation.

2. Fourthly, the alleged child shall be produced before a Juvenile Justice Board within 24 hours by the designated Child Welfare Police officer. However, if the board is not in session, the child alleged to be in conflict with the law will be produced before a single member of the Board.

3. Fifthly, after the child has been produced before the relevant authority, for the time being, the child may be sent to Observation Home/ Place of Safety for temporary shelter or the child may be bailed out of the board.

4. Sixthly, the designated Child Wellbeing and Protection Officer (CWPO) shall forward the information to DCPU and SALSA in order to assess whether free legal aid is required for the Child alleged to be in conflict with the law.

## **RESEARCH METHODOLOGY / OBJECTIVES**

### **LAW OF ACT**

#### **Juvenile justice act (2015).**

- i. The term "child" in Section 2 (12) refers to anyone under the age of eighteen.
- ii. Section 2(13) "child in conflict with the law" implies a kid under the age of eighteen who is accused or found guilty of committing an infraction.
- iii. Section 2 (21) "child care institution" means a Children's Home, an open shelter, an observation home, a special home, a place of safety, a Specialized Adoption Agency, and a fit facility authorised under this Act for the purpose of providing care and protection to children in need.
- iv. Section 2 (35) A child under the age of eighteen is referred to as a "juvenile."

### **Child Labour (Protection and Regulation) Act, 1986**

A child is someone who has not yet turned fourteen years old. The purpose of this law is to make working for minors unlawful. As a result, this Act contains protections for those who have not yet turned fourteen years old.

### **S. 2(c) of the Plantation Labour Act, 1951**

Plantation work for children is prohibited between the hours of 6 a.m. and 7 a.m., and minors under the age of 15 are not permitted to work.

Section 21 of the Motor Transport Workers Legislation of 1961 prohibits the employment of a minor in a motor transportation industry.'

### **Prohibition of Child Marriage Act, 2006**

A male child is one who is under the age of 21, while a female child is one who is under the age of 18. According to Section 3 of the legislation, child marriages can be annulled at the request of a person who was a child at the time of the marriage.

Anyone under the age of eighteen is deemed a child, according to clause 2(d) of the POCSO Act of 2012[3].

The primary purpose of the statute is to safeguard children against sexual harassment and abuse.

2 s. (12) A child is someone under the age of 18 as specified by the JJ Act [4].

Section 2(12) of the Juvenile Justice (Care and Protection of Children) Act defines a child as:

### **CASES**

#### **People union for civil liberties v. UOI (18 December, 1996)**

Employing children under the age of 14 in construction labour, according to the Supreme Court, was a blatant violation of Article 24 of the constitution. The court continues by stating that any infringement of Article 14 in the building industry is a criminal offence. The court therefore declared any infringement of Articles 23 and 24 to be illegal, while also emphasising the importance of private persons protecting Fundamental Rights and speaking out against any sort of forced labour.

The People's Union of Civil Liberties argued that Section 33B of the 1951 Representation of People Act was unconstitutional (PUCL). Section 33B stated that an electoral candidate is not obligated to provide any information other than that required by the Act, regardless of a court or Election Commission judgement. The Supreme Court of India declared in *Union of India v. Association for Democratic Reforms*, (2002) 3 S.C.R. 294, that the right to know about electoral candidates is protected by Article 19(1)(a) of the Indian Constitution's freedom to information. It went on to say that individuals should have access to information about candidates' criminal history, assets and liabilities, and educational qualifications as part of their right to vote.

#### **Bandhua mukti morcha v. UOI and others (16 December, 1983).**

In Mirzapur, Uttar Pradesh, this case concerns the employment of young people in the carpet-making industry. It ordered raids by the district magistrate, which resulted in the release of 144 children kept prisoner by their masters.

The petitioner's letter was treated as a writ petition, and on February 26, 1982, this Court issued notice on the writ petition and appointed two advocates, M/s. Ashok Srivastava and Ashok Panda, as commissioners to visit Shri S.L. Sharma's stone quarries in Godhokhor (Anangpur) and Lakkarpur in the Faridabad district and interview each of the persons whose names were mentioned in the as well as a M/s. Ashok Srivastava and Ashok Panda were instructed to visit the stone quarries on February 27th and 28th, 1982, and report back to this Court by March 2nd, 1982. M/s. Ashok Srivastava and Ashok Panda went to S.L. Sharma's stone quarries at Godhokhor and Lakkarpur in accordance to our directive, accomplished the duty entrusted to them, and presented a report to this Court on March 2, 1982. According to the report, "several stone crushing machines were functioning in S.L. Sharma's stone quarry at Godhakhpur, with the result that the entire environment was full of dust and it was difficult even to breathe."

#### **Sheela Barse v. UOI(13 august, 1986)**

In this case, the highest court ruled that the children who were exposed to chemical fumes and coal dust should be relieved of their duties.

If police investigations and trials could be expedited, the problem of imprisoning children suspected of committing crimes would be considerably easier to address. According to district judge survey reports, children have been held in custody for extended periods of time in several places. We don't understand why investigations into crimes allegedly committed by minors aren't completed quickly, and why the trial isn't held within a reasonable time after the charge sheet is filed. Children's trials must, in actuality, be held in Juvenile Courts rather than ordinary criminal courts. There are special provisions enacted in various statutes relating to children that provide for trial by Juvenile Courts in accordance with a special procedure intended to protect children's interests and welfare, but we find that many States do not have Juvenile Courts at all, and even where they do, they are little more than rebranded versions of ordinary criminal courts. The same

Magistrate who hears cases involving adolescents in regular criminal court now hears matters involving juveniles in Juvenile Court.

**M. C Mehta v. State of Tamil Nadu(10 december,1996)**

The Supreme Court gave the government directives to end child labour, which included conducting inspections and removing children from dangerous jobs.

The task is enormous, but not unmanageable or onerous. The financial repercussions would be so severe that they would act as a deterrent, notwithstanding the fact that the funds would be utilised to improve India. In this context, it's worth mentioning that doing so covertly hasn't prevented other developing countries from addressing child labour. Myron Weiner's book (page 4 of the 1991 edition) *Many African countries, including Zambia, Ghana, Ivory Coast, Libya, Zambia, and Zimbabwe, with lower economic levels, have done better in these areas than India, according to "The Child and the State in India."* This shows that the issue of child labour exists owing to a lack of true zeal rather than a lack of resources. Let us not allow this to continue; instead, let us pool our resources and efforts to assist the child, both for his or her own good and for the larger good of everyone.

**CONCLUSION**

Children's rights have received the most ratifications in human rights history. As a directive principle of state policy, the Indian constitution specifies that the state shall strive to protect and ensure the rights of children. In recent years, our society's principal purpose has been to safeguard children from all sorts of exploitation and abuse. The rights of children, as well as child legislation and crimes against children, are discussed in this study.

As a result of the preceding discussion, heinous crimes like rape and murder go unpunished, with the perpetrators claiming juvenility. Juvenile offences can only be avoided via proper implementation and amendment of the Juvenile Justice Act. Parents and guardians must be aware of the many reasons for their children's engagement in criminal activities. In some cases, children who commit crimes are victims rather than perpetrators of the act. When extra precautions are taken at home and at school, juvenile misbehaviour can be avoided at an early age. Parents and teachers play a crucial impact in a child's cognitive development. Instead than labelling children as criminals or delinquents, more focus should be placed on recognising their needs and giving them with opportunities for transformation. Child crime, like so many other societal problems, stems from defects and misalignments in our society.

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