

# Revolutionizing Situations of Children in Conflict with the Law

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**Abstract – One of the most critical issues in crime today is children in conflict with the law. A 'juvenile' means a kid or a girl who has not attained the age of 18 years. The Children's Act of 1960 defines a delinquent as 'a child who has submitted an offense'. In a wide sense however, juvenile delinquency isn't merely 'juvenile crime'. It grasps all and any deviations from normal youthful conduct and includes the incorrigible, the ungovernable, the habitually defiant and the individuals who desert their homes and blend with immoral people, those with behavioral problems and indulging in antisocial practices. According to Articles 37 and 40 of the Convention on the Rights of the Child (1989), children in conflict with the law have the privilege to treatment that advances their feeling of respect and worth considers their age and goes for their reintegration into society. Also, placing children in conflict with the law in a closed facility should be a measure of last resort, to be kept away from at whatever point possible. The convention prohibits the burden of capital punishment and sentences of life detainment for offenses conferred by people younger than 18.**

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## 1. INTRODUCTION

A child is born innocent and if nurtured with tender care and attention, then he/she develops in positive way. Physical, mental, moral and spiritual development of the children makes them capable of realizing his/her fullest potential. On the contrary, harmful surroundings, negligence of fundamental needs, wrong organization and other misuse may turn a child to a delinquent. With changing societal trends, children presently seem to have strong likes and dislikes and also demonstrate expressions that indicate development at an early age. These qualities also make children more vulnerable to the plans of the criminality, for example, abusers, peddlers, and traffickers. Moreover, the influence of the media on the psycho social development of children is profound. With appearance of communication technology as of late, a child's presentation to media including television, radio, music, computer games and the Internet, has increased manifold (Saurabh, 2013).

Children constitute around 40% of India's population and India has a National Policy for Children declaring children to be a national resource. Indeed, even so majority of India's children continue to be in difficult circumstances. India has marked the UN Convention on the Rights of the Child and obligated itself to work towards ensuring all the rights enshrined therein to all its children. India has witnessed an increase both in crimes committed by children and those committed against them. There has been 97.9% increase in

crimes committed by children in the vicinity of 2003 and 2004, with more children being showed up for arson, theft and cheating.

More than 33,000 juveniles, mostly between the age groups of 16 to 18, have been captured for crimes like assault and murder crosswise over Indian states in 2011, the most noteworthy in last decade. According to a Home Ministry information, of the total of 33,387 juveniles secured in 2011, 21,657 were in the 16-18 age gathering, 11,019 of 12-16 age gathering and 1,211 between 7-12 age gathering (PTI, 2013).Whereas, 32,145 such youngsters below 18 years old were held in 2006, 34,527 in 2007, 34,507 in 2008, 33,642 in 2009 and 30,303 during 2010, the information said. The information also demonstrates increasing instances of assault by juveniles. Upwards of 1,419 such cases were recorded in 2011 when contrasted with 399 cases in 2001, it said (Deo Prasad, 2013).

## 2. CHILD CONFLICT

The expression "Children in Conflict with the Law" refers to anyone more youthful than 18 years who comes into contact with the value framework in light of being suspected or blamed for submitting an offense (UNICEF, 2006). The minimum time of criminal responsibility in district is 12 years old along these lines this term refers to children 12 years and old. A significant number of these children are liable of status offenses or unimportant crimes, for example, truancy, vagrancy, and mishandle of liquor

or begging. A few children wind up in contact with the law on account of adult abuse of them. Research has likewise demonstrated that preference identified with race, ethnicity or social and economic status may frequently convey a youth into conflict with the law notwithstanding when no crime has been executed. A 2003 World Bank report communicated that youngsters ages 13-19 year were responsible for an around 25% of major offenses around the globe, including furnished burglary, assault, assault and murder, with folks being the fundamental culprits.

Child is a fundamental and vital fragment of human culture proper from the antiquated circumstances. The multitudinous most prominent characters of different fields' suitable from the old time frame who guided us to the present generation are, after all children at the time they conceived (Pandey & Sukumar, 2013). In the interim, there were different personalities too who demolished the generation they live, obviously, they too were children at one reason for time. What had the effect between the two, who were even conceived as companions, were the biological and innate qualities other than the environment of environment and family climate in which they were conceived and raised.

In spite of the numerous protective treaties and conventions that have been ratified to "shield children from the unlawful and self-assertive deprivation of their liberty," (Article 37 b, CRC) more than one million children in the world are living in detention as a result of being in conflict with the law (Defense for Children International, 2003). A large number of these children are detained without access to fair judicial process or legal representation, medical care, education and individual development.

### 2.1 Child conflict in India

In India, the possibility of adolescent delinquency is limited to the violation of conventional correctional law so far as the jurisdiction of the adolescent court is concerned. Hira Singh (1979) has communicated that delinquency is the non duplicate feline behavior. Pankkal J. J. (1961) has referred to that delinquency is the antisocial behavior of children with or without court activity. J. V. Jayesingh (1987) imparted that adolescent delinquency is the consequence of breakdown of social controls and it is the unaccepted and unapproved (Sharma, 2013).

Behavior of the general public while Sethna M. J. (1964) said that adolescent delinquency includes wrong doing by a child or youth who is under particular age determined by the law from time to time. Each one of these definitions are especially reflected in the meaning of Cyril Burt (1938), he said that a child is to be seen in fact as a criminal when his antisocial inclinations show up so grave that he advances toward becoming or should transform into the subject of authority activity.

In India, the present law which administers the juveniles who are in conflict with law and children who require care and protection is "Juvenile Justice (Care and Protection of Children) Act, 2000 in which the meaning of adolescent is given. 'Adolescent' or 'child' implies a man who has not finished 18 years old. While "adolescent in conflict with law" implies an adolescent who is attested to have presented an offense (Kapoor, 2013).

### 3. JUVENILE DELINQUENCY

Delinquency is unwelcomed action, omission or moral behavior of a juvenile which is socially not allowed in any general public. Generally it implies that if the child fails to meet certain social obligations anticipated from them by the people, then he is considered to be delinquent. The juvenile delinquent is behavioral disorder which is generally defined as "a child trying or pretending to act like an adult or adult". The action of the child can be viewed as a childish foolish behavior however it can cause genuine worry and concern (Germany, 2001). There is an extremely blurred distinction between a delinquent child and a normal child and his behavior to restless person is the deciding factor among a cheerful demonstration and delinquency. Generally there is a fog of uncertainty and confusion surrounding delinquency and there is no single general acceptable definition for it. The first historically speaking legislation on juvenile delinquency, go by the State of Illinois in 1899 which specifies different specific kinds of delinquency in addition to the offenses secured by the criminal laws.

Definition of delinquency includes "act and conduct which violates the law only when it committed by children". The legal definition of Juvenile Delinquency is "any demonstration denied by law for children up to recommended age limit is Juvenile Delinquency" and it follows, that if a child found to have committed a demonstration of Juvenile Delinquency then he should be created before the court which is specially set up for Juvenile Delinquent.

### 4. AGE OF RESPONSIBILITY IN CRIMINAL LAW IN INDIA

It was presented that the age of responsibility, as acknowledged in India, is different from what has been acknowledged by other countries of the world. In any case, it was also pointed out that even in the criminal jurisprudence prevalent in India; the age of responsibility of understanding the consequences of one's actions had been perceived as 12 years in the IPC. Referring to Section 82 IPC, it was pointed out that the same gives that nothing is an offense which is done by a child under seven years old. Section 83 IPC was also referred, which gives that nothing is an offense which is done by a child over seven

years old and under twelve, who has not attained sufficient development of understanding to judge the nature and consequences of his conduct on a particular occasion (United Nations, 2000). It was, therefore, asked that even under the Indian Criminal Jurisprudence the age of understanding has been fixed at twelve years, which according to him, was commensurate with the thinking of other countries, for example, the United States of America, Great Britain and Canada.

#### **4.1 Law on Juvenile in India: Legal basis for fixing the Age**

The JJCPA, 2000, is tuned in to the provisions of the Constitution and the different Declarations and Conventions embraced by the world group spoke to by the United Nations. The basis of fixing of the age till when a person could be dealt with as a child at eighteen years in the JJCPA, 2000, was Article 1 of the Convention of the Rights of the Child and that the description in Article 1 of the Convention was a contradiction in wording (UNICEF, 1992). While generally treating eighteen to be the age till which a person could be dealt with to be a child, it also indicates that the same was variable where national laws perceive the age of majority earlier.

### **5. UN DECLARATION OF THE RIGHTS OF THE CHILD**

The growing consciousness of the world community was further prove by the Declaration of the Rights of the Child, which came to be proclaimed by the United Nations on twentieth November, 1959, in the best interests of the child. This was followed by the Beijing Rules of 1985, the Riyadh Guidelines of 1990, which specially gave guidelines to the prevention of juvenile delinquency, and the Havana Rules of fourteenth December, 1990. The said three arrangements of Rules intended that social policies should be evolved and applied to avoid juvenile delinquency, to establish a Juvenile Justice System for juveniles in conflict with law, to safeguard fundamental rights and to establish methods for social reintegration of young people who had suffered incarceration in prison or other corrective institutions. One of the other principles which was looked to be reiterated and adopted was that a juvenile should be dealt with for an offense in a manner which is different from an adult. The Beijing Rules indicated that efforts should be made by part countries to establish within their own national jurisdiction, an arrangement of laws and rules especially applicable to juvenile offenders. It was stated that the age of criminal responsibility in legal systems that recognize the concept of the age of criminal responsibility for juveniles should not be fixed at too low an age level, keeping in mind the emotional, mental and intellectual maturity of children.

### **6. BUILDING A PROTECTIVE ENVIRONMENT FOR CHILD**

#### *Government commitment and capacity*

These are crucial to advance and support policies that encourage the utilization of alternatives to deprivation of liberty. A legitimate approach to juvenile justice also requires that efforts be made to keep children from coming into conflict with the law in the first place. This is work for the whole society, not only the government.

#### *Legislation and enforcement*

National laws should be updated to conform with international standards, with legislation enacted and enforced to keep children from being denied of their liberty when they have been casualties of abuse and exploitation, were utilized by adults for criminal activities or have committed status offenses or negligible crimes. The death penalty for children should be abolished.

#### *Attitudes, customs and practices*

Children in conflict with the law may be portrayed as 'mischievous' or threatening and presumptions of character need to be challenged. The establishment of appropriate juvenile justice mechanisms can be difficult if public opinion favors tougher responses and harsher sentences (United Nations, 1990).

#### *Open discussion*

The media can elevate appropriate approaches to children in conflict with the law, including probation and community benefit. Objective and responsible reporting of crimes committed by children – and the abuses they face in contact with the law – can increase public support for juvenile justice.

#### *Capacity of families and communities*

Capacities need to be strengthened to enable community involvement during the time spent restorative justice. Law enforcement officials should be familiar with constructive approaches that make it possible to avoid formal arrest and detention of children in conflict with the law. Capacity and knowledge of juvenile judges, magistrates, social workers and police need to be strengthened and increased in the area of juvenile justice.

#### *Essential services, including for prevention, recovery and reintegration*

Services should be in place offering community based and family-focused assistance with the goal that children can achieve rehabilitation and avoid repeat offenses.

### Monitoring, reporting and oversight

These are needed to determine the quantity of children in detention, the proportion of those awaiting trial and trends in sentencing. Monitoring can guarantee that detention is neither illegal nor arbitrary, that children have access to all basic social services, and that they are not detained alongside adult prisoners and presented to violence and abuse.

## **7. POINTS SPECIFIC TO CHILD IN NEED OF CARE AND PROTECTION**

### ► ***Expansion of category of child in need of care and protection***

The category of children in need of care and protection has been expanded to include casualties of armed conflict, natural calamity, civil commotion, child who is found vulnerable and likely to be inducted into sedate abuse and so on. The expansion of the category of children in need of care and protection has itself led to genuine questions as the system still remains custodial in nature and what one in effect does is bring more children within a criminal justice framework.

### ► ***Custodial framework for dealing with child in need of care and protection***

The framework of the law remains within the criminal justice system as the police still have energy to contact a child and create him before the Committee. In fact the forces of the police have been expanded as under the new Act the police have also been enabled to hold an inquiry regarding the child in the endorsed manner. Further if the child is sent to a Juvenile Home, then such Home remains a place where the child is denied other liberty, thereby reinscribing the custodial nature of the institution (Venkatesh, 1997).

### ► ***Restoration as option for child in need of care and protection***

The innovation the law makes concerning children in need of care and protection is the conceptualization of restoration of the child as being the focal point, with restoration being conceptualized as restoration to parents, adopted parents or foster parents (Sec39). This being the core, the law then outlines four options for children in juvenile homes and special homes which include adoption, foster care, sponsorship and after care. While the aim of minimizing the stay of the child in the juvenile home and special home as conceptualized is laudable, there are not kidding concerns as to whether restoration can be the only solution.

## **8. CONCLUSION**

Justice is a vital phenomenon that incorporates the perception of fairness in the law for the juvenile delinquents. The perception of fair treatment by the law has a significant effect on the attitude and emotional health of the juveniles. The final conclusion is children have a tendency to learn either to be or not to be in conflict with the law based on the lessons and opportunities available in their immediate environment. Therefore schools, families, communities and residential facilities must function such that positive messages are taught and opportunities for deviance are diminished. If delinquency policies are to be truly effective, higher priority must be given to marginalized, vulnerable and disadvantaged young people in the public eye, and issues relating to youth in conflict with the law should be a central focus of national youth policies. The administration of juvenile justice should be decentralized in order to encourage local authorities to end up actively involved in preventing youth crime and reintegrating young offenders into society through support ventures, with the ultimate aim of fostering responsible citizenship.

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