



## **Rehabilitation of children in conflict with law; a Kerala state based study**

**Alfred J George and George David M<sup>1</sup>**

### **Introduction**

A child is born with purity and innocence. Nurturing a child is crucial in every child's life if proper care and attention is given in the right way the child grows in constructive manner. Children show good performance when children's surrounding environment is positive and supportive towards them. The physical, psychological, moral and spiritual development of children helps them to be competent of becoming conscious to understand their capabilities. On the other side, detrimental environment, lack of basic needs, poor parenting supervision, other factors may turn a child to a delinquent i.e. a juvenile delinquent. In Kerala, juvenile delinquency is one of social problems affecting not only on children with conflict with law but families, communities, and society. Child's criminal behavior makes family suffer and face problems in the society. Children represent about 19 to 20 % of Kerala's total population. Our country's National Policy for Children proclaims children to be a national asset. Yet, Kerala's children continue to be in difficult circumstances.

The data, released by the National Crime Records Bureau (NCRB) 2018, shows that 451 (crime committed by juveniles (IPC + SLL) were arrested in

1. Research Scholar: Alfred J George, Reg No: 19113101071002, Nanjil Catholic College of Arts and Science, Kaliyikkavila. 629153, Affiliating University: Manonmaniam Sundaranar University, Abishekapatti, Tirunelveli-627012
2. Research Supervisor: Dr. George David M, Assistant Professor, Department of Social Work, Malankara Catholic College, Kaliyikkavila, 629153, Affiliating University: Manonmaniam Sundaranar University, Abishekapatti, Tirunelveli-627012

Kerala on charges of rape, assault on women and attempted rape, cumulatively. The data, released by the National Crime Records Bureau (NCRB) 2018, shows that 475 (crime committed by juveniles (IPC + SLL) were arrested in Kerala on charges of rape, assault on women and attempted rape, cumulatively.

### ***Juvenile Justice Act (2015)***

Section 2 (1) of the Juvenile Justice Act, 2015 has defined- “juvenile in conflict with law” as a juvenile who is alleged to have committed an offence and has not completed eighteenth year of age as on the date of commission of such offence” Juvenile Justice Act (2015) Section 2 (12) “child” means a person who has not completed eighteen years of age. Section 2(13) “child in conflict with law” means a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence;

Section 2 (21) “child care institution” means Children Home, open shelter, observation home, special home, place of safety, Specialized Adoption Agency and a fit facility recognized under this Act for providing care and protection to children, who are in need of such services; Section 2 (35) “juvenile” means a child below the age of eighteen years;

## **Methodology**

The study followed web based literature survey (secondary data) using Pubmed, Ebsco, Psycinfo, Government websites, etc by using key words such as children, Juvenile Delinquency, psychosocial issues, intervention like on. The researcher found about 60 studies which discussed on various aspects of children with conflict with law. The reviewer had chosen important studies for the review purpose

## **Types of juvenile delinquency**

### ***Categories of children in conflict with law (Juvenile Delinquency)***

Violent crimes which result in bodily injury, such as assault, rape, murder; property crimes are committed when a juvenile uses force or threat of force to obtain the property of others and Drug-related crimes involve the possession or sale of illegal narcotics.

Other categories

- i) Minor violations which include minor traffic violation,
- ii) Property violations,
- iii) Major traffic violations which include automobile theft,
- iv) Human addiction which include alcohol and drug addiction
- v) Bodily harm which include homicide offences.

### **Causes of juvenile delinquency**

Childhood incidents and experiences are significant in the development of criminality; on the other hand, it does not mean criminals expose their criminality early in life. Causes of Juvenile delinquency required to understand from sociological theories of juvenile delinquency. These theories put prominence on the environment, social structures and the learning process. Yet, many factors influence vitally in a youngster's delinquent behavior (B. R. Sharma\*, Sangeet Dhillon\*\* & Sarmadi Bano, 2009)

### **Individual Factors**

Individual factors act as a cause for Juvenile delinquency. Individual factors are personality traits like submissiveness, defiance, hostility, impulsiveness, feeling of insecurity, fear, lack of self-control and emotional conflicts whereas situational factors are family, companions, movies, school environment, work environment etc. (B. R. Sharma\*, Sangeet Dhillon\*\* & Sarmadi Bano, 2009).

### **Family factors**

Commonly, children need support, love, affection, keen parenting support and involvement of family members to grow properly. When these basic needs are missing which may affect a child's personality. Broken homes, lack of love, lack of parental affection, gang subculture, poverty, negative influence of movie and media, urbanization, adolescent instability, lack of recreation, negative environment, low-socio economic, poor parental violence, availability of weapons, association with deviant peers, parental substance use, peer pressure, television violence, parental antisocial behaviour, poor academic performance, large family size, low educational attainment, drug or alcohol use of child, poor

monitoring of children in school and criminal behaviour of siblings are the causes for juvenile delinquency (Haveripet, 2013).

### **Community factors**

One study shows that the causes of Juvenile crime are due to bad company, extra-pocket money, revenge factor, poor literacy rate, over exposure to media, lack of values, cheap literature, love of adventures, early sex experience and mental conflicts etc (Mousumi, 2014). Juveniles are apprehended due to many reasons. Financial problem is not a single factor for juvenile delinquency, other factors increases the likelihood of juvenile delinquency.

### **System factors**

Children involve in crimes and soon after such children apprehended by police officers as per law in India. Police officers register cases against children who make offenses of using forged or counterfeit currency/bank notes, grievous hurt, acid attack, attempt to acid attack, assault on women with intent to outrage her modesty, sexual harassment, assault on women, importation of girls from foreign country, causing death by negligence, industrial, political, caste conflict, agrarian, other riots, criminal breach of trust and cheating forgery, murder, attempt to commit murder, rape, dacoity, robbery, theft riots, breaking unlawful assembly, making preparation and assembly for committing, attempt to commit rape, kidnapping & abduction, communal, deaths due to negligent driving/act, deaths due to other causes, offences against State, sedition, other offences against State, offences promoting enmity between different Groups, promoting enmity on ground of religion race and place of birth causing injuries under rash driving / road rage, human trafficking (Section 370 & 370A IPC), unnatural offences and other IPC crimes cases. (NCRB, 2019)

### **Recent issues of crimes by children in Kerala**

A lot of debate happened at Government, NGO's, media and public level regarding crimes done by children under 18 years.

### **Two major incidents were 2019 in Kerala**

1. The 14-year-old girl, who allegedly murdered her 11-year-old cousin

at their maternal home in Anakkara (times of india/ April 24,2019)

2. A 16-year-old boy was allegedly hacked to death by his friends at Angadical in Kerala's Pathanamthita

Crimes have been increasing in spite of many efforts investing from different stakeholders in order to improve education, health, economic, policy and programmes of children in India. Professional social workers need to focus on psychosocial issues of juvenile delinquency in this context.

### **Rights of the Child in conflict with law**

The process of Rehabilitation shall also secure the Rights of the child in conflict with law: Every child in conflict with the law shall have the following rights, including but not limited to:

- a) Humane treatment
- b) No corporal punishment
- c) Separation from adult criminals, if detained
- d) Access to legal assistance
- e) Bail and release on recognizance
- f) Privacy
- g) Diversion, if qualified
- h) Proportionate judgment
- i) Restrictions on liberty kept to a desirable minimum
- j) Automatic suspension of sentence
- k) Probation, if qualified
- l) Confidentiality of proceedings
- m) Right against discrimination
- n) Constitutional rights

### **Concept of rehabilitation**

Studies indicate that the most effective way to find constructive solutions to involvement of children in activities that violate a law is to involve children in the process of rehabilitation and not to consider them as merely 'trouble

makers' or 'problem children' in need of punishment. Recognition of and respect for their rights as human being and as a child is an important first step in this direction. Thus Juvenile justice has made a departure from the criminal justice model of punishment recognizing the negative influence of association with adult offenders and the higher possibility of reformation of children being in the growing age where their capacities are still being built and developed. Juvenile Justice adopted the path of reformation of children found to have committed an offence through various community based reformatory and rehabilitative measures and using institutionalization as a measure of last resort and for the minimum period till suitable community based alternatives are found for them.

### **Juvenile offenders**

The Juvenile Justice (care and Protection of Children) Act, 2015, defines a child in conflict with law as someone who is alleged or found to have committed an offence and who has not completed 18 years of age on the date of commission of the offence. There is no single profile or adequate characterization of the diverse group of youth who come to be identified as juvenile offenders. Most youths who commit crimes as juveniles desist in early adulthood, and most who come to juvenile court never return on a new referral. However, a small group of juveniles is prone to continued offending.

### **Rehabilitation status**

The study by Kazdin and colleagues (1997) indicates that a risk factor predicts an increased probability of later offending. Shader, M. (2001) noted that some risk factors for juvenile delinquency at individual level in the early onset (6-11 years) are general offenses, substance use being male aggression, hyperactivity problem (antisocial) behaviour, exposure to television violence, medical, physical problems, low IQ, antisocial attitudes, beliefs Dishonesty. At late onset (12-14 years) are general offenses, restlessness, difficulty in concentrating, risk taking aggression, being male, physical violence, antisocial attitudes, beliefs, Crimes against persons, problem (antisocial) behaviour, low IQ and substance use. Risk factors at family level associated with juvenile delinquency. These risk factors in early onset in age group of 6-11 years are low socioeconomic status/ poverty antisocial parents, poor parent-child relationship,

harsh, negligent, or inconsistent discipline, broken home, separation from parents. In late onset (12-14 years) are poor parent child relationship, harsh or lax discipline, poor monitoring, supervision, low parental involvement, antisocial parents, broken home, low socioeconomic status, poverty, abusive parents, and family conflict. School environment impacts on child's behaviour. Certain risk factors at school level are associated with juvenile delinquency. Such risk factors are poor attitude, poor academic failures. Hence identifying these risk factors at individual, family and school level gives insights for social workers before providing psychosocial interventions. And efforts to reduce risk factors could prevent making crimes by juvenile delinquents.

### **Discussion and results**

It is crucial to make aware of different crimes of juveniles who involved in crimes are not criminals in many cases, in fact; they are victims of society [3]. According NCRB report (NCRB, 2019), 451 cases registered against children with conflict in law under different crimes of special and local laws during (2017-2019, the data shows that 15 children faced legal complications under IPC crimes (NCRB REPORT, 2019. Table 5A.2/state wise/kerala) and 38 children faced legal complications under SLL crimes (NCRB REPORT, 2019. Table 5A.3\_2/state wise/kerala) it is the highest cases compare to other types of crimes in 2019. Children were apprehended under different acts of India in 2019, few acts were the protection of children from sexual offences act, 2012, murder (sec. 302 IPC), causing death by negligence (sec. 304 IPC), and this gives picture about different crime acts by children in Kerala. But the discussions with Integrated Child Protection Scheme Officials the researcher understands 3638 cases dealt in January to December 2019 with Juvenile Justice Board's in Kerala. Among 3638 cases only 1851 cases were disposed. KAVAL project in Kerala handling the rehabilitation of children in Conflict with Law, based on the discussions, in 2020 for rehabilitation of these children District Child Protection Unit's given 1056 children in age group of 16-18 and 840 in age group of 18-21. Among these 1896 Children 280 were undergoing vocational rehabilitation training. Social work interventions at individual, family and community level shall conduct preventive programmes in order to prevent crimes of juveniles in Kerala. Many of children do not know about consequences

of committing offenses.

Good parenting enhances child's confidence to be healthy. Marital conflict, interpersonal issues between couple, broken home, single parenting may affect child's personality. The study conducted by [4], indicates that children single-parent families are about 10 to 15 percent more likely to turn into delinquent than are children with similar social characteristics from two parent families. Hence, social work implications like family therapy, counseling could alter family interaction pattern into child's favorable way. Another study conducted by [5] it notes that Children ages 8 to 18 spend, on average, 44.5 hours per week (equivalent to 6.5 hours daily) in front of computer, watching television, or playing video games. By the time a child reaches age 18, he or she will have witnessed on television alone, with average viewing time, over 200,000 acts of violence, which include 40,000 acts of murder. Children current daily activities need to be administered by family members daily by explaining about consequences of watching violence videos in Television. Social Work implications are highly required to educate the family members or parents about consequences of watching violence videos. This can be done through awareness programmes and counseling approaches. Social workers direct care delivery is provided through counselling which is effective for juvenile offenders. And other therapeutic modalities such as rehabilitation model, group therapy, and such therapies are individual and group therapy, Individual psychotherapy; Person centred approach, cognitive behaviour therapy [6].

### **Role of government to stop children in conflict with law in Kerala**

#### ***In history***

Kerala has over 100 years of history (<http://old.wcd.kerala.gov.in/kaval/>) in juvenile justice care with commencement of a home for the Children at Trivandrum by the rulers of erstwhile princely state of Travancore in 1894. In 1897 a Reformatory School Act was enacted in India. Enactment of the Children's Act in Madras, Cochin and Travancore marked a new beginning in the field of the Juvenile Justice System Kerala. Kerala Children's Act was enacted in 1972 under the charge of the Prisons Department. In 1986 Government of India passed a Central Juvenile Justice Act.



India ratified the UN Child Rights Convention in 1992; The Government of India came up with the Juvenile Justice (Care & Protection of Children) Act 2000, which was amended in 2006 and in 2015.

### **Present status**

KAVAL is an innovative program implemented by Government of Kerala (<http://old.wcd.kerala.gov.in/kaval/>) through the Department of Women and Child Development with technical support from Dept. of Psychiatric Social Work, NIMHANS, Bangalore. A systematic and structured methodology is developed in the state to support children in conflict with law there by reducing the potential danger of being labelled and isolated from society. This reduces the chances of the child being absorbed to antisocial gangs and causing potential harm to society. Identifying children at high risk at a young age and supporting them by providing holistic care through psychosocial intervention would help children to keep away from un-lawful activities.

A multidisciplinary inter-sectoral approach through psychosocial intervention is needed to ensure holistic care and support for children. “Psychosocial programming comprises structured activities designed to advance the child’s psychological, social development and to strengthen protective factors that limits the effect of adverse influences (WHO 2011).”

KAVAL is a community based approach to reach out to children in bail and providing psychosocial interventions through trained social work professionals in NGOs by entering to a working partnership with the Non-Governmental organisations. The psychosocial care model was developed and implemented through a five tier approach comprising:

1. Sensitization of stake holders
2. Stake holders resource building through training of the trainers program
3. Staff resource building through hand holding training
4. Implementation of the program at individual, family school and community level
5. Referral

Multiple stake holders in the Juvenile Justice System such as Juvenile Justice Board, Special Juvenile Police Unit, District Child Protection Unit ,Non Government Organisation , District Legal Service Authority, Education Department, Mental health professionals and Child care institution are sensitized on the bio psychosocial problems and needs of the children in conflict with law . This is followed by a 15 days training of the multiple stake holders in juvenile justice system to build skills to identify the psychosocial problems among children and provide interventions. Each child as he /she comes in to the Juvenile Justice System undergoes a psychosocial assessment to identify their psychosocial problems, followed by developing Individual Care Plan by the observation home counsellor and legal cum probation officer with support from NGO, medical officers and other professionals as per the need of the child. The cases of children will be transferred by JJB to NGO through District Child Protection Unit for psychosocial intervention. NGO as they receive the case start their intervention as per the ICP prepared and the emerging needs. The NGO reports and provide services for children in conflict with law as per the guidelines from DCPU. Regular and systematic reporting is carried out on a daily, weekly, monthly and quarterly basis. Monthly evaluation of KAVAL activities in the district is carried out by District Juvenile Justice Team consisting of JJB, SJPU, DCPO, LCPO, OH counsellor, Probation Officer and NGO staff. Quarterly meetings are conducted at SCPS to evaluate the district level activities and activities of NGOs.

### **Conclusion**

The above discussion shows the need for working towards non institutional care than institutional care. Community based rehabilitation is an instrument for this. It is important to make aware about different reasons for involving crimes by parents and guardians. Juveniles involved in crimes are not criminals; in fact, they are victims of society in some cases. Juvenile delinquency can be stopped at an early stage, provided special care is taken both at home and in school. Parents and teachers play a major role in fostering the mind of a child. Instead of labeling them as criminals or delinquents, importance to be given on understanding needs of children and give them a scope of modification. The problem of child crime like many other social problems is linked with the

imperfections and maladjustment of our society.

### References

- Coleman, J. W, & Harold K. (2016), Social Problems, 9th ed. Upper Saddle River, NJ: Pearson Prentice Hall, 2006.
- Fatima N. (2015). Juvenile rights of individuals in mental health setup. 2015;1(1)  
<https://ncrb.gov.in/en/crime-india-2018-0>  
<http://old.wcd.kerala.gov.in/kaval/>
- Haveripet P. (2013). Causes and consequences of juvenile delinquency in India. Recent Research in Science and Technology. 2013;5(3).29-31
- Jain K. A (2016). Study of Juvenile Delinquents in India: A Burning Issue. *Pioneer Journal*. 2016;4(4).
- Mousumi Dey. (2014). Juvenile Justice in India. *International Journal of Interdisciplinary and Multidisciplinary Studies (IJIMS)*. 2014; 1(6):64-70.
- Mulimani B.N.(2009). Children, Adolescents, and Media Violence: A Critical Look at the Research. Unpublished LL.M. research paper submitted to Kuvempu University, Shimoga 2009.
- Sharma, B.R., Dhillon, S. & Bano, S. ( 2009). Juvenile delinquency in India, a cause for concern in Journal of Indian Academy of Forensic Medicine. Vol 31 (i), 2009.