GIRL CHILD IN CONFLICT WITH LAW: AN EMPIRICAL STUDY
INODISHA, INDIA

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ABSTRACT:

India has various sociocultural implications attached to the concept of the children in conflict with law especially the females. The important factors mainly responsible for the causation of delinquent behavior are economic factors, personality factors and environmental factors. A feeling of inadequacy and frustration and emotional insecurity play a dominant role in giving rise to antisocial behavior. A number of sociological theories explain delinquent behavior as a consequence of inequalities within the social structure, surroundings and economic disparity. This paper aims to find out the cause of delinquency found among females and alleged to be in conflict with law. As the girls are found to be less expressive of their desires, less aggressive in nature, more submissive and sacrificing for the sake of the family. The female children found in conflict with law has been overshadowed by male delinquency in terms of incidence, magnitude, seriousness, research and recognition.

Key words: Children in Conflict with law, Juvenile Delinquency.

I. INTRODUCTION

The delinquency characteristic is attributed through learning process. No child is born with the tag of antisocial or delinquent. It is the parents, the society, the surrounding are responsible for this. The factors that give rise to antisocial tendencies of a child at initial stage are wrong upbringing, lack of time, conflict within family, unhealthy environment and presence of other so many factors. In the state of Odisha, the problems of rural-urban drift, poverty, and deprivation have adversely affected a substantial segment of the youth population. The recent trends of youth unrest due to frustration, communication gap, social inequality, illiteracy, lack of opportunities for gainful employment and so on have accentuated the problem of children found in conflict with law. The family lays down the foundation of personality development and emotional attachment between the child and the parents, and then this leads to failure in generating a close emotional relationship between the parents and the child. As a result, the child develops a feeling of isolation, gets into in bad company, and gradually gets indulged in committing antisocial activities. Like the family, which plays a dominant and primary role in socialization of the child, the school also has a very important role in moulding the personality of the child. It provides the most important platform for developing the social attitude of a child. The school reinforces the family’s social training received by the child. Therefore, children not going to school may fall as a victim to delinquency as they are left vulnerable because of the lack of social control and discipline. The plight of girl child is another story altogether compared to the trial of boys go through in the mainstream of the society and in the context of family. As far as girls are concerned, they are socialized to be less expressive of their desires, less aggressive, and more submissive in nature and are highly dominated by male supervision and control. The social and physical separation of sexes has prevalence over early years. For the most part, girls are not left alone at home after the evening. This paper examines the participation of girls in delinquent activities. It focuses on understanding the knowledge of girls crime, its dimensions, distinctness from male crime, situational and social variables that affect and influence delinquency, delinquent girls aspirations for the future and coping mechanisms to deter female child found in conflict with law. This paper aims to provide an interface between the present and future social family policy framework and contribute to knowledge in this uncharted territory.
Conceptualising Children in Conflict with Law

a. Children in Conflict with Law: “Child in Conflict with Law” has been defined under Section 2 (13) of the Juvenile Justice (Care & Protection of Children) Act, 2015 as a child who is alleged or found to have committed an offence and has not completed eighteen years of age on the date of commission of such offence (The Juvenile Justice (Care & Protection of Children) Act, 2015).

b. Juvenile Delinquency: Crime committed by children and adolescents under the age of 18 years, is called delinquency. The maximum age limit and also the meaning of delinquency vary from country to country. But it is always below 18 years of age which is the statutory age for delinquency.

Theorising Delinquency among the Girl Child

The beginning on the 1920s, the Chicago School of Sociology pioneered modern sociological research. There were many number of theories developed during that time, to understand the interrelationship between the human deviance and the society.

- The vital elements explaining the connection between delinquency and crime are following:
  - Socioeconomic conditions and pressures mould the personality of an individual.
  - Inequality and deprivation are associated with delinquency and criminal attitude.
  - Delinquency and crime are associated with underclass conditions such as poverty, neighbourhood degeneration, lower educational achievement and family dysfunction.

Anomie Theory

Emile Durkheim, a French sociologist, introduced the concept of anomie. He used the term anomie to explain a condition of irregularity occurrence in our society. This means the way by which people are supposed to behave in the society has been degrading. Anomie, is basically a state where there is breakdown of rules, norms. It can also be said that the society lacks the regulatory constraints necessary to control the behaviour of its members. In the year 1897, Durkheim again used the term anomie in his study on suicide. It is observed that social periods of disruption such as economic depression, brought greater anomie and high rate of crime and deviance. The system breaks down during times of major changes in the social as well as economic environment. The presence of crime is universal but its forms differs from one culture to another. Robert Merton also adopted the concept of anomie to explain deviant behaviour. He extended Durkheim’s anomie theory into ‘strain theory’. This theory emphasized on how social structure exert itself to the individual and resulting this into deviance. In this theory Merton has focused on the structural elements of the society such as culturally defined goals and institutionalized means to attain goals (Durkheim. (1950). p.71).

Social Control Theory

It is the most important theory related to the deviance behaviour of children. This theory explains how social factors such as economic condition, family, education have impact on individual’s behaviour and action in the society. According to the Hirschi, author of social bond theory, the control theory has four essential element and they are attachment, commitment, involvement and belief. The first bond attachment, are formed through intimate communication. One’s acceptance of social norms and the development of social conscience depend on attachment for other human beings. Hirschi viewed family, peers as important social institution for a person. The second bond is commitment, the higher educational individual holds, the higher the cost for getting influenced towards crime. A lack of commitment to such conventional values will cause an individual to get indulged into criminal activities. The less time available for leisure equals less time to get into trouble. Devoting energy towards productive task reduces the chances to offend. The last element belief, explains people with strong moral belief in the law are less likely to engage in criminal activity and the idea of belief is based on constant social reinforcement (Hagan. (2017). p. 146-154).

Labeling Theory

The founder of labeling theory Howard Becker, stated deviance is a tag or label created by society. He stated the process of segregation create term ‘outsiders’ (Becker, H.S. (1963). The problem is that people may not very easily break the cycle of social stigma attached with the delinquency children and this become difficult to bring them into the mainstream of the society. Labeling is the process by which deviants are defined by the rest of the
society. This theory is concerned with the way society is the root cause of deviance and how and why society labels certain deviant behaviour of individual. If children continually receive helps negative feedback from significant others such as parents, teachers and others whose opinion they take into consideration. The labeled person develops a self-concept consistent with the deviant label and acquires the knowledge and the skills of the labeled status (Lawrence and Hesse. (2010). p. 57).

**Feminist Theory**

This theory focuses on the gender differences in crime. As most of the theories of crime were developed with keeping the males in the mind. The gender differences in crime are said to be largely due to gender differences in social learning and control. It is true some women do engage in crime. It is found that female crime roots from the fact that female child alleged to be in conflict with law are often sexually abused by the family members or the neighbourhood. The high rate of sexual abuse is committed by the power of men over women. Very often, those women try to escape or run away but still they were labeled as delinquents and making them to face difficulties and to sustain a normal life. It is observed since ages, the fathers usually occupy the role of breadwinner and mothers have only mental jobs or subjected to the domestic domain. The girls are socialized into the cult of democracy under the close supervision of their mothers, preparing them with the lessons of domestic domain works and while at the same time the son are encouraged for taking challenging decisions of their life (Moretti, Odgers, Jackson, (2004) p. 170)

<table>
<thead>
<tr>
<th>SL.NO.</th>
<th>TYPE OF CRIME COMMITTED</th>
<th>NO. OF FEMALES UNDER THE AGE OF 12 YEARS</th>
<th>NO. OF FEMALES ABOVE 12YEARS AND BELOW 16 YEARS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Murder</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td>2.</td>
<td>Attempt to Commit Murder</td>
<td>4</td>
<td>9</td>
</tr>
<tr>
<td>3.</td>
<td>Dowry Death</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>4.</td>
<td>Kidnapping/Abduction</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>5.</td>
<td>Hurt</td>
<td>7</td>
<td>14</td>
</tr>
<tr>
<td>6.</td>
<td>Theft</td>
<td>4</td>
<td>15</td>
</tr>
<tr>
<td>7.</td>
<td>Robbery</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>8.</td>
<td>Extortion</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>9.</td>
<td>Cheating</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td>10.</td>
<td>Dishonestly receiving stolen property</td>
<td>12</td>
<td>2</td>
</tr>
</tbody>
</table>

- In Odisha, at present there is only one observation and special home for female juveniles in conflict with law in Berhampur run by the Government of Odisha.

- In the context of analysis of crimes committed by female children found to be in conflict with law is a very peculiar scenario. According to the NCRB Report 2019, a total number of 1162 cases registered against children in conflict with law in Odisha.

<table>
<thead>
<tr>
<th>Year</th>
<th>Incidence of crimes by Children in Conflict with Law</th>
<th>Percentage of crimes by Children in Conflict with Law</th>
<th>Total Apprecension of Children in Conflict with Law</th>
<th>No. Of Boys Apprehended</th>
<th>No. Of Girls Apprehended</th>
<th>Percentage of Girls</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>934</td>
<td>6.9</td>
<td>1095</td>
<td>1067</td>
<td>28</td>
<td>2.5</td>
</tr>
<tr>
<td>2016</td>
<td>994</td>
<td>7.1</td>
<td>1285</td>
<td>1249</td>
<td>36</td>
<td>2.8</td>
</tr>
<tr>
<td>2017</td>
<td>1111</td>
<td>7.9</td>
<td>1241</td>
<td>1219</td>
<td>23</td>
<td>1.8</td>
</tr>
<tr>
<td>2018</td>
<td>1078</td>
<td>7.7</td>
<td>1155</td>
<td>1138</td>
<td>18</td>
<td>1.5</td>
</tr>
<tr>
<td>2019</td>
<td>1162</td>
<td>8.3</td>
<td>1412</td>
<td>1368</td>
<td>44</td>
<td>3.2</td>
</tr>
</tbody>
</table>
From the above data it is seen that during the year of 2016, the crime rate by female delinquents constitute 2.8%, in the year of 2017 the rate was 1.8%, then 1.5% in the year of 2018 and 3.2%. It is observed that the highest crime rate committed by female children being in conflict with law is 3.2%.

The studies regarding children admitted to the observation as well as special homes show abundant evidence that lack emotional support from parents or guardian is a major factor behind maladjustment of children in conflict with law. The deviant behaviour among girls shows the changing patterns of criminality. The arrest statistics of females contribute 8.3% in the year of 2019 and also shows the most offences for which girls have been arrested are less serious in nature. After the interaction session with the girl, it was found one of the main reason for them to adopt delinquent behaviour is physical, sexual and substance abuse.

Environmental Factor of Girl Child for Being in Conflict with Law

The rate of female delinquency is very smaller than the rate of male delinquency. Girls commit fewer crime than the boys. The present study conducted at the rehabilitation institution showed the sample of the apprehension of the girls constitute 1.5% of offence less serious in nature of the total sample. The interlink between girls problems and her attempt to run away lies on the factors such as neglect from the parents, family turbulence and the most important physical and sexual abuse. Most often abuse is perpetrated by the family members or close family friends who are perceived as most trustworthy; such sexual abuse have a profound impact on a girl during the time of adolescence, which resulted in less self-esteem, depression, frustration and other more serious concerns. The mental health problems related to experience of victimization is higher among girls than boys (Gibbens & Ahrenfeldt. (1966). p. 170).

Physical and Mental Factor

There are various physical factors regarding the health of a girl such as malnutrition, deformity, drug addiction and other forms of ailments lead the girls to indulge into committing offences. While in case of mental factors, many studies have found females are prone to stress as well as mental trauma, emotional instability, inferiority complex, obsession, revengeful nature etc. Many studies suggest that the female alleged to be in conflict with law has the history of sexual abuse or victimization, neglect from the family. The girls apprehended for being in conflict with law are more likely to admit previous abuse both physically and sexually about 70 percent of respondents in the survey conducted in Odisha.

Family Influence

Home is the first place where a child’s personality is moulded. A girl child receiving equal amount of attention and respect from parents is found to be less inclined towards crime. Family issues such as lack of supervision, various forms of abuse, partiality among siblings all such factors leads a girl to be in conflict with law. The complex family processes such as attachment, supervision explain the differences of delinquent characteristics between a boy and a girl. A family belonging to criminal background will always teach a child regarding the adverse lessons about life and society. As criminality of parents is considered to be a risk factor for children towards delinquency. It is proven by various studies that the children who receive adequate parental supervision are less engaged into criminal activities. Some studies also suggested the girls being involved in prostitution are introduced to such world by their relatives, cousins and other known friends (Miller, 1986). The family instability, broken homes, disruption in social ties is a risk factor for causing delinquency.
After the 86th amendment in the Indian Constitution, the schooling and education among children became free and compulsory for the age group of six to fourteen years. Since ages it is seen that whenever a question arises regarding the choosing of education of a daughter and a son, usually the son is given preference over daughter. The negative attitude of parents towards educating the girls is the biggest barrier for girls education. Most parents thinking is education a boy is type of investment because the son will take care the overall financial as well as physical responsibility of the family. While giving education to the girls is like wastage of money as they feel girls are burden to the family and eventually leave the family after marriage. The studies have found most of the females found to be in conflict with law are secondary school dropouts.

- From the above data taken during the survey, it is found 65% of girls have completed primary education, 24% are dropped out and 12% have not attended the school.
- It is observed a large percentage of girls are unable to complete the basic as well as higher education because they are needed at home to participate in the household chores. Many girls who are not in school
are instead working as domestic helpers at houses for eight hours, as they have to manage the expenses and look after their siblings.

- As per the 8th All India School Education Survey 2019-2020, it is found the enrollment of girls at the primary level of education is 48.67% and in 47.30% in urban areas (All India School Education Survey, 2018). The girls who had dropped out their schooling attributed their usefulness at home. Education is perceived as unnecessary for girls at nearly for 10% of the responses. The reasons cited by the school dropout girls were lack of interest and necessity of work to earn cash.

**Institutional Treatment of Girl Child in Conflict with Law**

The Juvenile Justice (Care and Protection for Children) Act, 2015 provides extensive measures for the rehabilitation and social re-integration of children found to be in conflict with law. The process of rehabilitation and to mainstream the child into the society has been mentioned under section 39 of JJ Act, 2015. This section provides that rehabilitation and social integration shall take place in observation and special homes only. The observation home, mentioned under section 47, JJ Act, 2015, place where child alleged to be in conflict with law is segregated according to the age, gender, physical and mental status of the individual. The observation and special homes takes the responsibility of child’s counselling, education, recreation, vocational training and other daily activities. The Beijing Rules, reflects this concept which deals with objective of institutional treatment. “The objective of training and treatment of juveniles placed in institutions is to provide care, protection, education and vocational skills to assist them to assume socially constructive and productive role sin the society” (Beijing Rules, Rule 26). The child counsellor suggested that the age group of 10-18 years is the formative stage of an individual. No particular treatment has been found to be effective thus far. However, the number of girls alleged to be in conflict with law within the juvenile justice system are small. This means they attract few resources. Reformation and rehabilitation is the essence of juvenile jurisprudence rather than penalizing the child. So it is necessary to place the children in conflict with law in a specialized setting where her development is of paramount importance.

The institutions under the JJ Act, 2015 are supposed to act as place of safety that are conducive to positive character and personality development of the girls alleged to be in conflict with law. Therefore, the observation and special homes has to conduct special programmes at a regular interval. The management of observation homes is the true indicator of the spirit of Juvenile Justice Act followed. The respondents have gone through worst phase of life, they still have the dream of being independent, having stable life and good career. Most of the respondents were very unhappy with the parental status, but a notable observation was that they wanted the society to make efforts to improve their present status and condition. Furthermore, the involvement of female social workers, counsellors have been made to make the institution environment more child friendly and homely.

**Recommendations and Concluding Remarks**

The prevention of children from being in conflict with law has become a worldwide subject of discussion. In Odisha, deviance among the children is largely tackled through informal means of social control. The socio-economic transition has resulted in large scale of migration from rural areas to urban areas. For the purpose of girls education the state government has introduced various programmes such as for making aware regarding the adolescent health issues and counselling “Kaishore Bichar Marga Darshika”. The internal complain committee has been established in every school for addressing gender issues. Two important schemes has been launched in the year of 2018 namely ‘Utthan Scheme’ for improving education quality and overall development of children from Class VI-VIII and the other ‘Utkarsh Scheme’ for improving education quality from Class IX-X. There are various scholarships being offered by the state government to motivate and promoted the education of children. To take a stand against abuse, the parents has to take the responsibility of their daughters to make them aware regarding the sexual orientation, they should teach them regarding the difference between ‘good touch’ and ‘bad touch’ and at the same time the parents shall teach their son how to respect with the emotions and behave with a girl or woman. The parents as well as teachers shall prepare dynamic individual plan to inculcate positive attitude in child keeping in mind their physical and mental capacity. The researchers observed that delinquency is an acquired trait and it is the product of various socio-economic factors. Besides the safeguard mechanisms provided by the government there are numerous enactments to protect the rights of the children in various spheres including marriage, legitimacy, health, education and welfare. The remedies for the maladjustment in children must be found in the family itself at the very beginning. There shall be strictly examination of problems or issues facing by the girls especially belonging to lower castes and to make a strategy to make the system socially and culturally more responsive. In addition government shall create more recreation programmes with the training
session making the girls aware of their legal rights and duties within the juvenile justice system and the approach of the society regarding blaming the girls alleged to be in conflict with law for their situation rather than blaming the society and the whole system itself needs to be revised and revisited.

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