A Study of Juvenile in Conflict with Law and Rehabilitation

-An Abstract

The juvenile justice system is the largest machinery in India to work with two significant groups of vulnerable children: children without family or family support, and children who allegedly commit crimes or offences. The Juvenile Justice (Care and Protection of Children) Act, 2000, (further amended in 2006) (hereafter referred to as the Juvenile Justice Act) is the current overarching framework for the juvenile justice system. The Juvenile Justice Act has incorporated provisions pertaining to children from the Indian Constitution, United Nation guidelines, and Child Rights principles. The Juvenile Justice Act covers two categories of children:

a) “Child in Need of Care and Protection”- These are children who are primarily found without shelter, family or family support. Abandoned, destitute, neglected, orphaned, abused/exploited children come under this category, and

b) “Juvenile in Conflict with Law” i.e. children who allegedly commit offences. The law demarcates between these two categories of children and has mandated separate and independent mechanisms and procedures to address their issues.

This research focuses only on ‘Juvenile in Conflict with Law’

‘Juvenile in Conflict with Law’ is a term given to boys or girls who have allegedly committed “offences” or crime and are below eighteen years of age. Crime is legally defined as a violation of law. These offences would be acts or behaviour that would constitute a ‘crime’ in the Indian Penal Code, 1860 (IPC) or any other law and applies equally to both juvenile and adult offenders. Both get apprehended under the same offence charge. The point of departure is the procedures that follow if the person apprehended is less than eighteen years of age. Special courts (Juvenile Justice Board) and special provisions (Juvenile Justice System) have been created for children who commit offences. The entire mechanism governing the Juvenile Justice System emphasizes on rehabilitation and social reintegration. Bakken (2007) puts it in perspective: “The juvenile court is offender-oriented rather than offence oriented, making it much easier for offenders to get a second chance at being a productive member of the community” (p.3).

The Study has made an attempt to understand the profile of juvenile in conflict with law. The study explored the juvenile’s life situation and relationship with his or her family and peers. The study also examined the juvenile and family's experience of the juvenile justice system. The perspective of the key functionaries about the juvenile and the juvenile justice system and rehabilitation was
incorporated. Finally the study proposes a framework for rehabilitation of juvenile in conflict with law. This framework hopes to strengthen the existing rehabilitative measures within the juvenile justice system. The Observation Home (Children’s Institution within the Juvenile Justice System) in Mumbai was selected as the site of the Study.

This is an exploratory Study to gain insight and deeper understanding of the issues of juvenile offence, analyze the contextual factors and the lives of children who come within the system as 'juvenile in conflict with law'. A Mixed Method approach with an emphasis on the qualitative methodology was adopted. The Study has utilized a combination of primary and secondary data. The primary data (Qualitative) comprised: a) 30 Case Studies of juveniles in conflict with law (25 boys and five girls), and b) Interviews with other 52 Significant adults.

The secondary data (Quantitative) comprised a) 146 Individual case files of juvenile in conflict with law (115 case files of boys and 31 case files of girl juveniles) selected as a subset from the sampling frame (Case files are records maintained by the probation officer for each individual child), and b) Overall Records (i.e. the sampling frame) containing basic information of 992 juveniles in conflict with law admitted to the Observation Home between April 2009 and March 2010.

The Study used purposive sampling or non probability sampling techniques to identify the juveniles for the case studies as well as the significant adults. The Study used probability sampling techniques for selecting the Case Files. Stratified random sampling method was adopted. A representative sample of 115 case files of boys was selected from the Sampling frame of boys. As girl juveniles were fewer in number, all 36 case files in the Sampling Frame were selected out of which 31 case files were analyzed (remaining five case files of girls were not taken due to data related issues). The method of data collection for primary data was the interview method. For the secondary data examination of case files of children were undertaken on the basis of a pre-determined Information Collection Schedule.

As per the mixed methods research design, data collection for both the qualitative and quantitative sample was simultaneous and independent of each other. The Study used parallel mixed data analysis which involves two separate processes (Tashhakori & Teddlie, 2003): Quantitative analysis of data, using descriptive statistics for the appropriate variables and qualitative analysis of data using thematic analysis relevant to the emerging points from the case studies and the interviews with the adults. Although the process was independent, each provided an understanding
of the juveniles in conflict with law and the juvenile justice system. These understandings were linked, combined and integrated in the concluding chapter. The Study is largely within the interpretative perspective.

The Findings from the secondary data and primary data are being presented separately. The findings have been posited with the theoretical framework guiding the Study: key elements from the Ecological Perspective, Risk and Protective Factors Framework and the Life Course Theory (the child and the interaction with the “environment”, “risk” factors and the child’s own “life course” with “trajectory” and “turning points”). Five core domains of a child’s life have been explored: family, peers, school, community, and individual factors. The influence of the ‘context’ and the interconnectedness of human life has been examined through the case study sharing. Family as an important arena in a child’s life has been analysed.

The findings from the secondary data emerged in three different areas. Majority of the girl and boy juveniles were between sixteen and eighteen years. The predominant offence charge was related to “theft”, followed by “assault”. This has implications on “rehabilitation”. The juveniles in conflict with law were largely from low income working families. Majority of the juveniles were staying with their families in Mumbai. Single earning members, having a family size of between five and seven members, holding skilled or semi skilled jobs, school drop out of juvenile were some of the highlights. Additionally it was also found that the child undergoes several procedures before coming to the juvenile justice system. There were documents of police, highlighting both the offence charges as well as about compliance with provisions of the Juvenile Justice Act. It was also found that though Probation Officer was supposed to play a key role in working with the juvenile, due to several factors was unable to do so to the extent required. Amidst all these papers, and efforts, core documentation related to process oriented work with the juvenile and rehabilitation was not prominent.

Three themes emerged in the case study analysis: ‘The Family Context in Understanding Juvenile’ Offence, ‘From a ‘Child’ to a ‘Juvenile in Conflict with Law’-Tracing the Path’, and ‘Experiencing the Offence Charge, the Juvenile Justice System and Life Thereafter’. In the case studies it was found that the family background was similar to that of the information available in the secondary case files. Nonetheless the case studies provided insightful information about interactions and processes within the family. Friendships, peer relationships, crisis and “turning points” in the juvenile’s life were understood. Through the case studies certain patterns of
behaviour of the juveniles emerged. Each juvenile had traversed a certain ‘path’ due to a combination of environmental factors, familial situation and the child’s own inclinations.

Upon becoming a ‘juvenile in conflict with law’, the experiences of the juveniles with the juvenile justice system were documented in relation to three core components of the juvenile justice system: police, Observation Home and the Juvenile Justice Board. Significantly none of the juveniles or their family/guardian were wanting anything more from the juvenile justice system or any “rehabilitation” other than the “case” of their child getting “closed” at the earliest. The “case” “hung” over the child and the family. The juvenile justice system itself was a like “label” that they wanted to do away with as soon as possible. It was also found most of the juveniles were independent thinking and were neither expecting the family nor the State to provide any assistance. They had their own “agency” (a concept from the Life Course Theory) were hopeful of managing on their own.

The Study had not originally intended to “group” juveniles, and “fit” a “type” around it. However through the process of data analysis, among the 30 case studies, certain discerning patterns of behaviour emerged. The four 'types' of juveniles in conflict with law is a surmise that has evolved out of the findings of the Case Study. The four emerging 'types' of children or situations which led to a ‘juvenile in conflict with law’, within the context of this Study are: 1) Child-in-delinquency- The child had gradually got into delinquent behaviours much before becoming a ‘juvenile in conflict with law’; some were into addiction, 2) Child-at-the-periphery- Child was engaging with activities that presented potential opportunities for delinquency; friends/peers could be in delinquent behaviours, 3) Child-caught-in-a-situation- got involved in a sudden unanticipated episode of offence, and 4) Child-related characteristics- a certain pattern of behaviour that could possibly require psychological or therapeutic assessment and care

The Interviews with significant Adults included parents/Guardian and other adults associated with the juvenile justice system. Response of the parents about the juvenile justice system and their child depended on their own prior experience of the child. Parents/guardian who knew that their child was into delinquent behaviour were relieved that their child was in “safe custody”. Others who were equally convinced that their child was “innocent” wanted to do all that they could to get their child “out of this problem”. Similar to the children majority of the parents had any suggestion or wanted anything from the juvenile justice system other than “closing” of their child’s “case” by the Juvenile Justice Board.
Other significant adults reiterated a similar family background of the juvenile. They expressed frustration that much needed to be done within the juvenile justice system itself for more effective “rehabilitation” of the juvenile. Corruption, “work load”, challenges of managing children in a children’s Institution, greater coordination with the Juvenile Justice Board, and suggestions for overall improvement were some of the highlights.

There has been earlier literature on the difference between girl juveniles and boy juveniles due to several factors. This Study too found that the family context was similar between the two groups. The distinct difference was the different “path” of the boy juvenile and girl juvenile culminating into a very different nature of “offence charges”. The fall out of “risk” was quite different. The gender dimension needs to be understood while working with girl juveniles in conflict with law.

Select Findings emerging from Secondary and Primary data:

- Majority of the juveniles are part of “youth” as per existing definitions of youth. System has to gear for more youth based work
- Several environmental factors impinge upon child behaviour. Hence rehabilitation cannot then be focused only on individual children. Along with individual work, working towards preventing juvenile crime has to be an integral part of the juvenile justice system
- None of the juveniles or parent/guardian wanted to remain within the system. Juveniles have to be reconnected with society with an array of networked interventions outside the juvenile justice system
- Probations Officers and other functionaries have a critical role within the system. Adequate resources, training/capacity building, and supportive work environment is crucial for this kind of challenging work on juvenile offence
- Procedures are being followed systematically and within the mandate of the juvenile justice act. Process-oriented work needed to be upscaled
- Collaborative work between the Juvenile Justice Board, the Police and the Probation Department needed to be initiated beyond procedural requirements

Currently within the juvenile justice system the probation department liaises with the parents, child, Juvenile Justice Board and the Observation Home. The probation officer works with individual cases of children.

The Study proposes a “Framework for Rehabilitation”. The framework would expand the current understanding of “rehabilitation” and along with “individual work” include vibrant participation outside the juvenile justice system towards preventive work in juvenile offence. The underlying
principles would emphasize a child-centered approach promoting protection, participation, a collaborative team approach within an eclectic theoretical perspective.

The current “Probation Department” could be expanded into a:

“Child/Youth Guidance and Participation Centre”

The “Units/Entities” within the Centre:

- Staff Related-Human Resource Development,
- Individual work and Therapeutic Care,
- Collaborative and Community work

The Study findings indicate that a child’s getting into offence was due to a combination of factors. It reinforces previous findings in literature. The study also finds that majority of the juveniles who come within the system are vulnerable and have several ‘risk’ factors in their environment. Thorough dynamic assessment was required in collaboration with the juvenile to develop and plan meaningful intervention. The Study further proposes a new framework for rehabilitation. The Study hopes to initiate a process of change within the juvenile justice system, starting with Mumbai.