

Risks and Realities of mental health of children in conflict with the law

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Abstract:

Health in general and psychological health in particular; of children in conflict with the law in India does not seem to be a priority or focus area of the juvenile justice system, even though the Juvenile Justice (Care and Protection of Children) Act, 2015 mentions it as a significant provision made available to children, when they come into contact with the juvenile justice system. The Present paper is an effort to analyse some of the psychological issues encountered by children in conflict with the law in India – before and after they enter the juvenile justice system and examines some of the barriers to reform, rehabilitation and reintegration into society as envisaged by the Juvenile Justice Act, 2015. The paper also examines the essential role that a counsellor at an institution can play in enabling access to a range of mental health services as well as providing crucial counselling services to this extremely vulnerable population of children.

I. INTRODUCTION

Mental health is a basic right of every child – whether in conflict with the law or not. However, children in conflict with the law in India are an often neglected, poorly understood and highly vulnerable population. Their health in general and psychological health in particular, does not seem to be a priority or focus area of the juvenile justice system, even though the Juvenile Justice (Care and Protection of Children) Act, 2015 mentions it as an significant provision to be made available to children, when they come into contact with the juvenile justice system. So even though the law recognizes mental health as a right and entitlement, it is not a reality in practice.

A “**child in conflict with the law**” is defined as “a person who is alleged or found to have committed an offence and who has not completed the eighteenth year of age on the date of commission of such offence”. (Juvenile Justice (Care and Protection of Children) Act, 2015. It is important to note however, that not all children who are alleged to have committed to an offence are found guilty of it. So there are many children in detention or on bail who may actually be innocent of the crimes they have been charged with. Irrespective of whether they are found legally guilty or innocent, contact with the juvenile justice system is likely to expose them to several risk factors that may affect their mental health.

The Mental Health of Children in Conflict with the Law in India: Some Risks Factors after they enter the juvenile justice system

A child who comes into conflict with the law goes through a wide range of experiences which can have a huge impact on his/her mental health. According to the National Crime Records Bureau (NCRB,2011), 55.8% of the children apprehended in 2011 had no formal education or were educated only up to the primary level and 56.7% belonged to economically backward families with an annual income of

less than Rs. 25,000(Crime in India : 2011 Statistics). This is not a recent development. “ In 1999, the National crime Records Bureau had observed, ‘As expected, low income and education, poor economic set up is generally the main attributes for delinquent behavior of the juveniles’”. (Child Protection in the Eleventh Five Year Plan 2007 – 2012, pg 42).

It is likely that many of these children could be suffering from pre-existing risks mental health problems and it may be unlikely that they would have received any mental health service given the disadvantaged backgrounds they come from.

The psycho social profile of a child in conflict with the law often includes a history of physical and /or sexual abuse, neglect, impoverishment, poor health conditions, poor parenting, drug / substance / alcohol abuse, unstable / dysfunctional families, emotional deprivation, limited or no education, low socio-economic status. From a mental health perspective, these are all risk factors that may be likely to make the child vulnerable to developing a mental health condition or deviant behaviors (Underwood, et.al. 2006).In addition to the stressors and risks already present in his home environment, the psychological stress for a child in conflict with the law is compounded when he is charged with committing an offence and comes into contact with the police. Interaction with the police is an anxiety and fear-inducing experience even for adults, and can be an especially terrifying experience for a child. This is followed by the child meeting the member(s) of the Juvenile Justice Board (JJB) – either the magistrate or the social work members, who ask him to narrate what happened and the reason why he has been apprehended. Following this, he is placed in an Observation Home (OH), which is an environment which does not have the comfort, care or emotional familiarity of a family or home setting.

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Once in the Observation Home, the child is expected to follow a bewildering number of rules and regulations with regard to every aspect of his life – eating, sleeping, bathing, etc. The child further lives in a state of uncertainty till his case is heard and brought to an end which could be weeks, months or years. All this, assuming the child has not encountered abuse of any kind by any adult(s) in the juvenile system – whether police, caretakers at the Homes, etc. and has a competent lawyer and has experienced the juvenile justice system as a child friendly and child rights friendly system that ensures his/her dignity is respected. This being the experience for a child who comes in contact or conflict with the juvenile justice system, it is easy to see how a child's mental and emotional well-being may be disrupted and impacted by this entire process.

Being placed in detention in an institutional setting, separation from family and familiar environment, absence or lack of attentive, loving caregivers, fear of being punished severely or sent to jail, lack of positive learning opportunities, disruption of education, lack of positive life experiences that shape emotional and moral character, absence of close, loving relationships, lack of adequate or appropriate means for emotional expression, lack of opportunities to participate in community life, exposure to violent or suicidal peers, possible access to adults with criminal antecedents, possible violence and abuse in custodial care and absence of positive role models are a few factors that may have a deep or lasting impact on the mental health and emotional well-being of children in conflict with law, especially those in institutional care (Linda et. Al. 2002).

An understanding of these risk factors and how they affect mental health is useful for mental health professionals

working with children in conflict with law to draw up individual care plans and make adequate and appropriate mental health services and rehabilitative services available to these children (Hammond, 2007). There is a lack of adequate and detailed empirical data on the mental health problems faced by children in conflict with the law anywhere in India. However, the author's experience as a consultant counsellor at the Government Observation Home for Boys, provided an opportunity to observe a range of mental health problems in the children at this institution which could be extrapolated to broadly understand the kind of problems generally observed in children from similarly disadvantaged backgrounds.

Some of the mental health problems observed by the authors include sleep disturbances, high levels of fear and anxiety, substance abuse, post traumatic stress disorders, mood disorders, depression, aggression and violent behaviour and self-injurious behaviour. The risks to children while in institutional care may include, and may not be limited to, re-traumatisation, risk of physical and sexual abuse, possibility of developing serious mental illnesses if left untreated, acquiring anti social behaviours as a result of exposure to negative peers, difficulty in reintegrating with the family and recidivism when earlier issues remain unresolved (Foster et. al. 2004). Also, in practice, once a child is alleged to have committed an offence, some of the attitudes and biases of the functionaries, decision makers and caregivers against juveniles often deny them the care and protection that they are entitled to by law.

Reform, Rehabilitation and Reintegration into society: Some of the Barriers as envisaged by the Juvenile Justice (Care and Protection of Children) Act, 2015

The Juvenile Justice (Care and Protection of Children Act, 2015) states reform, rehabilitation and reintegration into society as its main aims. However, for a child in conflict with the law to reform and be successfully rehabilitated and reintegrated into the community, he should first be reasonably mentally healthy to be able to cope with the demands and pressures of coping with the legal as well as the reform and rehabilitation process. There are several systemic and implementation barriers that prevent children from conflict in the law from receiving mental health services that would help them attain the goals of reform, rehabilitation and reintegration into society.

The lack of empirical data and detailed information on mental illnesses amongst children in conflict with law in India is one of the serious issues in planning any effective preventive, remedial or rehabilitative services for this population. The reasons for this lack of data and information is closely linked to a lack of mental health services at juvenile justice institutions, lack of access to referral services, lack of trained or qualified professionals to identify or screen for mental illness, to name a few. In addition, the severe lack of qualified personnel to identify and respond to the mental health needs in children in the Observation Home, or those released on bail, or serving other community-based or non-institutional orders of the JJB results in the mental health problems of this population being severely underserved.

The lack of a prescribed, developmentally appropriate, culturally sensitive counselling model for children in conflict with the law in India as well as the larger issue of a lack of a

regulatory or governing body for the profession of counselling in India results in counsellors being ineffective in addressing the mental health problems they encounter. This problem is compounded by the lack of medical and psychiatric and other support services linked to counselling services. So while some of the basic mental health needs could be catered to by the counsellor at the institutions, some children might need advanced and specialized care. Especially children suffering from mental disorders, physical or mental disabilities, emotional disturbances, congenital conditions, behavioural disorders, etc may need a level and standard of clinical intervention which would be beyond what a counsellor can or should provide.

These children would need the services of a child psychiatrist, psychologist, special educator, etc for clinical assessment, accurate diagnosis, treatment and management, rehabilitation planning, follow ups, etc. Psycho social care services needed may include emergency treatment, ambulatory service, hospital care, community based family counselling, psychotherapy, vocational rehabilitation, etc. Referral services may also include services outpatient psychiatric clinics in general hospitals and clinics, rehabilitation services for children after their discharge from a psychiatric facility, supervised care and support at home (at the institution or at the child's home), etc. Absence of these services also often become a barrier to the child's reform and rehabilitation process.

Development of Positive Mental Health of Children in conflict with the law: Role of the counsellor

Every child who comes in contact with the juvenile justice system needs and is entitled by law to the services of a trained, experienced and competent counsellor - not only the children who might be suffering from clinically classified mental illness, disorders or conditions. The counsellor can play the crucial role of helping the child in conflict with the law to make sense of his current life situation, examine his beliefs and coping strategies to deal with being charged with an offence and the consequences of the same. From a mental health perspective, the child's experience, thoughts, feelings, perceptions and understanding of his 'truth' is more important to the counsellor for purposes of counselling than the 'facts' of the case as might be reported by the police or before the court.

The counsellor can play a key part in facilitating access to a range of mental health services like screening, assessment, referral, specialized counselling, life skills training and so on to the child in conflict with the law. Children committing violent or sexual offences (which may be admitted to during counselling sessions) – irrespective of whether they are found guilty by the JJB or not, would need to be referred for more intensive and specialized counselling in addition to other mental health services, including psychiatric intervention, de-addiction services and so on, if so indicated. Counselling for families and caregivers of children in conflict with the law to help them cope with separation from their child, anxiety of legal proceedings, social stigma of having a child taken away by the police, loss of earnings in case the child is the breadwinner in the family, etc also forms a critical part of the counselling process.

The counsellor is a key actor who represents the child's

wishes, desires, aspirations, dreams and fears (as shared by the child during counselling), especially with regard to education, career, family, significant relationships, future safety from abuse and violence, and so on, before the Juvenile Justice Board. This could be done through the counsellor giving inputs to the Social Investigation Report as well as the Individual Care Plan called for by the Juvenile Justice Board.

BOX ITEM : SOME VIGNETTES FROM PRACTICE

Vignette 1 :Balaram*

Case background and presenting problems :

13 years old, repeated apprehension by police, pattern of petty theft, hyperactivity in most settings, struggles with reading, writing, spelling and math at school, frequent violent fights with neighbouring children and adults, temper tantrums, aggressive outbursts towards family members, frequent running away from home & school, difficulty staying focused and paying attention.

Case progression and main events :

Frequent diversion by police, the JJB admonished him for 'bad behaviour' and advised him to change his ways.

Outcome for the child / family :

Balaram was getting increasingly criminalized due to frequent detentions, his behaviour was getting entrenched as there was no intervention, his mother is suicidal as she is unable to cope.

Opportunity for mental health intervention :

Could this be a possible case of suspected Attention Deficit Hyperactivity Syndrome or an undiagnosed Learning Disability? There seems to be a systemic inability to recognize that this child may be suffering from a mental health disorder / condition and that he was not 'a disobedient boy with bad behaviour', the government school where he studied did not identify that he may have a learning disability and so he was labelled as a problem child who cannot read, write or concentrate on studies.

Vignette 2 –Chiraag*

Case background and presenting problems:

17 years old, history of multiple and repeat violent offending, drug and substance abuse, refused to follow rules, stubborn and rebellious behaviour with caretakers, sexual abuse of younger boys at the OH, daily bullying of other boys, he destroyed property at the OH whenever he was angry.

Case progression and main events :

Chiraag was beaten up by the staff for getting into fights with other boys, refused bail on account of recidivist history, punished by isolating him from other boys for sexually abusing them, recommended for placement in an adult jail for few months despite knowing he was a juvenile, to 'teach him a lesson'.

Outcome for the child / family :

Repeated offending by Chirag as there has been no intervention – clinical or psychosocial, his family has disowned him and refuses any contact.

Opportunity for mental health intervention :

Could Chiraag be referred for a detailed assessment for substance abuse and subsequent de-addiction counselling and structured program ? Could this be a possible case of suspected conduct disorder or oppositional defiant disorder ? Could this be a result of Chiraag's own history of violent sexual abuse which could be aggravated by his placement in an adult jail where the risks to his sexual safety are high? Could Chiraag be taught life skills on personal safety, sexual boundaries and provided specialized therapy for his sexual abuse as well as sexually abusive behaviour towards others?

Vignette 3–Arbaaz***Case background and presenting problems :**

15 years old, apprehended for theft. Lower middle class family, mother died at child birth, father of child refused to take the child out on bail as he was seen to have besmirched the family honour. Arbaaz had dropped out of school when father remarried and had a new family from which he was excluded. Arbaaz had heard about 'Jannat' at the local madrasa and had visions of a happier paradise where he would have a mother, be loved and wanted. So had attempted to set himself on fire, jumped off a 2 storey building in an attempt to gain paradise. At the OH, was harassed by older boys, possibly sexually abused as well and went into a deep depression and attempted to commit suicide.

Case progression and main events :

Child was beaten by the staff for attempting suicide as they believed it to be a criminal act and he was handed over to a local police station for 3 days to be beaten up and 'brought to his senses'. His suicidal attempts were labelled as 'drama' and 'attention-seeking' behaviour and there was a delay of several weeks before he was referred for psychiatric evaluation.

Outcome for the child / family :

Child was granted bail and admitted to a mental health hospital, continued to be depressed. Family sent the child to a madrasa in a neighbouring state as they were unable to take care of his health needs.

What may have helped each of these children ?

In the author's experience, some of the reasons for these responses to mental health conditions or deviant behaviour amongst children in conflict with the law include a lack of training of the care giving staff in understanding adolescent behaviour, myths and misconceptions about reasons that drive adolescents to violence, suicide, and defiant behaviour, retrograde or populist attitudes and belief systems that revolve around punishment for juvenile offences rather than services, media campaigns that repeatedly call for punishment and incarceration rather than reform, and lack of treatment and rehabilitation services for children in conflict with law.

**Names have been changed and case details altered to protect the identity of the children described in the case vignettes.*

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