

## **Children in Conflict with Law: An Anthropological Study among the Deported Children in Three Homes in West Bengal**

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**Abstract:** *The children who are deported in connection with some offence are looked at rather leniently as a category different from the general offenders or criminals. The terminology for underage offenders has also reflected this view of the society that takes a softer stand on them. The present term Children in Conflict with Law (CCL) is another pointer to this understanding of the society. This understanding of the society can be disputed or substantiated on the basis of the nature of wide range of variation of offences committed by the children. This variation is quite manifest with regard to age, gender and place of the origin of the offenders, and place of commitment of the offence. In the present paper, study has been conducted on the CCL deported in three Homes established by the government for them. The paper argues that CCL cannot be treated as a homogenous category as we find a wide variation between elderly children and younger children with regard to the nature of offence. The finding also points to the theoretical implication that Ferdinand Tonnies characterization of society suggests. Thus the paper tries to understand the relation between the social organization and breach of law by the children.*

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**Key words:** *Conflict, Law, Home, Deported Children, CCL, Ferdinand Tonnies, Social organization.*

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### **I. INTRODUCTION**

Involvement of children in breach of law has been drawing our attention for their increasing visibility in the recent years. In the late nineteenth and early twentieth century United States, boys and girls were most often charged with crimes far different from those they are charged with in the early twenty-first century (Brown, 1998). In Indian context looking at the children who have been charged with some offences has also undergone changes. To distinguish the child offender, he or she was called delinquent as the idea was that the child has a naivety. The term delinquent of late appears to be too harsh. Now the underage offenders are brought under a term Children in Conflict with Law. Such terminology indicates that the crime is seen basically a social product. The children who are booked under any of such condition, the idea is that the child has done it without fully understanding its implications. We can espouse here the existence of something like 'understanding of child' or child mentality which is different from that of the adult ones. Now the point is whether this is a homogeneous type of mental set up? If so, the nature of breach of law would tend to show little variation across the ages. In the present paper the study has been done on the inmates of the Children homes where they are deported for some conflict with law. The study has been conducted with regard to the nature of conflict, age, gender and place of occurrence. The home districts of the inmates have also been taken into consideration. It is seen that there are considerable difference with regard to all the above criteria. These findings lead us to probe the factors that influence the nature of conflict. The study argues that the children in conflict with law do not constitute a homogeneous category so far as their nature of conflict is concerned and therefore need differential management of the conflict- situations.

#### **Children and Breach of Law : Overview of studies**

Le(2002) in his review writes that culture is an important factor in the explanation of crime. It also explains the varying crime rates evidenced by different ethnic and racial groups. Hawkins(1993) says that culture is more important than economy(poverty) as a factor of crime. Hayner (1938) long back shows that low rate of criminality among the Japanese youth compared to Chinese and Philippino can be attributed to the moral discipline, whereas weaker family life, weaker ties to community organization and disorganizing contact with Americans can be explained as causes for higher crime rates among the Chinese and Philipino. Conflict of cultural values is reported to be more frequent among immigrant groups( Hun-Kin,1998; Waters,1999; Kang,1999). The immigrant groups experience new way of life in a new social milieu, which may be a source of strain. Kang(1999) identified a number of factors behind this stress including learning new languages and values, finding new employment and relationship , learning new social skills etc. Le(2002) tried to locate the issues of delinquency around the themes like acculturation and cultural conflict, peer and family relations, socialization, psychological elements, integration failure, ecology and social structure, immigration process , resiliency and protection. Of these issues , the present study more emphatically points to the integration.

Durkheim's (1953) celebrated work on integration holds that individual behavior is actually a product of social integration. It means that more the integration of the individuals into the social group, more the control of the social group over the individual. Social integration has been understood here with regard to participation, sharing of values, beliefs and norms. Bankston and Caldas' (1996) study has brought the role of integration in the context of deviant behavior. They studied delinquency among the Vietnamese American youth and came to the conclusion that their delinquency has been a problem of integration. Lee(1998) maintained that delinquency among the Korean American Youth could be better explained by lack of social integration among them rather than other factors like immigration, acculturation etc.

In addition to anthropological attention to children as recipients of violence, anthropologists have also focused on children as perpetrators of violence and aggression. This literature can be organized into two major groupings. First, aggression in childhood has been the subject of a robust and long-standing literature that has examined socialization for or against aggressive behavior in children. This literature has attended primarily to the antecedents of children's aggressive behavior. Childhood aggression is seen as one of many behaviors to be socialized and is generally viewed as within the range of normal child behavior as defined within its cultural context. This literature is largely based on participant observation, systematic observations of children, and interviews with parents (primarily mothers) and other caretakers. Children's own views are rarely sought (Korbin 1978).

So, it is seen that social and cultural factors have been indicated as the principal determinants of the behavior of the children. In the present study, the children who are interviewed in the homes very often fail to give details of the information on the socio-economic or educational status of the members of their families. However, the older among them were rather more conversant. The official data from the records in the home provided much of the necessary information.

### **The Home**

This study has been conducted in three Homes namely S M M Home, Liluah, Howrah, Sukanya Home, Salt Lake, Kolkata and Dhrubashram Home near Ariadaha, Kolkata with the permission from the Directorate of Social Welfare, Government of West Bengal. The Home as defined in The Juvenile Justice (Care and Protection of Children) Act, 2000, is "The State Government may establish and maintain either by itself or in association with voluntary organisations, children's homes, in every district or group of districts, as the case may be, for the reception of child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation". Accordingly these three homes have been set up by the government. These homes are located in three adjacent districts and situated in urban areas. In the district of Howrah, SMM Home is situated in Liluah. Sukanya Home is in Kolkata, at Saltlake. And Dhrubashram is situated in Ariadaha in the North 24 Paraganas district of West Bengal. Only the Dhrubashram is boys' home. The homes are large habitation with hostels for inmates, quarters for officials and large open areas for various correctional and productive activities, surrounded by high walls. There is an office room or administrative section in each home where we have conducted most of the interviews and collected other necessary information. The study in the three homes shows the following distribution of 289 inmates according to their age and sex.

Age (in years)	Sex				Total	
	Male		Female			
	No.	%	No.	%	No.	%
7 to 9	4	1.38	0	0	4	1.38
10 to 12	21	7.27	0	0	21	7.27
13 to 15	74	25.61	5	1.73	79	27.34
16 to 18	177	61.25	8	2.77	185	64.01
Total	276	95.5	13	4.5	289	100

Table No.: 1 - Distribution of juvenile inmates according to age and sex in Homes covered under present study.

The Table No.1 shows that the boys (95.5 per cent) outnumber the girls(4.5 per cent) quite predominantly so far as the juvenile delinquency is concerned. Another important point is that the juvenile offenders mostly belong to the age groups of 13 -15 years and 16- 18 years. They together constitute 91.35 per cent of the total delinquents. No girl delinquent in the ages from 7 to 12 years is found among the 13 girl deportees of 289 inmates. It may be that the onset of puberty or adolescence has a definite impact on the criminal propensity. Among the boys it is more pronounced than the girls. Here criminality appears to be a critical gender differential. As per the NCRB data available for the year 2007, it is seen that the girl to boy ratio was 1:18 in India. In the present study we

find this rate to be 1:21. Very high frequency of child delinquency is reported in the age group of 16-18, it is 64.01 per cent. It is higher than the all India frequency for the same age group, which is 60.03 per cent. It may lend a point in support of lowering the upper age limit of juvenile delinquent. In this regard, nature of crime needs to be taken into consideration.

## II. Nature of Conflict

Crime is considered a loaded term for the children who have been apprehended for breaching of any law of the land. For them, the expression ‘child in conflict with law’ substitutes the word crime in the JJ Act,2000. The following table presents the data on the nature of conflicts with which the children are deported in the homes.

Name of the Home	Age (in years)	Legal sections under which the CCLs are deported
S M M Home (girls home)	7 to 9	-
	10 to 12	-
	13 to 15	379, 411, 224, 366(B), 14- Foreigners Act
	16 to 18	14- Foreigners Act, 379, 302, 366(B)
Sukanya Home (girls home)	7 to 9	-
	10 to 12	-
	13 to 15	381, 14- Foreigners Act,
	16 to 18	363, 366(A), 14- Foreigners Act
Dhrubashram Home (boys home)	7 to 9	14-Foreigners Act, Indian Passport Act
	10 to 12	14-Foreigners Act, Indian Passport Act, 379, 141, 376
	13 to 15	279, 379, 41 C.R.P.C Petty case, 3(a) RPUP Act, 302, 414, 14-Foreigners Act, 343, 272, 326, 307, 362, 509, fake call, kidnapping for money,
	16 to 18	147, 148, 149,279, 302, 304(B), 307, 326, 332, 362, 363, 364, 365, 366, 372, 376, 377, 379, 394, 397, 414, 417, 419, 420, 427, 448, 457, 467, 489(B), 498(A), 504, 506, 509, 3(a) RPUP Act, 14- Foreigners Act, 67 S.T. Act, Arms Act, Trees Protection and Conservation Act.

Table No. : 2 - Distribution of types of crimes according to age group in Homes

This table shows that the girls and the early childhood boys (between 7 and 12 years) are apprehended mostly under SSL other than IPC. It is found those maximum types of conflicts are noticed in the age-group of 16 to 18 among the male juveniles. So the advanced childhood age groups not only returns higher frequency of breaches but also a greater variation of offences. Table 3 gives us information on the particular sections of act and the frequency of breach of law in a particular section.

Section(IPC)	Sex				Total	
	Male		Female		No.	%
	No.	%	No.	%		
147	1	0.34	0	0	1	0.34
148	1	0.34	0	0	1	0.34

149	1	0.34	0	0	1	0.34
224	0	0	1	0.34	1	0.34
272	1	0.34	0	0	1	0.34
302	27	9.34	1	0.34	28	9.69
304(B)	1	0.34	0	0	1	0.34
307	15	5.19	0	0	15	5.19
326	3	1.04	0	0	3	1.04
332	1	0.34	0	0	1	0.34
343	1	0.34	0	0	1	0.34
362	22	7.61	0	0	22	7.61
363	7	2.42	0	0	7	2.42
364	2	0.69	0	0	2	0.69
365	1	0.34	1	0.34	2	0.69
366	1	0.34	0	0	1	0.34
366(A)	0	0	1	0.34	1	0.34
366(B)	0	0	2	0.69	2	0.69
372	1	0.34	0	0	1	0.34
376	37	12.8	0	0	37	12.8
377	2	0.69	0	0	2	0.69
379	52	17.99	2	0.69	54	18.68
381	0	0	1	0.34	1	0.34
384	1	0.34	0	0	1	0.34
394	1	0.34	0	0	1	0.34
395	17	5.88	0	0	17	5.88
397	1	0.34	0	0	1	0.34
411	0	0	1	0.34	1	0.34
414	6	2.07	0	0	6	2.07
417	1	0.34	0	0	1	0.34
419	1	0.34	0	0	1	0.34
420	1	0.34	0	0	1	0.34
427	1	0.34	0	0	1	0.34
448	1	0.34	0	0	1	0.34
457	3	1.04	0	0	3	1.04
467	1	0.34	0	0	1	0.34
489(B)	1	0.34	0	0	1	0.34
498(A)	1	0.34	0	0	1	0.34
504	3	1.04	0	0	3	1.04
506	1	0.34	0	0	1	0.34
509	10	3.46	0	0	10	3.46
3(a) RPUP Act	8	2.77	0	0	8	2.77
14-Foreigners Act	16	5.54	7	2.42	23	7.99
67 S. T. ACT	1	0.34	0	0	1	0.34
Arms Act	7	2.42	0	0	7	2.42
Trees Protection and Conservation Act	1	0.34	0	0	1	0.34
279	4	1.38	0	0	4	1.38
NDPS Act	4	1.38	0	0	4	1.38
Indian Passport Act	2	0.69	0	0	2	0.69
41 CRPC Petty case	1	0.34	0	0	1	0.34
All Total	272	94.16	17	5.84	289	100

Table No. : 3 - Distribution of types of crimes according to sex group in Homes

This table shows the types of conflict with law according to gender. Here we found that among the male children the maximum number of cases has been registered under section of 379, which is the act for the punishment of theft. Besides this there were found these under sections are also conducted in high frequency, are as follows 302, 307, 362, 376, 379, 395, 509 and as well as 14-Foreigners Act conducted by male

delinquents. Here we found that among the female children the maximum number of crimes which is under section of 14-Foreigners Act, which is the act for the punishment for taking entry into India without passport .

Types of Conflict	Male	Female
Rioting	3	0
Murder	46	1
Abduction / kidnapping	28	1
Human trafficking	2	3
Rape	39	0
Theft	2	3
Dacoit / robbery	19	0
Cheating	4	0
Criminal trespass	5	0
14- Foreigners Act	8	7
Arms Act	7	0
NDPS	4	0

Table No. : 4 - Frequency of major types of conflicts with law.

### Spatial variation of delinquency

The places from where the inmates have hailed from and where they have been apprehended for committing the breach of law show significant difference with regard to the number of reported conflicts with law. It is revealed that most of the inmates have come from Kolkata and its adjoining more urbanized districts of South and North 24 Paraganas , Howrah and Burdwan.

Residential places	Sex				Total	
	Male		Female		No.	%
	No.	%	No.	%		
Birbhum	1	0.34	0	0	1	0.34
Burdwan	27	9.34	0	0	27	9.34
Hooghly	4	1.38	0	0	4	1.38
Howrah	37	12.8	3	1.04	40	13.84
Kolkata	68	23.53	3	1.04	71	24.57
Malda	1	0.34	0	0	1	0.34
Midnapur	2	0.69	0	0	2	0.69
Murshidabad	5	1.73	0	0	5	1.73
North-24-Parganas	56	19.38	1	0.34	57	19.73
Purulia	1	0.34	0	0	1	0.34
South-24-Parganas	47	16.26	0	0	47	16.26
Out of State	12	4.15	0	0	12	4.15
Out of Country	15	5.19	6	2.08	21	7.27
All Total	276	95.5	13	4.5	289	100

Table No.: 5: - Districts from which male and female CCL have come.

Places of commitments of crimes	Sex				Total	
	Male		Female		No.	%
	No.	%	No.	%		
Birbhum	0	0	0	0	0	0
Burdwan	30	10.38	0	0	30	10.38
Hooghly	0	0	0	0	0	0
Howrah	63	21.8	3	1.04	66	22.84
Kolkata	91	31.49	4	1.38	93	32.18
Malda	0	0	0	0	0	0
Midnapur	0	0	0	0	0	0
Murshidabad	0	0	0	0	0	0

North-24-Parganas	54	18.66	4	1.38	62	21.45
Purulia	0	0	0	0	0	0
South-24-Parganas	37	12.8	2	0.69	39	13.49
Out of State	1	0.34	0	0	1	0.34
Out of Country	0	0	0	0	0	0
All Total	276	95.5	13	4.5	289	100

Table No: 6 - Places of committing breach of law by the male and female CCL.

This table shows that the districts of Kolkata, Howrah, North and South 24 Paraganas and Burdwan are the most vulnerable places where the children are more in conflict with law. Kolkata , from where 23.53 per cent of boys deportee come shares 31.49 per cent of the breach of law by them. Kolkata also tops the list in number of female children who are in conflict with law.

Sl. No.	Districts of West Bengal	Total Population	Rural	Urban	Percentage of rural Population	Percentage of urban Population
1.	Birbhum	3502387	3054019	448368	87.20	12.80
2.	Burdwan	7723663	4644079	3079584	60.13	39.87
3.	Hooghly	5520389	3388395	2131994	61.38	38.62
4.	Howrah	4841638	1776970	3064668	36.70	63.30
5.	Kolkata	4486679	0	4486679	0	100.00
6.	Malda	3997970	3446056	551914	86.20	13.80
7.	Midnapur	11037538	9729078	1308460	76.32	23.68
8.	Murshidabad	7102430	5697224	1405206	80.22	19.78
9.	Nort 24 Parganas	10082852	4275724	5807128	42.41	57.59
10.	Purulia	2927965	2554584	373381	87.25	12.75
11.	South 24 Parganas	8153176	6065179	2087997	74.39	25.61
Total	All	69376687	44631308	24745379	64.33	35.67

Table : 7 - Urban and rural population in the districts from which the CCLs hail.

It is seen that percentages of children in conflict with law are 32.18 per cent, 22.84 per cent, 21.45 per cent , 13.49 per cent and 10.38 per cent in the districts of Kolkata, Howrah , North 24 Paraganas, South 24 Paraganas and Burdwan respectively. The percentages of urban population in these above mentioned districts are 100 per cent, 63.30 per cent, 57.59 per cent, 25.61 per cent and 39.38 per cent respectively. Therefore we find an almost complete correspondence between urban population and occurrence of conflict with law. In Bangladesh, it has been seen that the breach of law is more frequent among the children in the urban areas ( Islam,2013).

There are eight out of eleven districts where no female children have been apprehended. It is seven out of eleven districts where we find no case of breach of law was done by the female children in the respective districts. It appears that the juvenile delinquency is more an urban phenomenon with a high degree of gender bias.

### ***Predominance of Physical Violence***

The cases which involve much physical violence have been registered in highest numbers among the juvenile delinquents. These types of violence include murder, rape, dacoity, kidnapping or abduction. The male dominance seems to have reflected through these kinds of activities more. Of the total breaches of law, these constitute ... per cent of the crimes. In fact, the sexual violence is seen to increasing over the years as reflected from the NCRB data and it is also testified by the present study. However, like NCRB data, theft is still the conflict with law which is more rampant among the children.

Sl.	Crime	Year
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No	Head	1997	2002	2003	2004	2005	2006	2013
1	Murder	316 (7.17%)	531 (5.73%)	465 (5.03%)	472 (4.44%)	522 (5.08%)	60 (5.44%)	47 (16.26%)
2	Kidnapping and Abduction	72 (1.63%)	164 (3.72%)	202 (2.18%)	232 (2.18%)	246 (2.39%)	271 (2.44%)	39 (13.5%)
3	Rape	163 (3.70%)	485 (5.23%)	466 (5.04%)	568 (5.35%)	586 (5.70%)	656 (5.90%)	39 (13.5%)
4	Theft	1975 (44.85%)	2798 (63.53%)	3076 (33.29%)	3806 (35.85%)	3942 (38.39%)	424 (38.21%)	471 (24.56%)
5	Dacoit/ Robbery	71 (1.61%)	316 (3.41%)	368 (3.98%)	391 (3.68%)	408 (3.97%)	494 (4.44%)	19 (6.57%)
6	Cheating	43 (0.98%)	88 (0.95%)	104 (1.12%)	149 (1.40%)	106 (1.03%)	94 (0.84%)	4 (1.38%)
7	Other IPC Crimes	1764 (40.05%)	4875 (52.66%)	4558 (49.33%)	4996 (47.06%)	4456 (43.40%)	4742 (42.69%)	70 (24.22%)
	Total	4404	9257	9239	10614	10266	11106	289

Table: 8 :- A comparison of occurrences of breach of law between national level data(NCRB) and present study data(2013).

***More male, less female***

The occurrence of delinquency among the female is said to have received less attention because of the ‘perceived limited involvement of women in crime and delinquency’( Shoemaker, 2010).So, it is already understood that the crime rate would be lesser among the female than the male. From the perspective of gender role, it is conceived that the women are expected to be more passive, orderly and motherly. However, Pollack(1950) has said that the criminal behavior is hidden or private act among the women. Therefore , it does not come to the surface more often. On the other hand the masculinity hypothesis suggests the criminal kind of activity is more of a sign of masculine behavior. Thomas (1907) is of opinion that men tend to act more as a ‘hero and criminal’ where as the females are concerned more about morality, stability and behavioural acquiescence to the roles of men. Here we find that the frequency and nature of conflict support the above proposition that males are more inclined to breach of law than the females.

It is further noticed that highest frequency of corporeal crimes are reported among the boys belonging to the age group of 16-18. Therefore it is preponderantly a male phenomenon with a higher frequency at the elder children of 16-18 years of age.

***Juvenile Delinquency - More an Urban phenomenon***

Quantitative distribution of crime rates was shown by the scholars belonging to the Cartographic school(Sutherland and Cressey,1978). It showed a preponderance of criminal activities in the urban centres. The findings were used to demonstrate the lack of morality in certain parts of the country or region. Urban studies in the 19<sup>th</sup> century Europe sometimes used to correlate the frequency of crime with the density of population, poverty and education(Shoemaker,2010).Social disorganization theory explains the environmental perspectives of crime. The disorganization or anomic condition results into the disruption or instability in the social structure. It weakens the social structures and institutions indicating a lack of social control. However, the difference of crime rates in urban and rural areas may be related with a more general theory of gemeinschaft and geseilschaft. The concept, originally propounded by Ferdinand Tonnies(1957) explains nature of difference in two different social milieu. It is based on the idea of community and society. Gemeinschaft denotes communal life typified by the rural peasant population who are guided by the ‘natural will’(wesenwille). Here the relationship is based on strong interpersonal and face to face relationship. Traditional social rules and values have a strong influence on the life of the members of these societies. On the other hand, the gesellschaft represents a society guided by ‘rational will’. Cosmopolitan industrial societies are examples of such social formation. Here traditional values and bonds are weak. As a result of that the control over the behavior of individual members in such societies is also weakened. This may explain why the breach of law is more frequent among the children in urban societies in comparison to rural societies.

The study was done among the children of the age of 7 years to 18 years. It was found that there are more male inmates than females in the sample. And the total number of juvenile inmate is 289. The result shows that among them, 95.5 per cent are male child and 4.5 per cent are female child. According to some, the major explanation of female deviance up to the 1960s was the Freudian perspective (Simon, 1975), although the specific concept of castration complex was not always given as the major underlying cause of such behavior. Actually, beginning in the 1950s, another explanation of female offences began to appear—the influence of gender roles. Essentially, this explanation argues that women act and think in accordance with the roles in society they have been taught and are expected to play. From this perspective it is reasoned that women are expected to be passive, orderly, motherly, and, if ambitious, wily and cunning, inasmuch as women are not likely to be freely given occupational responsibilities and social power outside of the home and family. So, here it is seen that the female delinquents are lesser than male in number. So, it can be said that the male delinquency is more active than female in the studied region.

Another result shows that maximum types of offences are found in the age-group of 16 to 18 among the male juveniles. Here we find among the girl child that from the age 7 to 12, no offence is reported. Rational Choice Theory explains that classical criminology stresses that causes of crime lie within the individual offender, rather than in their external environment. The theory emphasises that offenders are motivated by rational self-interest, and the importance of free will and personal responsibility is stressed. It is stated that people weigh the pros and cons of committing a crime, and offend when the former outweigh the latter. However the theory fails to take into cognizance, the influence a young persons' peers can have on them and the fact that some youths may be less able to accurately foresee the consequences of their actions and others. So, it can be said that the males of age between 16 and 18, means early adulthood, are more likely to commit a breach of law or show delinquent behavior than the other ages. So it might be due to the motivation by rational self-interest to the existing social contexts or phenomena not by the external environment.

Other result shows that the occurrence of murder and rape is higher than the other offence in the above-mentioned group. Strain theory states that when an individual has goals but is unable to achieve the goals set before him in a legitimate way, the individual will find illegitimate ways of achieving his /her goals (Jones, 2008). From the view of this theory, it can be observed that when the children cannot achieve their goal or it becomes impossible to reach the goal, they commit offence.

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