

# JUVENILE DELINQUENCY IN ARMED CONFLICT REGIONS OF INDIA: A CRITICAL STUDY

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## **Abstract**

*Juvenile delinquency is one of the most serious problems of our times. There is evidence of a universal increase in juvenile crime taking place concurrently with economic decline, especially in the conflict ridden states. The intensity and severity of juvenile offences are generally determined by the social, economic and cultural conditions prevailing in a country. The purpose of this study is to make an inquiry into the nature of the impact of armed conflict on children in North East India. This study has been divided into three sections. Section one gives an overview of the present socio-political situation in North East. Section two analyses the impact of armed conflict on children in the region, the role of the State and the response of the local community and the attending issues. Third section analyses the legal protection offered to children under the Juvenile Justice Act 2000 and attempts to make some recommendations in the context of protecting the young and the maintenance of a peaceful order in society. Research methodology that has been adopted is doctrinal and analytical and the research includes primary resources such as international conventions, international agreements which are adopted by international organization or countries, principle adopted by United Nation and UN resolutions. Secondary source of the research that has been utilized is commentaries, journals, news paper, and case laws decide by the various national and international courts.*

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## **Introduction**

Social Condition of Children in Contemporary India

In our country today, there are a large number of children who are living in especially difficult circumstances and require attention of all stakeholders . Unfortunately, not much is known either of the nature of the problems faced by these children or of the numbers involved about the children in especially difficult circumstances, such as the physically handicapped, mentally handicapped, those affected by drugs, victims of natural and manmade disasters, refugee children, street children, slum and migrant children, orphans, destitute and beggars, children suffering from HIV/AIDS, children of parents with HIV/AIDS and HIV/AIDS orphans, trafficked children, children of prostitutes and children forced into prostitution, children in conflict with law and children whose labour is being exploited. There are other categories of vulnerable children too, like children affected by terrorism, insurgency and riots which could be added to this long list . The number of such categories of children is increasing day by day, but because of their dispersed character, they have escaped the attention of policy makers Response to their needs has been ad-hoc and largely in the form of relief .

## **Overview of Geographical Condition of North East of India**

Northeast India comprises the seven states of Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland and Tripura. Here, 7.6 per cent of land area and 3.6 per cent of the total

population of India has been facing the onslaught of armed violence since the late 1940s. The region is home to more than 70 major population groups and sub groups, speaking approximately 400 languages and dialects . The fire of insurgency has for long engulfed this strategic region for the last half century or more making it one of South Asia's most disturbed regions .One finds a large variety of conflictual dynamics in the Northeast ranging from insurgency for secession to insurgency for autonomy, from sponsored terrorism to ethnic clashes, to problems of continuous inflow of migrants and the fight over resources. Northeast India is home to a variety of turmoil. Socio-political instability and economic backwardness, and isolation and inaccessibility further compound the problem .

### Exposure to Violence in Conflict Areas

People in the north east India are greatly exposed to violence and children are the worst effected to violence and weapons. The table below gives a vivid description of violent killings and exposure to arms in the conflict areas of the Country. Exposure to violence in childhood may result in greater susceptibility to lifelong social, emotional, and cognitive impairments, to obesity, and to health-risk behaviours such as substance abuse, early sexual activity, and smoking

Insurgency-related Gun Killings in Northeast India, 2002–2010

Year	Assam	Manipur	Tripura	Nagaland
2002	445	190	175	36
2003	505	198	295	37
2004	354	218	167	58
2005	242	331	73	40
2006	174	285	60	92
2007	201	125	15	59
2008	370	485	28	145
2009	391	416	11	18
2010	130	121	03	03
<b>TOTAL</b>	<b>2,812</b>	<b>2,369</b>	<b>827</b>	<b>488</b>

Source :South Asia Terrorism portal & Nepram Bina lakshmi's analysis in GENDER-BASED VIOLENCE IN CONFLICT ZONES CASE STUDY OF IMPACT OF ONGOING ARMED CONFLICT, SMALL ARMS PROLIFERATION AND WOMEN'S RESPONSE IN INDIA'S NORTHEAST

Types of Arms Seized in Northeast India

1. M 14	9. Pistols/revolvers
2. M 16	10. Chinese hand-grenades
3. M 20	11. Rocket-propelled grenades
4. M 22	12. Rocket launchers
5. G-series	13. Sten-guns
6. AK-47/56/74	14. General purpose machine guns
7. Light machine guns	15. Self-launching rifles
8. Carbines	16. Air defence guns

### Juveniles in conflict zones

The term 'children in conflict with the law' refers to anyone under 18 who comes into contact with the justice system as a result of being suspected or accused of committing an offence.

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There are 197 districts in India which are officially notified as affected by internal armed conflicts and the edifice of the juvenile justice does not exist in these districts. Children, irrespective of their age, in these districts are treated as adult. They are routinely subjected to gross human rights violations including arbitrary arrest and detention, torture, extrajudicial executions and sexual assaults as part of the counterinsurgency operations. Juveniles in these districts are denied access to juvenile justice unlike their counterparts in rest of the country.

The impact of internal armed conflict on children is a complex phenomenon; Children in this region are witnesses, survivors and direct victims of armed conflict between the State and various national liberation organizations. All persons and especially children have been adversely impacted in this period in several ways .The breakdown of family and other social structures as well as economic structures during this period has had wide ramifications on children physically, emotionally, socially and culturally .

### **Analysis of factors leading to Juvenile Delinquency in Conflict Zones**

Conflict fragments and weakens the traditional support systems within the community. Economic hardships and displacement limits the capacity of people to take care of additional children and sometimes parents abandon their own children . The United States Agency for International Development report states that 'it is not that most orphans are happy and well taken care of. ...many are undernourished, in very bad health and desperate need of assistance. But it is not because they have no one to care for them; it is because those people who are caring for them just do not have the resources to raise them up.'

### **Internal Displacement of Children**

When children migrate from a state like Manipur and Nagaland in the North East of India and come to other places beyond North East region of India they find vast diversity in culture, language, ethnicity .Apart from diversity is also the issue of alienation from so called mainstream national culture. It is almost like an experience of being in a different country. Although internally displaced children may at times feel like second-class citizens in their own country.

### **Loss of Family or parents**

Ressler, Boothby and Steinbock, while analyzing the problem of unaccompanied children has stated that separation from family can be both voluntary and involuntary. They mention nine kinds of separation during war and conflict. These include abducted children, lost children, orphaned children, runaway children, placed children, abandoned children, entrusted children, surrendered children and independent children

One of the direct fallouts of conflict is the loss of life. In situations of conflict sometimes both parents are killed leaving children to fend for themselves, children and youth orphaned, displaced or responsible as the head of households when one or both parents are killed or away fighting .

### **Tortured & Abuse by Armed Forces**

Violence and atrocities by the Indian army on women and children and has been reported on different occasions. Children have been sexually abused and tortured. "The use of torture against our children is part and parcel of the routine use of torture techniques such as verbal and physical abuses, beating with bare hands, sticks and weapons, kicking, tying up hands, use of electric shock on body and genitalia employed by armed forces."

### **Secondary Distress**

Distress post the conflict due to inefficient and improper interventions by interveners.. Intervention by the state is often ad hoc and unprofessional, leading to much distress among the children . There is no child guidance clinics, psychiatrists or psychologist working on issues related to children's psychological health. This situation leads to high levels of frustration amongst the children .

### **Violation of the rights of the juveniles in conflict affected area**

Juveniles in conflict affected areas do not seem to be anybody's priority and they are being denied the equal access to juvenile justice as being provided to their counterparts in the rest of the country. Child labour, child trafficking, and children in difficult circumstances has become permanent feature of India.

They are subjected to the following illegal Acts

- i. Arbitrary arrest, illegal detention and torture
- ii. Extrajudicial killings of children
- iii. Sexual violence

### **India's International commitment in the Context**

The convention on the Rights of the Child (1989) recognizes special vulnerability of children and address their civil, political, economic, social and cultural rights as elements of inter dependent or mutually reinforcing set of provisions . The rights of survival, development, protection and participation are recognized as basic human rights of children. The survival right includes adequate living standards and access to medical services. The problems addressed by the convention are problems of refugee children, sexual and other of child exploitation, drug abuse, children in trouble with the law, inter country adoptions, children in armed conflicts, disabled children and the children of minority and indigenous groups

According to Articles 37 and 40 of the Convention on the Rights of the Child (1989), children in conflict with the law have the right to treatment that promotes their sense of dignity and worth takes into account their age and aims at their reintegration into society. Also, placing children in conflict with the law in a closed facility should be a measure of last resort, to be avoided whenever possible. The convention prohibits the imposition of the death penalty and sentences of life imprisonment for offences committed by persons under the age of 18.

### **Statutory Provisions for administration of juvenile justice**

Section 4 (1) of the Juvenile Justice (Care and Protection) Act of 2000 (as amended in

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2006) provides “Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the State Government may, within a period of one year from the date of commencement of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, by notification in the Official Gazette, constitute for every district, one or more Juvenile Justice Boards for exercising the powers and discharging the duties conferred or imposed on such Boards in relation to juveniles in conflict with law under this act.” Section 4 (1) of the Juvenile Justice (Care and Protection) Act of 2000 (as amended in 2006) requires that the State Government of Assam constitutes at least one Juvenile Justice Board (JJB) in every district of Assam within 1 year of amendment of the Juvenile Justice Act, 2000 which came into force on 22nd August 2006. Section 8 (1) of the JJ Act, 2000 provides that any State Government may establish and maintain either by itself or under an agreement with voluntary organisations, observation homes in every district or a group of districts, as may be required for the temporary reception of any juvenile in conflict with law during the pendency of any inquiry regarding them under this Act. Sub-section

(2) empowers the State Government to certify any institution other than a home established or maintained under sub-section (1) as fit for the temporary reception of juvenile in conflict with law during the pendency of any inquiry regarding them. Sub-section (3) empowers the State Government to provide for the management of observation homes, including the standards and various types of services to be provided by them for rehabilitation.

Section 34 of the JJ(C&P) Act, 2000 provides for establishment of Children’s homes. It reads-“(1) 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.(2) The State Government may, by rules made under this Act, provide for the management of children’s homes including the standards and the nature of services to be provided by them, and the circumstances under which, and the manner in which, the certification of a children’s home or recognition to a voluntary organisation may be granted or withdrawn.”

Section 63 (3) of the JJ Act, 2000 provides for creation of Special juvenile police unit in every district or city for better coordination and to upgrade the police treatment of the juveniles and the children. Sub-section (1) of section 63 provides for special training for officers of the special juvenile police unit while sub-section while sub-section 63 of the JJ Act provides that in every police station at least one officer with aptitude and appropriate training and orientation may be designated as the ‘juvenile or the child welfare officer’ who will handle the juvenile or the child in co-ordination with the police.

Other Laws for the protection of Child Rights in India

Constitution of India

Indian Penal Code 1860

The Probation of Offenders Act 1958

The Immoral Traffic (Prevention) Act 1956

The Child Marriage Restraint Act 1929  
Right to Education Act 2009  
The Juvenile Justice (Care and Protection of Children)  
Act 2000  
The Child Labour (Prohibition and Regulation) Act 1986  
The Women's and Children's (Licensing) Act 1956  
The Child Labour (Prohibition and Regulation) Act 1986  
The Bonded Labour System (Abolition) Act 1976

### Conclusion & Suggestions

Thousands of children in the North East are affected as survivors of violence, abuse and family breakdown and their physical and psychological well-being is being threatened on a daily basis, the Conflict has fragmented the family, community and traditional support systems. It is therefore imperative to convince individuals and institutions to commit the time, money, expertise and other resources needed to address this problem. The complex nature of the issue requires a multi-faceted response. As such, the policy to combat the issue should encompass prevention; social and legal services; and national and provincial coordination. This requires a more caring and responsible society. the existent loopholes in the laws concerning the definition of the child as well as those laws that try to protect their vulnerabilities are areas that cannot be ignored if at all the best interests of children are to be protected and promoted.

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