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Juvenile Delinquency Laws in Bhutan

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ABSTRACT

This research evaluates the laws of juvenile delinquency in Bhutan and also focuses on the juvenile justice system by providing more insights such as the cause and effect of juvenile delinquency, its relationship with society, and finding more ways to develop its justice system.

Juvenile delinquency is a legal term and not a specific behavioral or psychiatric syndrome. Because common law is founded on theological law, society has traditionally responded to juvenile delinquency and crime based on moral and religious beliefs, about the age at which juveniles are criminally responsible rather than scientific knowledge. Research has shown that there is a high degree of offenses committed among all teenagers, and the majority of offenses that violate the law are one-time occurrences that are usually non-violent. Only about 5-10% of teenagers commit violent crimes.

Keywords: *Juvenile Delinquency, Juvenile Justice System.*

I. INTRODUCTION

Bhutan is a mountainous country with a land area of 38,394 square kilometers and a population density of 16 persons per square kilometer, with more than 30% of the population living in urban areas (Office of the Census Commissioner, 2005). Agriculture is the single most important sector in the country, employing 66 percent of the people (National Statistical Bureau, 2008). Bhutan is divided into 20 districts, with Thimphu serving as the capital and most populous. Bhutan became the world's newest democratic country when it created a democratic constitutional monarchy in 2008. The majority of people follow Buddhism, which is the state religion. Bhutan following the Parliamentary system of government established two legislative houses; the upper house which is the National Council and the lower house which is the national assembly.

Not only in Bhutan, but around the world, youth constitute the most important demographic. They are seen as tomorrow's leaders, so when they are treated well in a genuine manner, society as a whole will feel at ease, which will benefit future generations. While if society fails to accommodate them and provide them with such care, they may react harshly to any antisocial action in the sense that they are asserting their rights. Indeed, they are strongly affected by

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parental neglect, a lack of fundamental requirements, and any other social feelings of dissatisfaction, concern, or disappointment that they may have at such a young age. Many of them are unable to cope with the unusual circumstances. They react to social abnormalities in ways that are against social standards and the law. Occasionally, the elderly who are well-versed in crimes mislead the youth by organizing a gang for them to conduct the type of crime they desire, either individually or collectively (Goodhart, 1953: 65). Some of them choose a berated life pattern by creating a juvenile subculture to demonstrate their opposition to injustice. Juvenile criminality cannot be studied in isolation from socio-economic realities. Juvenile delinquency increases as a result of social segregation, the establishment of a youngster subculture, and evidence that the juvenile has been malnourished. If society's mainstream culture fails to adequately accommodate all youngsters, impoverished youth will rise with their subculture.

Furthermore, the problem of juvenile delinquency is becoming more complicated in Bhutan and other nations today, and universal delinquency crime prevention programs are either unprepared to deal with current realities or are not in existence at all (Khan & Rahman, 2008: p. iii).

(A) Statement Of Problem

The statement of problem that is discussed in this paper is to:

1. Whether the laws and policies in Bhutan regarding the youth in conflict with the law are efficient and enough with the changing times and situations?
2. Whether the juvenile laws in Bhutan meets the standards of international conventions such as International Convention on Child's Rights?

(B) Research Methodology

The research methodology used while writing this research paper are completely explorative in nature. The researcher have collected the data and figures through means of observation, case studies, case reports, national conducted statistics and a thorough literature review.

(C) Hypothesis

The researcher is trying to evaluate the laws of juvenile delinquency in Bhutan and also focuses on the juvenile justice system by providing more insights such as the cause and effect of juvenile delinquency, its relationship with society, and finding more ways to develop its justice system. Youth, under 25 years, make up nearly half of Bhutan's population. Today, stories of children living in difficult circumstances and youth in conflict with the law feature regularly in

the media. How is Bhutan, a GNH country, addressing these socially disruptive developments? What works? What else can be done? Does the laws and policies in Bhutan meets the standards of international conventions such as International Conventions on Child's Rights? This research also explores the current situation and shares suggestions from educators, police, social workers, lawyers, and researchers about ways to ways to address the situation of "children in difficult situations" (CIDC) and "youth in conflict with the law" (CICL).

(D) Research Objectives

1. To critically understand the juvenile delinquency in Bhutan.
2. To enumerate the offenses committed by juveniles.
3. To explain the causes of juvenile delinquency
4. To study the laws and policies adopted by the Royal Government of Bhutan and the Judiciary of Bhutan.
5. To provide a conclusion and suggestions to the government for reducing and handling with the rapid increase of juvenile delinquents.

(E) Literature Overview

Bhutanese authorities are concerned about an increase in adolescent crime, particularly in metropolitan areas, since the country's crime rate has risen. Between 1998 and 2003, there were 514 arrests in Thimphu alone, with 10% of those being students, and Thimphu had the highest crime rate with 32.4 percent, compared to 67.6 percent in the other 19 districts (Dorji 2005). This demonstrates that urbanization gives opportunities for juvenile criminality, and one plausible reason appears to be unemployment, as one-third of those surveyed were unemployed or had low-paying odd jobs such as waiters (Black and Stalker 2006). Dorji (2005) found that an increasing number of school dropouts and farm youth, most of whom are between the ages of 15 and 18, are migrating to urban areas for employment or short-term work, and Agnew (2009) found that communities with high unemployment rates are more prone to crime because their chances of achieving economic and other goals in life are limited, and they are often unemployed for a long time.

Due to the joint family system in which grandparents, parents, and other relatives lived together in one house, Bhutanese children have always been offered security and protection by their parents. Modernization and urbanization, on the other hand, have brought new risks and obligations into the country. As people migrate to cities in quest of greater prospects, the joint family system is rapidly becoming nuclear (Wangyal 2001). As a result, the customary

protective covering supplied by the family has weakened. Separation and divorce are becoming more widespread as a result of the demands of city living, causing additional challenges for children (Save the Children Bhutanese parents are increasingly concerned about their children's substance misuse. This mostly refers to consuming beer, sniffing glue or correction fluid, or smoking, as well as prescription drug addiction and heroin injection.

According to Thimphu police statistics, 356 drug-related arrests were made in the city in 1998, with 61 percent of those arrested being under the age of 20. A third of these young offenders were from broken families, according to the records, while substance misuse was not limited to poor families (Black and Stalker 2006). Between 1999 and 2010, 1,457 minors were arrested in Bhutan, according to data from the Youth Development and Rehabilitation Centre (YDRC). Only 164 male adolescents were condemned by the court and sent to the YDRC for rehabilitation out of the total apprehended. The center has released 136 male juveniles thus far, and there are now 21 male juveniles undergoing rehabilitation (Seyden, 2010). Although this figure is insignificant in contrast to many other countries, it is concerning for a small country with a small population. Save the Children, for example, implements programs for children such as life skills education for schoolchildren, police youth programs for youth, and parenting programs for parents, but they have limited knowledge of gender impacts in socialization and their relationship to juvenile crime. The initiatives are designed to reach all of the country's schools by training one or two teachers per school to execute them.

(F) Literature Review

a. Bare Acts

Constitution of Bhutan.²

Adopted in 2008, the Constitution of the Kingdom of Bhutan marked the development of the state from an absolute monarchy to a democratic constitutional monarchy. The Constitution does not contain any provision that specifically refers to a government-based intellectual property system. The researcher has referred specifically Article 2(3), 8(5), 9(16), 9(18) and 23(3).

Bhutan Penal Code (Amendment), 2011.³

The Penal Code is the consolidation of sections from then existing Acts dealing with criminal

² Constitution of Bhutan, *available at*: https://www.nab.gov.bt/dz/business/constitution_of_bhutan (Visited on March 19th, 2022).

³ Bhutan Penal Code (Amendment), 2011 *available at*: [https://www.nab.gov.bt/assets/uploads/docs/acts/2014/The_Penal_Code\(Amendment\)_Act_of_Bhutan_2011eng7th.pdf](https://www.nab.gov.bt/assets/uploads/docs/acts/2014/The_Penal_Code(Amendment)_Act_of_Bhutan_2011eng7th.pdf) (Visited on March 19th, 2022).

offences. It is intended to reinstate dignity to the victims of crime and increase the possibilities for rehabilitation of offenders. Section 115 is referred by the researcher.

Child Care and Protection Act, 2011.⁴

The National Commission for Women and Children has launched the Central Management Information System (CMIS) for Women and Children to host the disaggregated data for Women and Children in difficult circumstances and Child in Conflict with Law to address and render services to the women and child who are in need of care and protection.

Labour and Employment Act, 2007.⁵

The former Department of Employment and Labour (DEL) was bifurcated into two independent departments to establish the Ministry of Labour and Human Resources in 2003. While the responsibility of employment promotion and facilitation of DEL was entrusted to the Department of Employment, Department of Labour was assigned with the responsibility of labour administration in the country. Labour administration is guided by the labour administration policy and the Labour and Employment Act of the Kingdom of Bhutan, 2007 and its Regulations. Section 173 is referred by the researcher.

b. Articles

1. Gross national happiness in Bhutan: The big idea from a tiny state that could change the world.⁶
2. National youth policy to address all youth-related issues.⁷
3. UN Committee on the Rights of the Child. (2000). Consideration of Reports Submitted by States Parties under Article 44 of the Convention. Second periodic reports of State parties due in 1997 - Bhutan.⁸
4. A situation analysis of children & women in Bhutan. Black, M & Stalker, P., 2006, UNICEF.
5. Education and Gender in Bhutan: A Tentative Analysis. Buringa, J., and Tshering, L.,

⁴Child Care and Protection Act, 2011 *available at:* http://www.ilo.org/newdelhi/WCMS_300620/lang-en/index.htm (Visited on March 19th, 2022).

⁵ Labour and Employment Act, 2007 *available at:* <https://oag.gov.bt/language/en/resources/labour-and-employment-act-of-bhutan-2007both-dzongkha-english/> (Visited on March 20th, 2022).

⁶Available *at:*<http://www.theguardian.com/world/2012/dec/01/bhutan-wealth-happiness-counts> (Visited on March 20th, 2022).

⁷Available *at:* http://bhutanobserver.bt/5516-bo-news-about-youth_and_the_issues.aspx (Visited on March 20th, 2022).

⁸ Available *at:* https://www.youthpolicy.org/wp-content/uploads/library/2000_UNCRC_St_ (Visited on March 20th, 2022).

1992.

6. Youth in Bhutan: Juvenile Delinquency as Emerging Youth Problem in Bhutan. Dorji, L., 2005.
7. Voices of Bhutanese Youth: Through their Dreams, Experiences, Struggles and Achievements. Centre for Bhutan Studies, 13 (3), p. 1-30. Dorji, L., 2005.
8. Juvenile delinquency arrest and rehabilitation at YDRC. D. Wangdi & Seyden, T., 2010.
9. Juvenile crimes on the rise: Kids at the wrong side of the law.⁹
10. Bhutan's National Youth Policy: A Gap Between Commitment and Output?¹⁰

C. Conventions.

International Convention on Rights of the Child.

This “Convention on rights” of the child mainly focuses as far as on the rights of the child and ensures that all rights are protected. The child has been defined under the Convention as a person lower than the age of eighteen. The member countries are anyway restricted by international law and have basically ratified this convention. A state member who has not ratified this convention is not destined to follow the rules but if the state member has signed to this convention they cannot act in violation of this convention. This convention was opened for signature on 20th November 1989. This convention openly came into force when the majority number of countries have given consent to this convention. The date on which it came into force was 2nd September 1990. Besides the United States, there are in total 196 signatories to date.

The treatment of children within penal systems of various nations is relevant in many different contexts, but has arisen most recently in the context of maritime piracy prosecutions involving juvenile suspects, where children may be the subject of pre- and post-trial detention and/or criminal proceedings.

Beijing Rules: United Nations Standard Minimum Rules for the Administration of Juvenile Justice.

The rules could then serve as a model for United Nations Member States in the treatment of

⁹ Available at: http://www.bhutantimes.bt/index.php?option=com_content&task=view&id=1503&Itemid (Visited on March 20th, 2022).

¹⁰ Available at: <http://drukjournal.bt/bhutans-national-youth-policy-a-gap-between-commitment-and-output/> (Visited on March 20th, 2022).

juvenile offenders. They were endorsed, in principle, by regional preparatory meetings for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and amended and agreed upon at an Interregional Preparatory Meeting held in Beijing, China, from 14 to 18 May 1984. Presented by the Economic and Social Council to the Seventh Congress, Held at Milan, Italy, in August and September 1985, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (known as "The Beijing Rules") were approved on 6 September 1985 by the Seventh Congress, which recommended them to the General Assembly for adoption.¹¹

The Riyadh Guidelines: United Nations Guidelines for the Prevention of Juvenile Delinquency.

The present Guidelines should be interpreted and implemented within the broad framework of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Declaration of the Rights of the Child and the Convention on the Rights of the Child, and in the context of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), as well as other instruments and norms relating to the rights, interests and well-being of all children and young persons.¹²

d. Books

The Constitution of Bhutan: Principles and Philosophies by Lyonpo Sonam Tobgay (Chairman of the Drafting Committee.)

The Constitution of Bhutan) was enacted 18 July 2008 by the Royal Government of Bhutan. The Constitution was thoroughly planned by several government officers and agencies over a period of almost seven years amid increasing democratic reforms in Bhutan. The current Constitution is based on Buddhist philosophy, international Conventions on Human Rights, comparative analysis of 20 other modern constitutions, public opinion, and existing laws, authorities, and precedents. According to Princess Sonam Wangchuck, the constitutional committee was particularly influenced by the Constitution of South Africa because of its strong protection of human rights.

¹¹ Beijing Rules: United Nations Standard Minimum Rules for the Administration of Juvenile Justice *available at:* <https://www.ojp.gov/ncjrs/virtual-library/abstracts/beijing-rules-united-nations-standard-minimum-rules-administration> (Visited on April 10th, 2022).

¹² The Riyadh Guidelines: UN guidelines for the prevention of Juvenile Delinquency *available at:* <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-guidelines-prevention-juvenile-delinquency-riyadh>

II. DESCRIPTION OF JUVENILE DELINQUENCY

Most legal systems use specific procedures for dealing with juveniles, such as juvenile detention centers and courts. Juvenile delinquency, also known as juvenile offending or youth crime, is participation in illegal behavior by juveniles. A juvenile delinquent is a person under the age of 18 who commits an act that would have been prosecuted as a felony if they were an adult. Persons under the age of 18 may be charged and tried as adults depending on the type and severity of the offense committed. Juvenile delinquents are those who commit crimes while they are under the age of sixteen (The Children Act, 1974). Although some laws define juvenile delinquents as teenagers under the age of 18, both ages serve the same purpose.

A juvenile delinquent is an incorrigible or consistently disobedient young person. Delinquent acts may include:

- Running away from home without parental permission,
- Habitual truancy beyond parental control,
- Spending time idly beyond limits,
- Use of vulgar language,
- Wandering about streets, marketplaces,
- Visiting gambling centers,
- Committing sexual offenses,
- Stealing and so on.

III. DIFFERENCES BETWEEN JUVENILE DELINQUENCY AND ADULT CRIME

Table 1. (Source: More, 2020)

Juvenile Delinquency	Crime by an Adult
<ul style="list-style-type: none"> ● Offenses committed by a Juvenile are called Delinquents Acts. 	<ul style="list-style-type: none"> ● Offenses created by an adult are called crimes.
<ul style="list-style-type: none"> ● In the case of a delinquent juvenile, there is “Adjudication Hearings”. 	<ul style="list-style-type: none"> ● In case of an adult committed a crime, there is “trials”.
<ul style="list-style-type: none"> ● Juvenile offenders undergo adjudication hearing in the Juvenile Justice Board. 	<ul style="list-style-type: none"> ● Adult committed a crime undergoes trial in an ordinary court of law.

<ul style="list-style-type: none"> • If found guilty, the juvenile is referred as adjudicated delinquent. 	<ul style="list-style-type: none"> • If found guilty, the adult committed a crime is called a “convict”.
<ul style="list-style-type: none"> • The juvenile court is much more focused on the rehabilitation of the juvenile. There is more emphasis on treatment, therapy, and education rather than just punishment. 	<ul style="list-style-type: none"> • In the case of an adult committing a crime, a punishment is pronounced.
<ul style="list-style-type: none"> • Juvenile court hearings are closed to the public and typically, only the lawyers, probation officer, the child, and family are present in the courtroom. 	<ul style="list-style-type: none"> • In most of the cases in case of adult committed a crime, all hearings in the Court are open to the public.

IV. FACTORS INFLUENCING JUVENILE DELINQUENCY

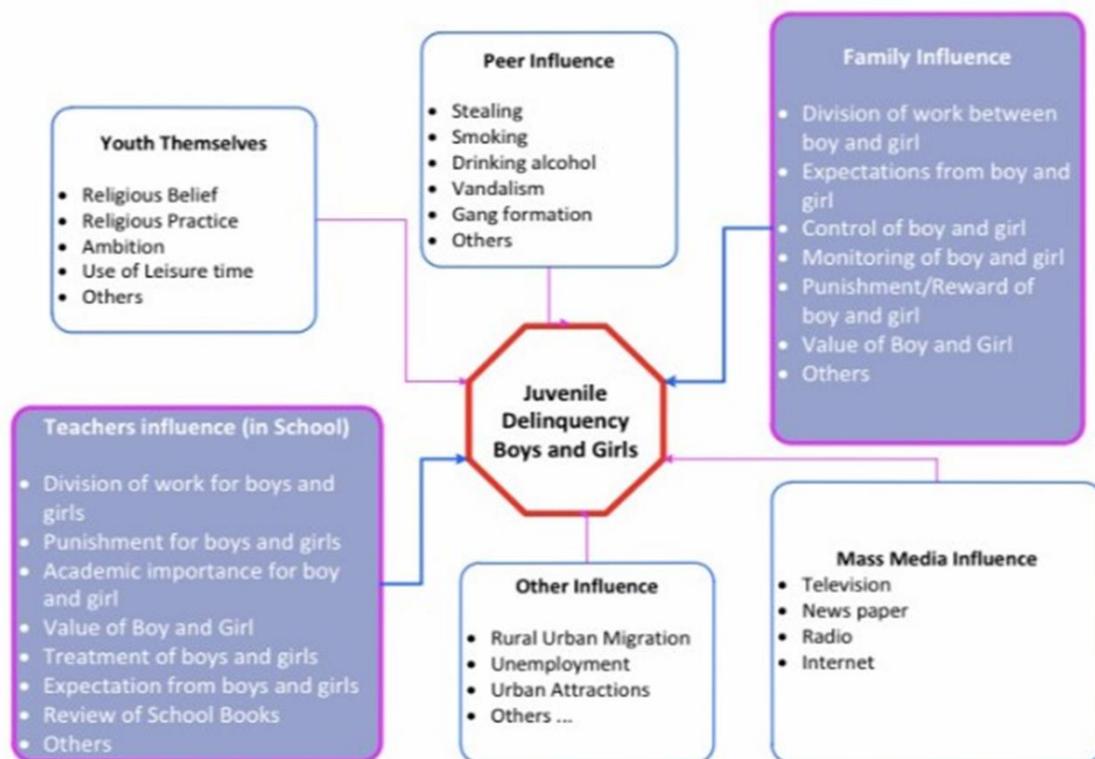


Figure 1. (Source Wangdi, 2010)

V. CAUSES OF JUVENILE DELINQUENCY

(A) Unplanned Urbanization-

Industrial progress and economic expansion have led to urbanization, which has resulted in

large-scale population migration from villages to cities. It created new problems such as overcrowding, slum living, and housing.

And, as a result of the high expense of living brought on by urbanization, the less fortunate individuals and families are more likely to be exploited or commit crimes.

(B) Lack of Parental Control-

Studies show that a child who is properly controlled and cared for by his parents is less likely to engage in criminal or antisocial activity that is harmful to his community. Juvenile delinquency is associated with dysfunctional family conditions characterized by complicity, insufficient parental supervision, weak internal relationships, integration, and premature autonomy. Offenders are overrepresented among children from low-income families, who have fewer opportunities for lawful employment and are more likely to be socially isolated.

(C) Poverty-

A big proportion of individuals in Bhutan live below the minimum subsistence level due to huge economic differences. Many children are compelled to engage in delinquent behavior due to financial constraints. According to numerous sociological research, the lower one's socioeconomic standing, the more vulnerable he is to arrest and incarceration. Conditions in and around villages and cities were never ideal. Further deterioration has been caused by rapid population increase, a high rate of urbanization surpassing the development of resources, and the provision of facilities and services.

(D) Family Problems-

Juvenile deviance is frequently caused by broken families. The absence of a father or mother due to death or divorce may result in a lack of parental supervision, lack of home discipline, a strained relationship between the parents, or the presence of criminals among the family members. Juveniles' mental development is hampered as a result of these issues, and their behavior becomes odd. When their parents fail to properly guide their children between the ages of 8 and 14, they turn to crime (Dodge, 2003: 349-371).

(E) Peer Pressure-

Peer rejection throughout childhood is also a powerful predictor of juvenile delinquency. Children are rejected by their peers for a variety of reasons, but violent or aggressive behavior is a common cause of rejection. This rejection affects the child's ability to socialize properly, which can reduce aggressive tendencies and lead them to gravitate toward anti-social peer groups.

(F) Juvenile delinquents diagnosed with mental disorders-

Different diseases are frequently diagnosed in juvenile delinquents. A conduct issue affects six to sixteen percent of male teenagers and two to nine percent of female teenagers (The Children Act, 1974). These might range from non-aggressive oppositional defiant disorder to antisocial personality disorder, which is frequently diagnosed in psychopaths. A behavior issue can start in childhood and progress throughout adolescence. Conduct disorders are occasionally diagnosed in juvenile delinquents who have recurring interactions with the criminal justice system, or who are life-course-persistent offenders since they display a consistent disdain for their own and others' safety and/or property.

(G) Environmental Influence-

Bad company and their circumstances might cause juveniles to become delinquent. Due to their youth, they are unable to appreciate the long-term consequences of their conduct. They may become entangled in the slum and smuggling zones' environs. As a result of the wicked corporation, juveniles may visit a brothel, ingest drugs, and engage in other criminal activities.

VI. TYPES OF JUVENILE DELINQUENCY

Three types of juvenile delinquency or offending can be identified:

- (H) Delinquency, which refers to crimes committed by adolescents and dealt with by the juvenile justice system.
- (I) Criminal activity, including offenses prosecuted by the criminal justice system.
- (J) Status offenses, such as truancy, that are only designated as such because the perpetrator is a minor, are also dealt with by the juvenile courts.

Two categories of offenders emerge in adolescence, according to Moffitt's developmental studies (Moffitt, 2018). The life-course-persistent offender begins offending or displaying antisocial/aggressive behavior in adolescence (or even childhood) and continues into adulthood; and the age-specific offender, also known as the adolescence-limited offender, begins and ends juvenile offending or delinquency during their period of adolescence.

VII. PREVENTING JUVENILE DELINQUENCY

1. Identify juveniles who are acting delinquently.
2. Providing them with the appropriate care.
3. Do not treat them as if they are hardened adult offenders.
4. Prevent them from committing the crimes so that they do not become repeat offenders.

5. Assist such youngsters and their families as soon as possible.
6. Use the concept of youth welfare, development, and growth instead of punishment.
7. Delinquency can be avoided in such juveniles and their families by counseling, psychotherapy, and good education.
8. Some jobs, education, and rehabilitation procedures should be used to assist them in leading a dignified life.

VIII. JUVENILE LAWS AND POLICIES IN BHUTAN

The Constitution guarantees several rights to all people, regardless of age, but just a few provisions specifically address children. The Constitution, the Penal Code, and the Civil and Criminal Procedure Code all protect children's rights. The government's quick ratification of the Convention on the Rights of the Child (CRC) and its two Optional Protocols illustrates its dedication to children's safety and welfare. Children have been identified as one of the most vulnerable groups, and child protection has been given independent status in a development plan for the first time.

On May 31, 2011, the Child Care and Protection Act was passed, and on January 5, 2012, the Child Adoption Act was passed. In accordance with Bhutan's obligation under the CRC, the groundbreaking CCPA 2011 constitutes a watershed moment for child protection, strengthening the legal framework for the care and protection of children. The CCPA 2011 and CAA 2012 rules and regulations are in the works.

The NCWC (National Commission for Women and Children) launched the Mapping and Assessment of the Child Protection System in 2011, which led to the establishment of the National Plan of Action for Child Protection, after realizing the necessity for a systematic approach. The NPAC contains provisions for putting the CCPA 2011 and the CAA 2012 into effect. Despite its focus on child protection, the plan also encourages children's engagement and development. The NPAC will be implemented in the 11th FYP period and has been incorporated into all relevant agencies' sectoral plans. The NPAC will greatly improve the government's ability to prevent and respond to child abuse, exploitation, and violence.

The NPAC will significantly improve the government's ability to prevent and respond to child abuse, exploitation, and violence. An action officer will ensure that children in monastic institutions have their rights protected. The NPAC will serve as a blueprint for establishing a comprehensive child protection system that will address the human rights protection requirements of all children, including children with disabilities and children affected by

HIV/AIDS. The NCWC and Lhaksam have been working together on CABA concerns. NCWC will perform a needs assessment of CABA in partnership with the Ministry of Health and Lhaksam, which will provide a better knowledge of their position. The research will lead to focused treatments for better protection, care, and support. Sections 222, 223, and 224 of the CCPA 2011 and Sections 373, 375, 377, and 379 of the PCB ban commercial sexual exploitation of children. To combat commercial sexual exploitation of children, focal officers are being trained, and awareness programs are held regularly. The PCB and CCPC have clear provisions for child friendly processes in situations involving children who require privacy protection and adult supervision during trials.

The laws also explain child sentencing and allow the court to sentence a kid to probation or to return home while their presence in court is not necessary. A handful of police officers have received training on women's and children's rights, and they offer to counsel children who have run afoul of the law. Child offenders are kept in separate correctional centers with counseling services.

Some parts of the Constitution in relation to children are as follows;

Article 2(3): limits who may accede to the throne to children born within wedlock, and excludes those "incapable of exercising the Royal Prerogatives because of physical or mental infirmity". The Article also allows for children in utero to be heirs to the throne where no heir has yet been born.

Article 8(5): states that "a person shall not tolerate or participate in acts of injury, torture or killing of another person, terrorism, and abuse of women, children or any other persons and shall take necessary steps to prevent such acts".

Article 9(16): requires the State to provide free education to all children of school age up to "tenth standard", ensure that technical and professional education is generally available and that higher education is equally accessible to all based on merit.

Article 9(18): requires the state to take appropriate measures to ensure children are protected against all forms of discrimination and exploitation including trafficking, prostitution, abuse, violence, degrading treatment, and economic exploitation.

Article 23(6): requires a candidate for an elective office to declare any dependent children.

Bhutanese legislation relating to children is usually contained within broader Acts and Codes. Legislation containing provisions of particular relevance to children includes, but is by no means limited to:

- The Penal Code 2004.
- The Civil and Criminal Procedure Code 2001.
- The Child Care and Protection Act 2010.
- The Labor and Employment Act 2007.
- The Marriage Act 1980 (as amended 1996).
- The Citizenship Act 1985.
- The Narcotic Drugs and Psychotropic Substance Act 2005.

IX. DRAWBACKS OF JUVENILE LAWS IN BHUTAN AND RECOMMENDATIONS

- The inclusion of children's rights in the 2008 Constitution brought about positive reforms by the Penal Code of 2004 and the Civil and Criminal Procedure Code of 2001 but expressed concern that the Constitution's rights could be lawfully limited by new legislation.

In light of this, it is recommended that the State create a complete Children's Code to properly implement the Convention's principles and requirements.

- The lack of a clear definition of what makes a kid was likely the most basic concern with Bhutanese legislation in terms of children's rights as of 2007. The Committee on the Rights of the Child advised that Bhutan create specific measures in the Child Care and Protection Act to define the minimum age requirements for children and a comprehensive concept of childhood (this Act has subsequently been adopted, but not examined by the Committee).

- There is also concern about several areas of Bhutanese law concerning child violence. There is no definition of torture in national law, and the Penal Code contains no prohibitions against cruel, inhuman, or humiliating treatment or punishment. Despite its widespread use, corporal punishment remained legal in the home, schools, and alternative care facilities. Bhutan should close these legal gaps by enacting unambiguous prohibitions in domestic legislation.

- Several features of the juvenile justice system also fail to meet Child Rights Convention's requirements. The Committee on Rights of Child has suggested that Bhutan raise the minimum age for criminal responsibility to a suitable level, utilize deprivation of liberty only as a last resort, and ensure that minors are imprisoned separately from adults.

- The Labour and Employment Act of Bhutan does not distinguish child labor from child work. The lack of a clear definition of child labor and differentiating it from child work makes it rather difficult to understand and interpret child labor. Therefore, it is necessary to reach a

consensus to clearly define age criteria that will be acceptable to all which will also ensure an accurate depiction of facts and statistics on child labor.

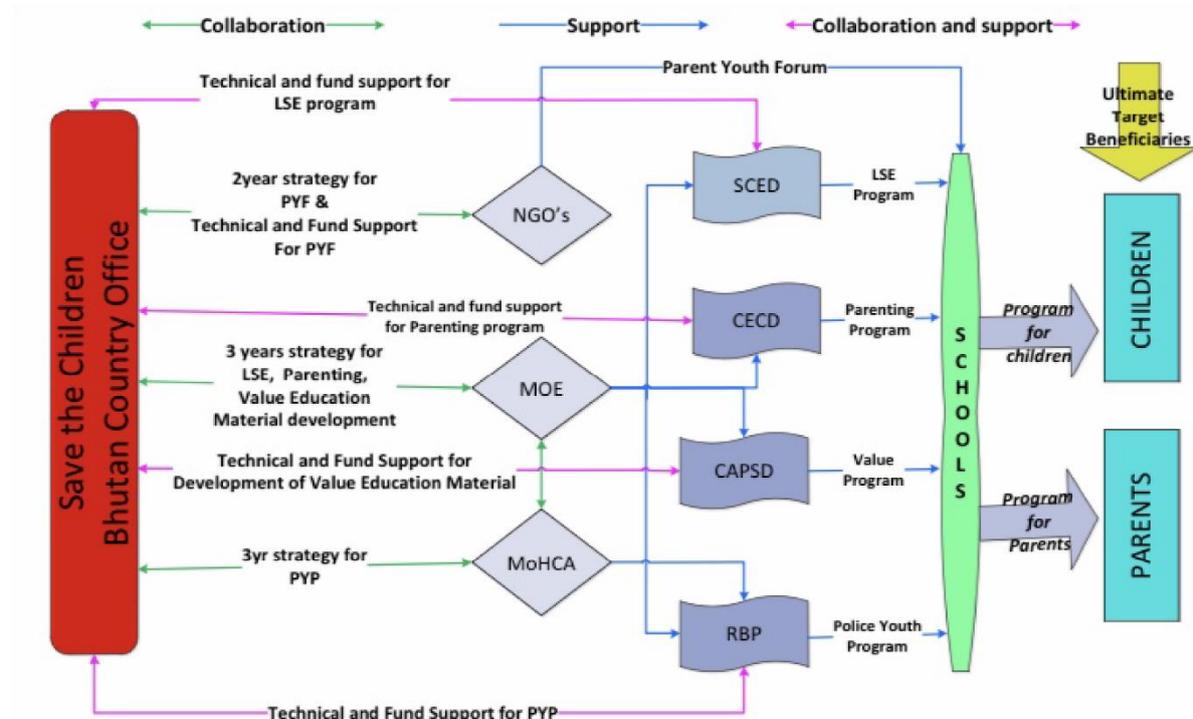
- It is critical to address the quality of the educational system while considering child rights. For rural youngsters, schools must be more accessible. It should persuade their families that education can help their children meet the needs of the labor market. According to the findings of the current survey, 25% of youngsters currently enrolled in schools work at home for more than 10 hours per week. Three of them stated that work had a detrimental impact on their academic performance because they had failed their courses. Although none of them expressed a desire to leave school, such extended hours of work, if not monitored, could have an impact on a child's academic achievement. Enrolling children in schools and ensuring that they complete elementary education is one of the most effective ways to prevent them from engaging in child labor. Children who are not required to attend a school or who practically do not have access to education have few options other than laboring, begging, criminality, or worse, according to studies conducted around the world (ILO, 1996) provisions to assist the poor who are unable to educate their children must be strengthened through the cooperation of NGOs and the determination of the government. To ensure that all children attend school, the government should enact a compulsory education law that is linked to the minimum age law. As a result of ILO Convention 138, the minimum age for employment is linked to the completion of compulsory schooling (ILO, 1996).

- Several youth-related programs have been launched by the government so far. These programs are mostly targeted at school dropouts and educated youngsters who travel to urban centers in search of work and are considered vulnerable. As a result, there is an immediate need to start programs that will benefit these children and teach them valuable skills. Article 173 of the Labour and Employment Act explicitly states that the state is responsible for providing vocational education and training options to those under the age of 18. (MoLHR 2007).

- Even though Bhutan's existing Labour and Employment Act is in line with numerous international treaties, it has been poorly implemented, particularly with regard to workplace surveillance. The Ministry of Labour and Human Rights should empower its labor inspectors to reach beyond the official sector to identify and prevent children from being exploited, as well as ensure that current child labor practices comply with the Labour and Employment Act. In addition to addressing the supply components of child labor, such as through effective enforcement of current rules and legislation that put pressure on companies to avoid using child labor, special emphasis must be paid to demand issues.

X. COLLABORATION AND SUPPORT FOR THE IMPLEMENTATION OF RECOMMENDATIONS

Figure 2. (Source Wangdi, 2010)



XI. RECENT WORKS DONE BY THE GOVERNMENT OF BHUTAN

Foreign Minister Lyonpo Tandin Dorji, who was involved in drafting Bhutan's National Youth Policy in 2011, said that problems concerning youth, and their causes, have not changed, but they have accelerated over the years.¹³ He said the government has plans to foster greater collaboration in child protection measures that will be prioritised once COVID challenges are dealt with. But this is something that needs focused attention now.

A number of steps have been taken in recent years to rehabilitate and reintegrate CDC and CICL into society. Bhutan enacted the Child Care and Protection Act (CCPA) 2011 with provisions and good practices required by the Convention on the Rights of the Child.¹⁴ The Child Adoption Act was endorsed in 2012 followed by the Domestic Violence Prevention Act, 2013.

The Thimphu District Court established a family and child bench in 2017 as required by the CCP Act. The National Commission for Women and Children (NCWC) is the lead authority

¹³ The Minister said this at a Youth Initiative event hosted by Bhutan Centre for Media and Democracy on Sept 24th, 2021

¹⁴ Bhutan ratified the Convention on the Rights of the Child in 1990

for child protection matters. A network of child welfare committees are required to be set up in every district and *thromde* (municipality). The district legal officer has become the interim child welfare officer to facilitate child protection cases, but not all the posts are filled.

Active among those who provide support services are civil society agencies like Nazhoen Lamtoen, RENEW (Respect, Educate, Nurture and Empower Women), and Chithuen Phendhey.¹⁵ Addiction rehabilitation services are provided at the Serbithang and Tshaluna centres in Thimphu, and Samzang in Paro run by Bhutan Narcotics Control Authority (BNCA), the Youth Development Fund and Chithuen Phendhey. BNCA also manages seven drop-in centres where counselling is offered.

Nazhoen Lamtoen opened the first shelter for youth¹⁶ in difficult circumstances, such as children without a stable family environment, in Thimphu in 2019. In mid-2021, there were 17 youth living there, one of them a teenage mother with her baby. “We had no one to support us at home. Here, everyone supports us and they care for us,” says a shelter resident. A 17-year old girl is looking forward to reuniting with her father when he’s released from prison. Those who do not go to school are trained in various skills to prepare them for jobs. Similarly, RENEW manages a women’s home, Gawiling, in Thimphu where women suffering domestic violence are given shelter along with their children.

An effective measure of dealing with young offenders is the Diversion programme mandated by the Child Protection Act. “Diversion” refers to the channeling of CICL away from judicial proceedings, through the development and implementation of alternative measures that enable many to be dealt with by non-judicial bodies, “thereby avoiding the negative effects of formal judicial proceedings and a criminal record.”¹⁷ The Judiciary, the office of the Attorney General (OAG), the Police, NCWC, and BNCA drafted guidelines with procedures for Diversion in 2019.

Stakeholders say it is less traumatic for a young offender to undergo diversion. “We’re keeping them away from the court environment and affording him or her an opportunity for a second chance in life if they realise their mistakes. They learn to reintegrate into society. And, if successful, their criminal records will be expunged,” says a lawyer involved in the programme,

15 RENEW is a non-profit organization dedicated to the empowerment of women and children in Bhutan and promoting Sexual Reproductive Health and Rights, with specific attention to the survivors of domestic violence (DV) and Sexual & Gender Based Violence (SGBV). Chithen Phendey Association works in Social reintegration and relapse prevention for people recovering from addiction.

16 The shelter was opened with support from Save the Children, Bhutan and additional assistance from Helvetas and UNICEF.

17 National Commission for Women and Children, CICL standard operating procedures for case management for children in conflict with the law.

Jamyang Tenzin. Children undergoing diversion return to school, receive counselling and are offered skills training.

The RBP's Youth Development and Rehabilitation Centre (YDRC) in Tsimasham has seen fewer in youth rehabilitation since the diversion programme began. There are today 14 youth at YDRC; some attend day school and others receive vocational training in hair cutting, tailoring, catering, and cooking to prepare them for a livelihood. YDRC figures show that 358 youth in conflict with the law have completed rehabilitation and reintegrated with their families and community since 1999.

Since 2018, Nazhoen Lamtoen has reintegrated 77 children into society from various programmes; it has supported 250 children in difficult circumstances and 102 young offenders. But there are relapses due to a lack of funding and staff to provide continued counselling and monitoring of youth who have undergone diversion or rehabilitation.

XII. CONCLUSION

A country's youth population is regarded as one of its most valuable assets. They must be adequately groomed for the future of any country, yet owing to social and economic inequality, parental problems, and peer pressure, some youngsters begin with little offenses that can grow to more serious crimes if not properly monitored. Juvenile delinquency refers to when children and teenagers fail to fulfill certain societal commitments. It is in the deviant child's best interests to rehabilitate and integrate him/her back into society as soon as feasible.
