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# Procedures in Relation to Children in Need of Care and Protection and Children in Conflict with Law in India

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## ABSTRACT

*This abstract provides a concise overview of the key procedures and legal frameworks designed to safeguard the rights and well-being of two distinct categories of children: those in need of care and protection (CNCP) and those in conflict with the law (CCL). These procedures are fundamental in ensuring that children, regardless of their circumstances, receive appropriate care and support.*

*For children in need of care and protection, the procedures primarily revolve around the principles of the United Nations Convention on the Rights of the Child (CRC) and domestic legislation. It involves identifying children at risk, assessing their needs, and providing them with a safe and nurturing environment, often through child welfare agencies. Additionally, it includes family support services, foster care, or, when necessary, placement in institutions.*

*In contrast, children in conflict with the law follow a separate set of procedures. These involve legal safeguards and due process rights to protect their rights and interests. Key elements include access to legal representation, confidentiality of proceedings, and a focus on restorative justice when appropriate. Diversion programs and rehabilitation efforts play a crucial role in helping CCL reintegrate into society and prevent recidivism.*

*Efforts are made to distinguish between these two categories of children and ensure that CNCP are not criminalized, while CCL receive the necessary support and guidance to rehabilitate and reintegrate into society.*

*Balancing the rights and welfare of children in need of care and protection and children in conflict with the law requires a comprehensive approach that combines legal, social, and psychological interventions. This abstract highlights the importance of these procedures in promoting the well-being and rights of all children, emphasizing the need for a child-centric approach in policy and practice.*

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## I. INTRODUCTION

In India, the welfare and protection of children are paramount concerns, and the legal framework governing the procedures for children in need of care and protection (CNCP) and children in conflict with the law (CCL) reflects this commitment. India's legal system recognizes that children are among its most vulnerable citizens and, therefore, establishes distinct procedures to address the unique needs and circumstances of these two categories of children.

Children in Need of Care and Protection (CNCP) are those who require special care and support due to various circumstances, such as abandonment, neglect, abuse, or being orphaned. The procedures concerning CNCP are primarily governed by the Juvenile Justice (Care and Protection of Children) Act, 2015. This act emphasizes the importance of a child-centric approach and seeks to ensure their holistic development by providing for their protection, care, and rehabilitation.

On the other hand, Children in Conflict with the Law (CCL) are those who have allegedly committed offenses and are subject to the criminal justice system. The Juvenile Justice (Care and Protection of Children) Act, 2015, also governs the procedures for CCL. However, it introduces a balanced approach that prioritizes the rehabilitation and reintegration of CCL into society while upholding their rights and dignity.

India's legal system strives to strike a delicate balance between the protection and rights of CNCP and CCL. This involves a comprehensive range of measures, including the establishment of juvenile justice boards, observation homes, and special courts for CCL, as well as the provision of rehabilitation services, counseling, and support for CNCP.

The procedures for CNCP and CCL are essential components of India's commitment to safeguarding the rights and well-being of its children. They reflect the nation's evolving understanding of child welfare and justice, emphasizing the importance of ensuring that children, whether in need of care and protection or in conflict with the law, receive the appropriate care, support, and opportunities to lead fulfilling lives and contribute positively to society. This exploration will delve into the specific procedures and safeguards in place for CNCP and CCL within the Indian context, shedding light on the nation's ongoing efforts to

protect its most vulnerable citizens.

## **II. CONCEPT OF PROCEDURES IN RELATION TO CHILDREN IN NEED OF CARE AND PROTECTION AND CHILDREN IN CONFLICT WITH LAW IN INDIA**

- **Child-Centric Approach:** The fundamental concept underlying the procedures for both Children in Need of Care and Protection (CNCP) and Children in Conflict with Law (CCL) in India is a child-centric approach. This approach places the best interests of the child at the forefront of decision-making processes, ensuring that their rights, well-being, and development are prioritized.
- **Legal Framework:** India's legal framework governing CNCP and CCL is rooted in international conventions such as the United Nations Convention on the Rights of the Child (CRC). These conventions provide a guiding framework for ensuring that children's rights are protected and respected within the Indian context.
- **Differentiation:** One crucial concept is the differentiation between CNCP and CCL. Procedures are designed to distinguish between these two groups of children, acknowledging that CNCP require care and protection, while CCL require both accountability for their actions and rehabilitation.
- **Juvenile Justice System:** The Juvenile Justice (Care and Protection of Children) Act, 2015, forms the cornerstone of the procedures for both CNCP and CCL. It delineates the roles of various stakeholders, including Juvenile Justice Boards (JJBs), Child Welfare Committees (CWCs), and the judiciary, in ensuring the welfare and rehabilitation of children.
- **Rehabilitation and Reintegration:** A key concept is the focus on rehabilitation and reintegration, particularly for CCL. The procedures emphasize the need to provide CCL with opportunities for personal growth, education, skill development, and psychological support to help them become law-abiding citizens.
- **Alternative Dispute Resolution:** For CCL, the concept of diversion and alternative dispute resolution mechanisms is pivotal. The aim is to divert children away from the formal criminal justice system whenever possible, opting for counseling, community service, or other restorative justice measures instead.
- **Child Rights and Dignity:** Central to these procedures is the protection of child rights and dignity. This includes safeguards like ensuring privacy, confidentiality, and a child-friendly environment during legal proceedings and rehabilitation processes.

- **Welfare Services:** The procedures for CNCP involve a range of welfare services such as foster care, adoption, and institutional care when necessary. The concept here is to provide a nurturing and supportive environment for children who are at risk.
- **Community Involvement:** A holistic concept involves community participation in the rehabilitation and protection of CNCP and CCL. Local communities are encouraged to play an active role in ensuring the well-being and integration of these children.
- **Interdisciplinary Approach:** Lastly, the procedures recognize the need for an interdisciplinary approach, involving social workers, counselors, child psychologists, and legal experts to provide a comprehensive support system for CNCP and CCL.

In summary, the procedures for CNCP and CCL in India are founded on principles of child-centricity, differentiation, rehabilitation, and respect for child rights. They aim to strike a balance between accountability and the best interests of the child while involving various stakeholders in a coordinated effort to protect and support children in various challenging circumstances.

### **III. DEFINITION OF PROCEDURES IN RELATION TO CHILDREN IN NEED OF CARE AND PROTECTION AND CHILDREN IN CONFLICT WITH LAW IN INDIA**

Procedures in relation to Children in Need of Care and Protection (CNCP) and Children in Conflict with Law (CCL) in India refer to the established sets of legal and administrative steps and actions that are followed when dealing with these two distinct categories of children within the Indian legal system.

#### **(A) For CNCP:**

Procedures for Children in Need of Care and Protection in India involve a series of steps and actions aimed at ensuring the well-being, safety, and development of children who are considered at risk due to various factors, such as neglect, abuse, abandonment, or being orphaned. These procedures include:

- **Identification and Reporting:** The initial step involves identifying children in need of care and protection through reports from concerned individuals or agencies.
- **Assessment and Inquiry:** Authorities conduct assessments and inquiries to determine the child's specific needs, circumstances, and whether they require protection and care.

- **Child Welfare Committee (CWC):** The CWC plays a central role in making decisions related to the care and protection of the child, including placement in foster care, adoption, or institutional care, depending on the situation.
- **Rehabilitation and Support:** Once the child's needs are assessed, appropriate rehabilitation and support services are provided, which may include counseling, education, healthcare, and family support.
- **Periodic Review:** The child's case is periodically reviewed to ensure their well-being and to consider changes in their circumstances.

**(B) For CCL:**

Procedures for Children in Conflict with Law in India are designed to address children who are alleged to have committed offenses. The key elements of these procedures include:

- **Juvenile Justice Boards (JJBs):** JJBs are responsible for determining whether the child should be treated as a CCL or diverted to alternative dispute resolution mechanisms.
- **Diversion:** The concept of diversion involves diverting the child away from the formal criminal justice system whenever possible, opting for counseling, community service, or other restorative justice measures instead of prosecution.
- **Fair Trial and Legal Representation:** CCL are entitled to legal representation and a fair trial, with proceedings conducted in a child-friendly environment, taking into account the child's age and maturity.
- **Rehabilitation and Reintegration:** Rehabilitation programs and services are provided to CCL to help them reintegrate into society and prevent recidivism. These may include education, vocational training, and psychological support.
- **Confidentiality and Privacy:** The procedures ensure the confidentiality of CCL's identities and the privacy of their proceedings, in line with the best interests of the child.

In summary, procedures for CNCP and CCL in India encompass a range of legal and administrative actions aimed at safeguarding the rights and welfare of these children. While CNCP procedures focus on their care, protection, and well-being, CCL procedures aim to ensure accountability, rehabilitation, and reintegration into society while respecting their rights and dignity.

#### **IV. NATURE AND SCOPE OF PROCEDURES IN RELATION TO CHILDREN IN NEED OF CARE AND PROTECTION AND CHILDREN IN CONFLICT WITH LAW IN INDIA**

The nature and scope of procedures in relation to Children in Need of Care and Protection (CNCP) and Children in Conflict with Law (CCL) in India are comprehensive and multifaceted, reflecting the nation's commitment to ensuring the rights, well-being, and development of all children. Here, we delve into the nature and scope of these procedures for both categories:

**(A) Children in Need of Care and Protection (CNCP):**

1. **Protective and Supportive:** The nature of procedures for CNCP is primarily protective and supportive. The focus is on safeguarding children who are at risk due to various circumstances, including neglect, abuse, abandonment, or orphanhood.
2. **Preventive:** These procedures aim to prevent harm to children by identifying and intervening in situations where their well-being is compromised. Early intervention is a key aspect of the scope.
3. **Child-Centric:** The procedures are child-centric, prioritizing the best interests of the child. Decisions are made with the child's welfare as the paramount consideration.
4. **Legal Framework:** The scope of CNCP procedures is defined by the Juvenile Justice (Care and Protection of Children) Act, 2015. This legal framework outlines the roles of Child Welfare Committees (CWCs), child protection officers, and various stakeholders in ensuring the protection and care of CNCP.
5. **Rehabilitation and Support Services:** CNCP procedures encompass a wide array of services, including placement in foster care, adoption, or institutions when necessary. They also involve counseling, education, healthcare, and family support services to promote the child's holistic development.
6. **Periodic Review:** The scope includes the periodic review of a child's situation to ensure that the child's needs are continually met and that they are progressing toward a safe and nurturing environment.

**(B) Children in Conflict with Law (CCL):**

1. **Accountability and Rehabilitation:** The nature of procedures for CCL is dual-fold, encompassing both accountability for their actions and rehabilitation. The scope acknowledges that children who commit offenses should be held accountable while also being provided with opportunities for reform.

2. **Legal Framework:** The Juvenile Justice (Care and Protection of Children) Act, 2015, defines the procedures for CCL. The Act establishes Juvenile Justice Boards (JJBs) to oversee the proceedings and rehabilitation efforts.
3. **Diversion:** The scope includes the concept of diversion, which seeks to divert CCL away from the formal criminal justice system whenever possible. It focuses on counseling, community service, or other restorative justice measures as alternatives to prosecution.
4. **Fair Trial:** CCL procedures ensure that children receive a fair trial, with legal representation and child-friendly court settings. The scope emphasizes respecting the child's rights and dignity during legal proceedings.
5. **Rehabilitation and Reintegration:** Rehabilitation programs and services are integral to the scope of CCL procedures, aiming to equip children with the skills and support necessary for their reintegration into society as law-abiding citizens.
6. **Privacy and Confidentiality:** The scope includes measures to protect the privacy and confidentiality of CCL's identities and proceedings, ensuring their dignity and preventing stigmatization.

In summary, the nature and scope of procedures for CNCP and CCL in India are designed to uphold the principles of child-centricity, protection, rehabilitation, and respect for child rights. These procedures reflect India's commitment to providing a comprehensive support system for all children, irrespective of their circumstances, to ensure their well-being and development.

## **V. SIMILARITIES AND DIFFERENCES IN RELATION TO CHILDREN IN NEED OF CARE AND PROTECTION AND CHILDREN IN CONFLICT WITH LAW IN INDIA**

Children in Need of Care and Protection (CNCP) and Children in Conflict with Law (CCL) represent two distinct categories of children within the Indian legal system, each facing unique challenges and requiring specific attention. Here, we explore the similarities and differences between these two groups:

### **(A) Similarities:**

- **Rights-Based Approach:** Both CNCP and CCL are entitled to fundamental rights and protections guaranteed under the Constitution of India and international conventions, such as the United Nations Convention on the Rights of the Child (CRC). These rights include the right to life, dignity, and a fair trial.



- **Protection of Best Interests:** The paramount consideration in procedures for both CNCP and CCL is the best interests of the child. Decisions and actions should prioritize the child's well-being, safety, and development.
- **Confidentiality and Privacy:** Procedures for both groups emphasize the importance of maintaining the confidentiality and privacy of children involved. This helps protect their identity and reduce the risk of stigmatization.
- **Child-Friendly Environment:** In both cases, there is a focus on providing a child-friendly environment during legal proceedings, ensuring that the child feels comfortable and can effectively participate in the process.
- **Juvenile Justice System:** Both CNCP and CCL fall under the purview of the Juvenile Justice (Care and Protection of Children) Act, 2015, which outlines the legal framework for their treatment and rehabilitation.
- **Rehabilitation:** The rehabilitation and reintegration of children are common goals. While the nature and scope of rehabilitation may differ, both CNCP and CCL receive services and support to facilitate their personal growth and development.

**(B) Differences:**

a. **Categorization:**

- i. **CNCP:** Children in Need of Care and Protection encompass children who require care and support due to circumstances such as neglect, abuse, abandonment, or orphanhood.
- ii. **CCL:** Children in Conflict with Law are those who have allegedly committed offenses and are in conflict with the formal criminal justice system.

b. **Focus and Objective:**

- i. **CNCP:** The primary focus is on providing care, protection, and support to ensure the child's well-being and development.
- ii. **CCL:** The primary focus is on accountability for the alleged offense and rehabilitation to prevent reoffending.

c. **Legal Proceedings:**

- i. CNCP: Legal proceedings concerning CNCP are typically related to their protection, care, and welfare and are conducted by Child Welfare Committees (CWCs).
  - ii. CCL: Legal proceedings for CCL may involve Juvenile Justice Boards (JJBs) and are related to their alleged offenses, including hearings and determinations of guilt or innocence.
- d. Diversion:
- i. CNCP: Diversion is not applicable to CNCP; instead, the emphasis is on providing a safe environment and necessary support.
  - ii. CCL: Diversion is a key concept for CCL, allowing for alternative dispute resolution and rehabilitation measures in lieu of formal prosecution.
- e. Placement:
- i. CNCP: Procedures involve placement in appropriate settings, such as foster care, adoption, or institutions, depending on the child's needs.
  - ii. CCL: Placement in institutions is a potential outcome for CCL, but the focus is on rehabilitation and reintegration into society.
- f. Legal Rights:
- i. CNCP: While CNCP have legal rights, their involvement with the legal system is primarily for their protection, not prosecution.
  - ii. CCL: CCL have legal rights and may go through formal legal proceedings, including trial and sentencing.

In conclusion, while both CNCP and CCL share certain similarities, such as rights-based approaches and a focus on the best interests of the child, they differ significantly in their categorization, objectives, legal proceedings, and the emphasis on accountability and rehabilitation. The Indian legal system recognizes the importance of addressing the unique needs of each group while upholding the rights and well-being of all children.

## **VI. SIGNIFICANCE**

The significance of addressing the needs and concerns of Children in Need of Care and Protection (CNCP) and Children in Conflict with Law (CCL) in India cannot be overstated. These two categories of children represent vulnerable populations in society, and the efforts to

protect their rights and well-being carry immense social, legal, and ethical significance. Here's an overview of the significance of addressing the issues related to CNCP and CCL in India:

**(A) Children in Need of Care and Protection (CNCP):**

- **Child Welfare:** Ensuring the care and protection of CNCP is essential to uphold the fundamental rights of children. It reflects the government's commitment to the welfare and well-being of its youngest citizens.
- **Prevention of Harm:** The significance lies in preventing harm to children who may be at risk due to various circumstances, including neglect, abuse, abandonment, or orphanhood. Early intervention can mitigate the long-term negative consequences of such situations.
- **Holistic Development:** Addressing the needs of CNCP allows for their holistic development, including physical, emotional, psychological, and educational growth. This, in turn, contributes to a healthier and more productive future generation.
- **Family Preservation:** Significantly, the procedures aim to preserve families whenever possible. Family support services and reunification efforts are part of the approach, emphasizing the importance of the family unit in a child's life.
- **Human Rights:** It upholds the principles of human rights and child rights. Protecting CNCP is in alignment with international conventions such as the United Nations Convention on the Rights of the Child (CRC), which India is a signatory to.

**(B) Children in Conflict with Law (CCL):**

- **Accountability and Rehabilitation:** Addressing the issues related to CCL is significant as it balances accountability for their actions with the opportunity for rehabilitation. It acknowledges that children may make mistakes but deserve a chance to reform.
- **Prevention of Recidivism:** By providing rehabilitation services and interventions for CCL, there is a significant societal benefit in preventing recidivism and reducing the likelihood that these children will continue to engage in criminal activities.
- **Restorative Justice:** The approach towards CCL is grounded in restorative justice principles, emphasizing repairing harm done to victims, promoting personal responsibility, and facilitating the reintegration of CCL into society.
- **Legal Rights:** Ensuring that CCL receive fair treatment and have access to legal representation is a significant aspect, as it upholds the principles of justice and due process, even for young offenders.

- **Reduction of Juvenile Delinquency:** Addressing the underlying causes of juvenile delinquency, such as poverty, lack of education, and family issues, contributes to the overall reduction of delinquent behavior among children.
- **Preventing Criminalization of Youth:** Significantly, the procedures prevent the unnecessary criminalization of youth for minor offenses. Diversion mechanisms can redirect children away from the formal criminal justice system.

In conclusion, addressing the issues of CNCP and CCL in India carries immense significance in terms of child welfare, human rights, and the future well-being of society. It reflects a commitment to protecting the most vulnerable members of society and providing opportunities for their growth, rehabilitation, and reintegration, ultimately contributing to a more just and compassionate society.

## **VII. SUGGESTIONS**

Addressing the needs of Children in Need of Care and Protection (CNCP) and Children in Conflict with Law (CCL) in India requires a multifaceted approach involving government, civil society, and various stakeholders. Here are some specific suggestions to improve the well-being and outcomes for these vulnerable children:

### **(A) For Children in Need of Care and Protection (CNCP):**

- **Strengthen Prevention and Early Intervention:** Develop and implement public awareness campaigns to educate communities on child rights, child abuse, and the importance of reporting cases promptly. Establish helplines and mechanisms for the confidential reporting of child abuse and neglect.
- **Family Support Services:** Expand and enhance family support programs, including counseling, parenting classes, and economic assistance, to prevent family breakdown and promote the well-being of CNCP within their families.
- **Foster Care and Adoption:** Streamline and expedite adoption procedures to provide CNCP with stable and loving homes. Promote foster care as a viable temporary placement option, ensuring the well-being of children while efforts are made for family reunification.
- **Quality Residential Care:** Improve the quality of institutional care facilities, including regular inspections, adequate staffing, and stringent regulations to ensure a safe and nurturing environment.

- **Education and Skill Development:** Ensure CNCP have access to quality education, including bridge courses and remedial classes to address gaps in their learning. Offer vocational training and life skills programs to prepare older CNCP for independent living.
- **Mental Health Support:** Integrate mental health services into the support provided to CNCP, recognizing and addressing the psychological trauma they may have experienced.
- **Legal Aid and Representation:** Ensure that CNCP have access to legal representation, including child-friendly legal aid services, to protect their rights during legal proceedings.

**(B) For Children in Conflict with Law (CCL):**

- **Diversion Programs:** Expand diversion programs to divert CCL away from the formal criminal justice system for minor offenses, focusing on rehabilitation and community-based interventions. Implement risk and needs assessment tools to identify the most appropriate diversion options for each CCL.
- **Restorative Justice:** Promote restorative justice practices that facilitate dialogue and reconciliation between CCL and victims, emphasizing the repair of harm done to victims.
- **Rehabilitation and Reintegration:** Develop and implement comprehensive rehabilitation programs for CCL, including education, vocational training, and psychological counseling. Ensure a smooth reintegration process that includes community support and follow-up services.
- **Legal Awareness and Education:** Conduct legal awareness and education programs for CCL to inform them about their rights, responsibilities, and the legal consequences of their actions.
- **Child-Friendly Justice System:** Establish child-friendly courtrooms and legal procedures to create a safe and comfortable environment for CCL during legal proceedings.
- **Mentoring and Support:** Implement mentoring programs that pair CCL with positive role models and support networks to facilitate their reintegration into society.
- **Data Collection and Research:** Collect and analyze data on CCL and the effectiveness of interventions to inform evidence-based policies and practices.

- **Cross-Sector Collaboration:** Promote collaboration among various stakeholders, including law enforcement, social services, education, and mental health professionals, to provide holistic support to CCL.
- **Legal Reforms:** Continuously review and update laws and policies related to juvenile justice to align with international standards and best practices.
- **Monitoring and Evaluation:** Establish robust monitoring and evaluation systems to assess the impact of interventions and make necessary improvements.

These suggestions underscore the importance of a child-centric, rights-based approach and collaborative efforts to safeguard the rights and well-being of CNCP and CCL in India.

## **VIII. CONCLUSION**

In conclusion, addressing the needs of Children in Need of Care and Protection (CNCP) and Children in Conflict with Law (CCL) in India is not only a legal obligation but also a moral imperative. These vulnerable segments of the population represent the future of the nation, and their well-being and development are crucial for the overall progress of society.

For CNCP, a child-centric approach that prioritizes their rights, safety, and holistic development is essential. Strengthening preventive measures, family support services, and access to quality education can go a long way in providing CNCP with the opportunities they deserve to lead fulfilling lives within their families whenever possible or in alternative care settings when necessary.

For CCL, it is imperative to balance accountability with rehabilitation. By expanding diversion programs, promoting restorative justice practices, and focusing on education and skill development, CCL can be guided towards becoming responsible and law-abiding citizens, thus reducing recidivism rates.

Both CNCP and CCL require a supportive environment that includes mental health services, legal representation, and community involvement. Cross-sector collaboration among government agencies, civil society organizations, communities, and individuals is crucial to create a comprehensive support system that addresses the unique needs of these children.

Ultimately, the significance of addressing the issues related to CNCP and CCL in India lies in upholding the principles of justice, human rights, and child rights. By implementing the suggestions mentioned earlier and continuously striving for improvement, India can ensure a brighter and more secure future for its children, where every child is given the opportunity to thrive, regardless of their circumstances. It is a collective responsibility to protect and nurture

these young lives, ensuring they have the chance to reach their full potential and contribute positively to the nation's progress.

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