

CONCEPT OF JUVENILE DELIQUENCY

Written by *Madhumitha Kesavan*

3rd Year BBA LLB Student, School of Law, Christ University

“A child is a person who is going to carry on what you have started. He is going to sit where you are sitting, and when you are gone, attend to those things you think are important. You may adopt all the policies you please, but how they are carried out depends on him. He is going to move in and take over your churches, schools, universities and corporations. The fate of humanity is in his hands”¹

-Abraham Lincoln

INTRODUCTION

Children are a nation’s greatest asset, they lay down the foundation on which the dynamic and vibrant future of a nation shall be built upon. The delicate and innocent mind of a child can easily be moulded in such a manner that they get inclined towards criminal activities.

The concept of juvenile delinquency exists in all kinds of societies due to the various socioeconomic and psychological reasons. The word delinquency is derived from the Latin word “delinquere: meaning abandon. A young criminal offender is refers as a juvenile and minor is related to legal capacity or minority.² The juvenile delinquent doesn’t feel his disturbed personality. The intelligent man does not feel his intelligence or the introvert his introversion.³

¹ Wroblewski.M, Henry(2000) an introduction to law enforcement and criminal justice, Thomson learning, USA, pp-540-541.

² Bryan A. Garner, Black’s Law Dictionary (9th Edn., 2009).

³ B F Skinner, American Psychologist, Behaviorist, Author and Social philosopher.

In a country which is as developing like India, the problem of juvenile delinquency though was low considerably has now increased with time as reported by the National Crime Record Bureau Report.

Poverty, broken homes, family tensions, emotional abuse, rural-urban migration, break-down of social values and joint family system, atrocities and abuses by parents or guardians, faulty educational system, the influence of media besides the unhealthy living conditions of slums and such other conditions correlate to the phenomena of juvenile delinquency. It's also been found that there has been a detrimental effect on the physical and mental growth of those children whose parents, family and society neglect them.

Thereby, juvenile delinquency refers to the failure of children and youth to meet certain obligations expected of them by the society in which they live.⁴ It is also said to mean any type of behaviour by those socially defined as juveniles that violates the norms (standards of proper behaviour) set by the controlling group.⁵

A juvenile undergoes what is known as an adjudication instead of a trial, after which they'd be subject to receiving a disposition and a sentence. Delinquent acts are mainly categorized under two categories:

1. A delinquent act which shall be considered as a crime had it been committed by an adult.
2. Second type of delinquent act is one that wouldn't normally be a crime had an adult performed it.

CAUSES OF JUVENILE DELINQUENCY

There are primarily 4 factors that can be associated to identify young people inclined to delinquent activities:

1. Individual Risk Factors

Factors in this sphere are identified as any characteristics directly related to or within a specific person that affects the likelihood of that individual engaging in a violent and

⁴ Cavan R. S. (1975), 'Juvenile Delinquency', J.B. Lippin Co. Newyork, p.23.

⁵ Kratcoski and Kratcoski (1979), 'Juvenile Delinquency', Prentice Hall, p.2.

delinquent behaviour. A minor whose intelligence level is low and is devoid of proper education is more prone to become involved in delinquent conduct. Other factors include impulsive behaviour, uncontrolled aggression and an inability to delay gratification.

2. Family Risk Factors

Family traits such as poor parenting skills, family size, home discord and antisocial parents are risk factors linked to juvenile delinquency. A constant pattern of family risk factors are associated with the development of delinquent behaviour in young people. These family risk factors include a lack of proper parental supervision, ongoing parental conflict, neglect and abuse.

3. Mental Health Risk Factors

Various mental health factors are also contributing to juvenile delinquency. A main factor is conduct disorder which is defined as “a lack of empathy and disregard for societal norms”. Mental Health also has been identified in juveniles due to the poor parenting skills i.e. in cases where parents who don't pay enough attention to their children and also where the environment provided to them isn't good they are usually not fit mentally thereby, commit such acts.

4. Substance Abuse Risk Factors

Substance abuse is found in many number of cases of juvenile delinquency. Two trends are being identified, one being juveniles using more powerful drugs than it was 10 years ago and secondly age at which juveniles begin using drugs is younger. It has been identified that peer-pressure has led to significant rise in the use of drugs by juveniles as they get influenced easily and want to experiment new things at a tender age.

EXTENT OF DELINQUENCY IN INDIA

The statistics of juvenile crimes in the country against total crime in the country indicates steady decline in early 1990s and static in late 1990s and then again rose significantly in early 2000 and still increasing gradually. It has been observed that children at the threshold of adulthood -in the age groups of 16-18 years are more prone to taking up criminal activities. This increase may be partly attributed to inclusion of delinquent boys from 16 to 18 years for the first time as per new definition of Juvenile Justice Act, 2000.

The number of juvenile crimes in 2007 increased by 8.4 per cent over 2006 with 22,865 crimes registered during 2007, up from 21,008 in 2006.

Though a formal Juvenile Justice system may be justifiable to a certain extent, there must be some concrete and comprehensive plan of action. There's a need to evolve an appropriate policy framework for the protection, care and development of neglected children involving the active cooperation and participation of individuals, groups, communities and civil society at large.

Legislations

In India, the first legislation treated those children committed crime was the Apprentices Act, 1850. It procure children under the age of 15 years found to have committed petty offences will be bounded as apprentices. After that the Reformatory Schools Act, 1897 formed which provided that children up to the age of 15 years punish to imprisonment would be sent to reformatory home. Thereafter with an aim to provide rehabilitation or protection to neglected or delinquent juveniles, our Parliament enacted the Juvenile Justice Act, 1986. It was an Act which brought uniform system throughout the country. Section 2(a) of the Act defined the term 'juvenile' as a "boy who has not attained the age of 16 years and a girl who has not attained the age of 18 years". Later on the Parliament enacted the Juvenile Justice (Care and Protection) Act, 2000 which raised the age bar to 18 years for both girl and boy.

The passing of the Juvenile Justice (Care and Protection of Children) Act of 2000 is a landmark in the criminal Justice administration in India.

Act was a central one based on

- (i) provisions of the Indian Constitution;

- (ii) United Nations Convention on Rights of the Child, 1989;
- (iii) United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules);
- (iv) United Nations Rules for the Protection of Juveniles deprived of their Liberty, 1990.

It has clearly defined and classified offences as petty, serious and heinous.

Earlier, if a boy of below 16 years or girl of below 18 years commits an offence, he or she was called a juvenile delinquent. But after commencement of J.J. Act of 2000 a boy of below 18 years or a girl of below 18 years commit an offence they shall be considered as juvenile in conflict with law, that is juvenile offender as it recognises the need of the child care by providing that it in the Preamble signifying that it's an Act to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children.

Therefore, it has been proposed that if a heinous crime is committed by a person in the age group of 16 to 18 years, the Juvenile Justice Board will first assess if the said crime was committed by that person as a 'child' or as an 'adult'. The Juvenile Justice Board will have psychologists and social experts in it which would make sure that the rights of the juvenile are duly protected if the crime was committed as a child. The trial of the case shall proceed on the basis of Board's assessment report that whether the concerned juvenile has committed the crime as a child or as an adult.

The Juvenile Justice Act, 2015 was passed with the view to replace the existing Indian Juvenile Delinquency Law in order to prevent conflict with law in the age category of 16-18 years who are involved in Heinous Offences. The aim being to try them as adults as there are much mature and are capable of understanding the consequences of their acts.

The Act of 2000 didn't categorize or classify offences under various heads as the new act did. The Juvenile Justice Act of 2015 categorized offences under 3 heads namely"

1. Petty Offences – Those offences for which the maximum punishment which shall be prescribed under the Indian Penal Code, 1860 or any other law for the time being in force is three years.

2. Serious offences- Offences for which the maximum punishment which shall be prescribed under the Indian Penal Code,1860 or any other law for the time being in force is between three years to seven years.
3. Heinous offences - Offences for which the maximum punishment which shall be prescribed under the Indian Penal Code,1860 or any other law for the time being in force is seven years or more.

It allows a Juvenile Justice Board to be constituted, which shall include psychologists and sociologists, to decide whether a juvenile criminal in the age group of 16–18 should be tried as an adult or not. The bill introduced concepts from the Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption, 1993 which were missing in the previous act. The bill also seeks to make the adoption process of orphaned, abandoned and surrendered children more streamlined.

It provides for foster care in India where families will sign up for foster care and abandoned, orphaned children, or those in conflict with the law will be sent to them. Such families will be monitored and shall receive financial aid from the state. In adoption, disabled children and children of physically and financially incapable will be given priority. Parents giving up their child for adoption will get 3 months to reconsider, compared to the earlier provision of 1 month.

A person giving alcohol or drugs to a child shall be punished with 7 years imprisonment and/or ₹100,000 fine. Corporal punishment will be punishable by ₹50,000 or 3 years of imprisonment. A person selling a child will be fined with ₹100,000 and imprisoned for 5 years.

Judicial Efforts

The judiciary in India plays a very important role and has passed many significant judgements in favour of child rights. In *Sheela Barse v Union of India*⁶, The Supreme Court issued directions to the state government to set up necessary observation homes where children accused of an offence could be lodged, pending investigation and trial will be expedited by juvenile courts.

⁶ AIR 1986 SC 1733.

In *Sheela Barse v. Secretary, Children Aid Society*⁷, The Supreme Court commented upon setting up dedicated juvenile courts and special juvenile court officials and the proper provision of care and protection of children in observation Homes. In *Vishal Jeet v Union of India*⁸, The Supreme Court issued appropriate directions on a PIL to the state Governments and all Union Territories for eradicating the evil of child prostitution and for evolving programmes for the care, protection, treatment, development and rehabilitation of the young fallen victims. In *M.C. Mehta v State of Tamil Nadu*⁹, Supreme Court pronounced upon the constitutional perspective of abolition of Child labor and issued appropriate guide lines to the Government of India with respect to compulsory education, health, nutrition, etc of the child laborers. In *Sakshi v Union of India*¹⁰, Supreme Court directed the government/ Law commission to conduct a study and submit a report on the means of curbing child abuse.

SUGGESTIONS TO PREVENT JUVENILE DELINQUENCY

1. Control of delinquency needs effective implementation of Juvenile Justice Act, with full public awareness and proper orientation and training to professionals and law enforcement agencies.
2. A proper mechanism should be created to assess the needs and requirements of the juveniles and it should be reviewed regularly.
3. The approach of the agencies like police involved in the system may be more of reformative character rather than pure penal. The objective may be to reform the delinquents, rather than just to punish them.
4. Government should put more emphasis of useful and attractive beneficial long-term schemes for Juveniles so that they feel motivated to join main stream of the society

⁷ AIR 1987 SC 656.

⁸ AIR 1997 SC 699.

⁹ (1999) 6 SCC 591.

¹⁰ AIR 1999 SC 1412.

and regain their self-confidence, which is generally lost because of the callous attitude of the society.

5. State Governments and Union Territories administrations should encourage and provide support to voluntary organization to start or modernize juvenile services including community services.
6. Longer association of community and voluntary organizations in the schemes of Government programs like nutrition for all, literacy, health, eradication of child labour, etc. shall help to a great extent to weed out delinquency.

CONCLUSION

The problem of Juvenile delinquency has for long been found in all the fast industrial, urbanizing societies in the recent decades for which India is no exception. The early phase of industrialization coupled with urbanization had created a socially highly tumults conditions leading to people to lose direction of progression of their moves. Juvenile delinquency like crime, in a complex phenomenon with having its source not in one factor that sponsors it but rather multiple sources. The defining of delinquent acts of children and treatment of such individuals for change in their behavioural forms constitute an important work on part of the state, community and family. The rehabilitation measures of the state seem vital in the treatment of juvenile delinquents the process involving different programmes specially designed for such children to turn them into normal beings and put them back in to community to live a normal life. Besides this the family education to the parents and counselling parents on the effects of the vices they have been into or likely to be into also serve a vital part in this.

Crime and delinquency being a trait of human society, they need to be kept under check rather than totally eradicating them, because it is sociological myth to have a society totally free from the vices among which crime and delinquency are the prime ones. By natural tendency man is to deviate but socially he is controlled and he controls others. It is the desire and need of the hour to have the deviant tendencies brought down to the minimum in a developing society like ours.