

## Juvenile Delinquents in Indian Scenario: Issues and Prospects

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### ABSTRACT

*Delinquency* signifies deviant behaviour, a behavioural pattern which violates institutional expectations, that is, expectations, which are shared and recognised as legitimate within a social system. The word has been preferred for use, with respect to children, while excluding the use of words 'crime', 'criminal' and 'offence' from the purview. The object is to view the 'problem child' from a broader perspective of (anti-) or (un-) social behaviour that the child encounters with legal intervention; but with a liberal, welfare-oriented approach (Government of India, 1999). The term 'delinquency' appears to be very comprehensive and represents an umbrella for a wide variety of socially disapproved behaviour that varies with time, place and the attitudes of those assigned to administer the law. The word 'delinquency' is a broader term which includes all 'offending acts' prescribed by law. Statistics from 'Crime in India' reflects that juvenile delinquents are associated with different types of property offences as per the Indian Penal Code, expecting counterfeiting, and they are largely intercepted for cheating, theft, robbery and dacoity, reflecting 'economic criteria' of causation. Among violent offences affecting body, they are apprehended for sex offences, assaults, rioting, kidnapping and murder. Juvenile delinquency covers anything from small crimes—a student who bunks school repeatedly, biting a classmate, shirking from home work, getting late to class, writing on school walls, cheating in tests, bullying classmates, fighting, cursing teachers—to a very serious crime like theft or even murder. This paper is based on the review of various literature and authors field experiences.

**Keywords:** Child, Conflict, Juvenile Justice, Habitually

### BACKGROUND

Child conflict with law is a kind of anomaly when an individual deviates from the course of normal social life. His behaviour is called conflict with law. When a juvenile below an age of 18 years exhibits behaviour, which may prove to be dangerous to society may be called a child conflict with law (Juvenile delinquent). Child conflict with law are those offenses, which include boys and girls who are normally under 18 years of age.

*Child conflict with law may include*

1. Street beggar
2. Stealing
3. Habitual behaviour beyond the control of parts
4. Spending true idly beyond limits

5. Wandering about rail road, streets and market places.
6. Visiting gambling centres.

### Who is a Juvenile?

A "Juvenile" or a "child" means a person who has not completed eighteen years of age. A boy or girl under 18 years of age is a juvenile or child under **Section 2(k) of The Juvenile Justice (Care and Protection of Children) Act, 2000**. The age of juvenility of a boy child under **The Juvenile Justice Act, 1986** was below 16 years and that of a girl child was below 18 years of age (**Section 2(h) of The Juvenile Justice Act, 1986**). The age of boy juvenile has been increased to 18 years by **The Juvenile Justice Act, 2000** mainly

to bring juvenile legislation into conformity with The **United Nations Convention on the Rights of Child**, which the Government of India had ratified on 11th December, 1992. **Article 1 of The United Nations Convention on the Rights of Child** states that “For the purpose of the present Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child majority is attained earlier”. Therefore, currently both boys and girls below 18 years of age enjoy the protection of juvenile legislation.

Juvenile Delinquents are basically products of societal malfunctions; all of them need special care and attention, but they face far more serious difficulties. The dimension of the problem of juvenile delinquency is not fully assessed in India, nor are the roots of the juvenile delinquency specifically traced (Government of India, 1999). In most of the countries, juvenile offenders are a neglected group. In our country, the police are given the leeway in picking up children found in difficult circumstances. Later, this leads to abuse and harassment, and finally the children come out as hardened criminals. Studies in India show that children are compelled to become criminals due to

- Strict Discipline
- Poor Living
- Alcoholic Parents
- Sexual Abuse
- Insecure and Neglected Environment.

Thus, there needs to be a rethinking of categories such as delinquent, destitute and neglected children. The problems that children face are quite numerous. Street children are frequently made scapegoats as thieves or delinquents and are treated unfairly as a result. They are viewed as vagrants and criminals and are the first to be suspected of crimes that occur in their vicinity. Furthermore, it appears that these children are

arrested by police as “easy targets” to fill up their quota.

**The Juvenile Justice Act, 1986** came into force on 2nd Oct, 1987 bringing about a uniform juvenile justice system in the whole of India except the State of Jammu and Kashmir. The Parliament enacted the **Juvenile Justice (Care and Protection of Children) Act, 2000**, which came into effect from 1st April, 2000. **Section 2(k)** defines ‘juvenile’ to mean a person who has not completed 18 years of age. **Section 20** refers to cases where a person had ceased to be a juvenile under the 1986 Act but had not yet crossed the age of 18 years. Then the pending case shall continue in that court as if the 2000 Act has not been passed and if the court finds that the juvenile has committed an offence, it shall record such finding and instead of passing any sentence in respect of the juvenile, shall forward the juvenile to the Board which shall pass orders in respect of that juvenile. The Act of 2000 intends to give the protection only to a juvenile within the meaning of the said Act and not an adult. Recently the Parliament introduced **Juvenile Justice (Care and Protection of Children) Amendment Act, 2006** (in terms whereof retrospective and restorative meaning was given to the definition of ‘juvenile’ stating that “juvenile in conflict with law” means a juvenile who is alleged to have committed an offence and has not completed 18 years of age as on the date of commission of such offence. In the **Juvenile Justice (Care and Protection of Children) Rules, 2007**, the concept of restorative justice has been given due importance. The definition of detention states that detention in case of juveniles in conflict with law means “protective custody” in line with the principles of restorative justice. The principle of best interest of the juvenile has been defined as the traditional objectives of criminal justice, retribution and repression, must give

way to rehabilitative and restorative objectives of Juvenile Justice.

A number of programmes are associated with restorative justice, because of the processes they use to respond to and repair the harm caused by crime: victim-offender reconciliation/mediation programmes use trained mediators to bring victims and their offenders together in order to discuss the crime, its aftermath, and the steps needed to make things right. Conferencing programmes/encounters are similar to victim-offender reconciliation/mediation, but differ in that they involve not only the offender and victim, but also their family members and community representative. Victim-offender panels bring together groups of unrelated victims and offenders, linked by a common kind of crime but not by the particular crimes that have involved the others. Victim assistance programmes provide services to crime victims as they recover from the crime and proceed through the criminal justice process. Prisoner assistance programmes provide services to offenders while they are in prison and on their release.

### **The Concept of Juvenile Conflict with Law**

Juvenile in conflict with law means a Juvenile who is alleged to have committed offence. It refers to large variety of behaviour of children, which the society does not approve and for which the some kind of punishment or preventer and correction measures are justified in public interest.

The word Juvenile has been derived from Latin term, Juvenis meaning there by "young". The term delinquency has also been derived from the terms do (away from) and liquor (to leave) the Latin initiative delinquere translate as to emit in its original earliest sense. It was apparently used in times to refer to the failure of an individual to perform a task. The term delinquent describes a person's quality of an offence against the customs.

The concept of delinquency has been viewed differently by various authors.

According to Tappan there are two kinds of delinquency

1. The adjudicated delinquents, who have been processed through the courts and
2. In official delinquents who are handled by the police, and the other agencies.

Ruth Cavan describes the delinquency as "A delinquent child is one who by habitually refusing to obey the reasonable and lawful commands of his parents or other person of lawful authority, is deemed to be habitually uncontrolled, habitually disobedient or habitually way word or who habitually is a truant from home or school or who habitually so deports himself as to injure or changed the moral, health or welfare of himself or others.

The second United Nations Congress on the prevention of crime and the treatment of offenders, held in London in 1960, considered the scope of the problem of Juvenile delinquency without attempting to formulate standard definition of what should be considered to be Juvenile deliquescence in each country.

The committee recommended

1. That the meaning of the term Juvenile delinquency, should be restricted as far as possible to violation of law.
2. That even for protection, specific offences, which would penalise small irregularities or mal-adjusted behaviours of minoveds, but for which adults would not be prosecuted, should not be created.

The need was also felt in USA for narrowing the extent of Juvenile delinquency and the standard

Juvenile court Act avoided most of the items of delinquency cited in the list of Reebin.

The standard Act included in its provisions what corresponds to the usual delinquency definitions to only two items in addition to violation of law or ordinance.

These items are: a child who deserts his home or who is habitually disobedient or is beyond the control of his parents or other custodian and who being required by law to attend school, wilfully violates rules thereof or absents himself there from.

In England the children's department of a local authority, a police constable and officer of the National Society for the prevention of cruelty towards children must bring a child before a Juvenile court if they have reasonable grounds for believing him to be in need of care, protection of control on any of the following grounds.

That the Juvenile is not receiving such care protection and guidance as a good parent may be reasonably expected to give and in addition,

1. That he is falling into bad association or is being exposed to moral danger.
2. That the lack of care, protection or guidance is likely to cause him unnecessary suffering or to affect his health seriously or to be properly developed.
3. That he has been the victim of a sexual offence or an offence involving bodily injury or lives in the same household as a perpetrator of an offence of that kind against a Juvenile.
4. That he is beyond his parent's control.

In India, the concept of delinquency does not create any problem as Juvenile delinquency is confined to the Violation of the ordinary panel law of the country so far as the Jurisdiction of the Juvenile court is considered. The term Juvenile has been

defined in clause of section 2 of the Juvenile Justice Act 1986, as a boy who has not attained the age of 16 years and girls who have not attained the age of 18 years. Offence under clause of section 2 of the above act means an offence punishable under any law for the time being from which includes the Narcotics Drugs and psychotropic substance Act, 1985, and the terrorist and Disruptive Activities Act 1987. Delinquent juvenile means a boy below the age of 16 years and a girl below the age of 18 years who have been found to have committed an offence punishable under any law for the time being in force. Under the Juvenile Justice Act 1986 separate provisions have been laid down for the neglected and uncontrollable juveniles. They are dealt with by the Juvenile welfare Boards and not by Juvenile courts.

### **Why Delinquency?**

Juveniles resort to delinquency often because of social factors. They are those children for whom life is full of drudgery, abuse and exploitation. In the first instance, they are the victims and later they might take their anger out on others, and hence might get entangled in a vicious legal cycle. They are forced to become deviants due to factors such as poverty, inadequate home life, bad education systems, mass media and certain biological factors. Special efforts should be made to foster positive attitudes towards society. Everyone has the undeniable right to the highest attainable standards of health and access to medical services. The institution of the family should ensure the dignity, equality and security of each of its members and provide conditions conducive to the balanced development of the child as an individual and as a social being. Many delinquent juveniles have their roots as 'street children', who get involved in crime, prostitution and drug addiction. Children devoid of equitable sharing of socio-cultural and economic opportunities for growth and development are highly prone to various kinds

of abuse and exploitation and to their eventual induction into a socially deviant lifestyle.

### Juvenile Delinquents- an Indian

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### History of Juvenile Justice Act and its Functioning

From the early 20th century, different Indian States have enacted their own Children Acts. **The**

**Madras Children Act, 1920** was the first Children Act to be enacted, closely followed by **Bengal and Bombay in 1922 and 1924**, respectively. Though the Bombay Children Act was enacted 4 years after the Madras Children Act, it was the first Children Act to become functional. The Government of India passes the **Children Act 1960** to “provide care, protection, maintenance, welfare, training, education and rehabilitation of the neglected and delinquent children for trial of delinquent children in the Union Territories”. Under this Act a child is a boy below 16 years of age and a girl, below 18 years of age (**Section 2(e) of the Children Act, 1960**).

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There are numerous cases of children reporting about police beating them, extorting money from them, locking them up in cells and harassing them. It becomes apparent that legislation will remain ineffective if the law-enforcers themselves violate the very same laws that are

supposed to offer care and protection to children (Government of India, 1999). The problem of Juvenile Delinquency reveals many factors in its causation. However, what is noteworthy is that such apparently different factors as economic instability, disorganised homes, lack of parental care, emotional disturbances arising from parental clashes are merely variant forms of the general condition of destitution.

#### *Records of Juvenile Delinquency Crimes*

The figures for Juvenile Delinquency till 2000 were collected as per the definition of Juveniles in the Juvenile Justice Act, 1986. Male below the age of 16 years and female below the age of 18 years were considered as juveniles in this Act. The Act was amended in 2000 according to which, the age of juvenile males and females was brought at par as below the age of 18 years.

The juvenile **IPC crimes in 2010** have decreased by 5.0% over 2009 as 23,926 IPC crimes by juveniles were registered during 2009, which decreased to 22,740 cases in 2010. The highest decrease in Juvenile delinquency was observed under the crime head ‘Dacoity’ (35.3%), ‘Dowry death’ (34.5%) and ‘Arson’ (25.3%) and ‘Riots’ (24.0%) in 2010 over 2009. The highest increase in the incidence of juvenile crimes was observed under the heads ‘Criminal Breach of Trust (64.7%), culpable homicide not amounting to murder (40.0%) and kidnapping and abduction (32.3%).

A country which is said to be developing with respect to technology, modernisation, education etc., can be now regarded as pseudo development, as it is evident that the nation has seen nothing but superstitious rituals of series of offences in its legends. Dowry deaths, an issue alone, can be considered to measure the country’s growth, the case should have been recognised before a significant time and the authorities should have worked for its reduction over the years,

the authority's failure can be seen in constantly prevailing deaths of women on behalf of their dowries by the filthy greed of the society.

Delinquency cannot be solved by means of Government efforts alone. As far as India is concerned, in many of the states, children acts have not been effectively enforced. Official machinery is not effectively used for controlling this problem. Government as well as NGOs' must work hand in hand with all sincerity and seriousness to find an effective remedy for this problem of Juvenile delinquency. A child conflict with law is the product of a wholesome environment congenial for the development of his/her faculties in conformity with social expectations.

The problem of delinquents is as old in the history as the children themselves. Every society has treated its children in accordance with its religion, social and political beliefs. Several rapid social-economic changes, such as the breakdown of feudalism, rise of industrialising, migration and urbanisations influenced society, attitude to children. These attitudes have also been shaped by catastrophic events such as epidemic wars, depressions and breakdown of the family system.

## CONCLUSION

Children are born as children, never as delinquents or destitutes. However, surrounding situations and circumstances may increase a child's vulnerability to neglect, abandonment and delinquency. Justice is a right to which everybody is entitled to. The problem of Juvenile Delinquency can be understood in relation to the discovery or realisation of the childhood as a separate stage of life and in relation to realising that misbehaviour of the juveniles is different from adult crimes. As a concept, juvenile delinquency suggests a distinct way of assessing, analysing and classifying juvenile offenders and treatment of youthful offenders (Thornton, Voigt, and Doerner, 1987). Juveniles are found to

indulge in acts like destroying public properties, buses, school property etc. These can be termed as minor crimes committed by juveniles. Resistant, antisocial, illegal or criminal behaviour by children or adolescents to the degree that it cannot be controlled or corrected by the parents really endangers others in the community and becomes the concern of the enforcement agency (Anderson, 1994). The concept of Juvenile Delinquency developed in the 20th century. Prior to the 20th century, no formal differentiation had been made between society's response to crimes by juveniles and crimes committed by adults (Austin, Johnson and Gregorius, 2008).

## REFERENCES

- Anderson CA, Berkowitz L, Donnerstein E, Huesmann LR, Johnson JD, and Linz D, Wartella E, 2003. The influence of media violence on youth. *Psychological Science in the Public Interest*, 4, 81–110.
- Bajpai S. 2006. Exploring society as a resource in the management of delinquency. *Indian socio-legal Journal*. Vol. 2, No. 2, pp.1 –18.
- Blomberg TG, Bales WD, Mann K, Piquero AR, and Berk RA (2011). Incarceration, education and transition from delinquency. *Journal of Criminal Justice*, 39, 355–365.
- Cain M, 1996. *Recidivism of Juvenile Offenders in NSW*, NSW Department of Juvenile Justice, Sydney.
- Centre for the Protection of Women and Children, *Violence against women and children in Kosova*, Regional Conference on Violence against Women and Children in Kosova, Pristina, 30 June to 2 July 2002.
- DeLisi M, 2005. *Career criminals in society*. Thousand Oaks, Sage, CA.
- DeLisi M, 2009. Psychopathy is the unified theory of crime. *Youth Violence and Juvenile Justice*, 7, 256–273.

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- DeLisi M, Caudill JW, Trulson CR, Marquart JW, Vaughn MG, and Beaver KM, 2010. Angry inmates are violent inmates: A Poisson regression approach to youthful offenders. *Journal of Forensic Psychology Practice*, 10, 419–439.
- DeLisi M, and Piquero AR, 2011. New frontiers in criminal careers research, 2000–2011: A state-of-the-art review. *Journal of Criminal Justice*, 39, 289–301.
- Farrington DP, 1993. *Understanding and preventing bullying* in Tonry M. Ed. *Crime and Justice: A Review of Research*, University of Chicago Press, Chicago. 381–458.
- Frederik Thrasher–The Gang, 1936. University of Chicago Press, pp. 381.
- Flening CB Kim, 2002. Family process for children in early elementary school as predictors of smoking imitation. *Journal of Adolescent Health*. 30, 184–189.
- Gale F, Naffine N and Wundersitz J, 1993. *Juvenile Justice: Debating the Issues*, Allen and Unwin, St Leonards, Australia.
- Goddard HH., 1921. *Juvenile Delinquency*. Dodd, Mead & Company, New York.