

CHAPTER-2

DEFINITION, MEANING AND CONCEPT OF JUVENILE DELINQUENCY

2.1 Introduction

“Children need love, especially when they do not deserve it.”

- Harold S Hulbert, child psychiatrist

Prescribing different treatment for juvenile offenders is an offshoot of the new penology, which came to be applied with the realization the Courts. Erstwhile system exposed delinquents to contamination due to incarceration with other criminals. The nation’s future citizens deserve compassion and best care. A child is absolutely born innocent but certain social and environmental factors in a negative aspect diverge their minds towards criminal tendencies, whose removal might mould them into a person of stature and excellence.

We all know that Children are the assets and wealth of any nation. A healthy environment should be provided to all children so that they become civilized citizens who are physically fit, socially active and mentally conscious, equipped with all skills and active participation required by the society. For reducing inequality and ensuring social justice an equal opportunities for development to all children should be given, which consecutively would work as an effective measure to prevent children from becoming delinquent in any society. There is a general attitude towards children to behave obediently, show respect towards others and imbibe behaviour having high moral values but due to various circumstances children are being diverted from social and general command.

Recently, juvenile delinquency has become an important aspect of criminology. Juveniles have got serious forms of delinquent behavior which may hamper the stability and social command of our society. The deviant

behavior of the juveniles has created social disorder and destruction of moral values which is creating an alarming position in organized society.

The word “delinquency” has its origin from the Latin word “delinquere” which meaning de i.e. “away and linquere” i.e. “to leave thus, mean by to leave or to abandon”. Initially, the word was having primarily meaning and applied to those parents who have abandoned and neglected their children. Now days, it is applicable on all those children who are involved in illegal and harmful activities.

Juvenile is considered as a child who has not completed a specific age as mentioned in the law of any country and doesn't bear resemblance as an adult person and who can be made legally answerable for his criminal activities. The juvenile is a child who has alleged violated certain laws which declares his act or omission as an offence. A juvenile and a minor are used in different perspective in legal terms. The term juvenile is generally used in reference to a young criminal offender and minor is related to legal capacity of a person.¹

In United States of America, every state has the authority or jurisdiction to determine the age of juveniles who is living within its own territory or jurisdiction; because in the USA different states have different age criteria with regard to offence committed by the juveniles. But most of the states concur with maximum age set in the standards 1976.² Under federal govt., “a person under the age of 21 years can be considered as juvenile delinquent for committing any offence but in some other States age limit is under 12 years or under 18 years. In majority of the States there is no lower age limit set for litigating child as a delinquent, in the Mississippi it is 10 and in the New York it is set as 7 years”.

2.2 Definition of a Juvenile

¹ See the Black Dictionary of Law.

²Standards and Goals.1976, Standard 9.2.

In India, before passing of the Children Act, 1960 there was no consistency regarding age limit of juvenile delinquent. Bombay Children Act 1948 defined “Child” – “means a boy who has not completed the age of 16 years or girl who has not completed the age of 18 years”³. The U.P. Children Act defined “Child” – “as a person under the age of 16 years”. Under the A.P. Children Act 1920 “Child” means “a person under 14 years and when used to reference to sent to certified school applies to that child during while period of detention notwithstanding that the child attains the age of 14 years before expiration of that period”.⁴ The Saurashtra and West Bengal defines “a Child as a person who has not attained the age of 18 years”. Haryana Children Act has also maintained this difference in defining “child as a boy who has not attained the age of 16 years and a girl who has not attained age of 18 years”⁵. Juvenile Justice Act, 1986 defines “a juvenile or child, who in case of a boy has not completed age of 16 years and in case of a girl 18 years of age”. Government of India while discharging its international obligations revoked the JJA Act, 1986 by 2000 Act and the distinction regarding the age between male and female juveniles was done away. According to the new law, age of juvenile for both male and female involved in conflict with law has been fixed at 18 years. A juvenile in conflict with law under the JJ (C & P) Act, 2000 is “a juvenile who is alleged to have committed an offence but has not completed 18 years of age on the date of commission of said offence”. And under the Juvenile Justice (Care and Protection) Act 2015 juvenile defined under section.2 (35), “juvenile means a child below the age of eighteen years”.

2.3 Definitions of Delinquency

Delinquency is unwelcomed action, omission or moral behaviour of a juvenile which is socially not permitted in any society. Generally it means that if the child fails to meet certain social obligations anticipated from them by the

³The Bombay Children Act, 1948, Section 4.

⁴ The Andhra Pradesh Children Act, 1951, Section 2(d)

⁵The Haryana Children Act. 1974, Section 2 (d)

people, then he is considered to be delinquent. The juvenile delinquent is behavioral disorder which is generally defined as “a child trying or pretending to act like a grown up or adult”. The action of the child can be seen as a childish foolish behaviour but it can cause serious worry and concern. There is a very blurred distinction between a delinquent child and a normal child and his behaviour to anxious person is the deciding factor among a cheerful act and delinquency. Generally there is a haze of ambiguity and confusion surrounding delinquency and there is no single general acceptable definition for it. The first ever legislation on juvenile delinquency, passed by the State of Illinois in 1899 which specifies various specific kinds of delinquency in addition to the offences covered by the criminal laws.⁶

According to some social workers, “delinquency consisted of socially unaccepted acts”. And a psychiatrist suggests that “delinquent behaviour is activity which deviates from the normal”. And a lawyer would say “juvenile delinquency is what the law says it is”. According to W.H. Sheldon, it is “behaviour disappointing beyond reasonable expectation”. Cyril Bur⁷ says that “delinquency occurs in a child when his antisocial tendencies appear so grave that he becomes or ought to become the subject of official action”. And in the words of Robison Holt⁸, “we use the term delinquent as we sometimes use the term ‘love’ as though it were a simple concept whereas it actually embraces complex patterns of behaviour.” Delinquency is now become clear to many peoples. It is believed that delinquency is considered in a child only when his behaviour is harmful for others and is occurring repetitively. Frederick B. Sussmann presented a list of acts or conditions included in delinquency definition as “violation of any law or ordinance, habitual truancy, association with thieves, vicious or immoral persons, and incorrigible beyond control of parent or guardian and so on”. Edwin Powers and Helen Witmer found in their study that “in order to define the real delinquents it was necessary to take into

⁶Ill. Rev, Stat. C. 23; see also Cavan, *Juvenile Delinquency*,15

⁷ *The Young Delinquent* 15 (1925)

⁸ *Juvenile Delinquency* 10 (1960)

consideration three concepts or criteria namely, the seriousness of the behaviour, its frequency and the attitude of the offender toward a lawfully constituted society". In view of that, the classification of the delinquents is done into five major sects i.e most, ordinary, occasional, seldom and least delinquent. Therefore the term delinquency does not have a predetermined meaning. On the other hand, the sociological and the legal are generally two accepted approaches for the interpretation of the term.

The sociological approach gives a liberal interpretation to the term delinquency. This view is well expressed by the definition given by Clyde B. Vedder who says, "juvenile delinquency refers to the anti-social acts of children and of young people under age. Such acts are either specifically forbidden by law or may be lawfully interpreted as constituting delinquency, or as requiring some form of official action". It means deviation from the normal behaviour. According to Robison⁹ the legal term "delinquency" is "an umbrella for a wide variety of socially disapproved behaviour that varies with the time, place and the attitudes of those assigned to administer the law". This behavior of delinquent may include some acts such as disobedient behaviour, bunking schools, truancy and incorrigibility, frequently going to the cinema halls, going to places of ill reputation and coming home late at night. In brief, delinquency described on a sociological aspect is a child whose behaviour is not as per statue and is alarming to his parents, neighbors and teachers and to those who are responsible for his care, protection and education¹⁰.

The universal meaning of the word 'Delinquency' is something not correct which is against the social norms of a society. Juvenile Delinquency is a legal term that was first defined in 1889, when Illinois passed the first law on Juvenile Delinquency: since then every state has passed the delinquency laws. In United States the laws were passed for the purpose of changing the concepts of Delinquency, which have led to changes in some of states. The

⁹ Id. at 3

¹⁰ K. Kusum, 'Juvenile Delinquency- A Socio-legal Study'(1979) Published by KLM Book House, New Delhi

Definition of delinquency includes “act and conduct which violates the law only when it committed by children”¹¹. The legal definition of Juvenile Delinquency is “any act prohibited by law for children up to prescribed age limit is Juvenile Delinquency” and it follows, that if a child found to have committed an act of Juvenile Delinquency then he must be produced before the court which is specially set up for Juvenile Delinquent.

The Illinois law defines “a child/delinquent as a person who is incorrigible or who is growing up in idleness, one wonders about the streets in night time without being on any lawful business, or one who is quietly of indecent or lascivious conduct”¹⁵.

A New Mexico Law defines a delinquent as “a child as one who, by habitually refusing to obey the reasonable and lawful commands of his parents or other persons 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 endanger the morals, health or wealth or welfare of himself or others”. Here this definition is also ambiguous as there are no such words as incorrigible, reasonable, as defined in the Illinois laws.

In United State of America, the law on Juvenile Delinquency declared variety of acts which are described as below.

- Immoral or offensive conduct
- Knowingly associating with immoral persons
- Visiting houses of bad reputation
- Visiting liquor shops
- Roaming in street in night
- Engaging in illegal and unlawful business
- Violation of any law of state

¹¹ Ruth Shonle Cavan Theodore N. Ferdinand, Juvenile Delinquency (III Edition): 27 ¹⁵
Ibid

- Immoral conduct in school
- Habitually wandering on roads
- Driving without license.
- Habitually bunking from schools.
- Incurrible
- Habitually using immoral language in Public Place.
- Running away from home without permission
- Smoking at public places
- Begging or receiving alms¹²

This definition was criticized in United States and two more things were added in the standard Act. The two items are “Child who deserts his home or who is habitually disobedient or is out of control of his parents or other custodian and who being required by law to attend school, willfully violates rules there of or absents himself there from.¹³”

Write & Briggs¹⁴ define delinquent as, “The delinquent, then would be a person where misbehaviour is resulting in serious legal offence, which is inappropriate to his level of development, is not committed as a result of extremely low intellect, in transitory organic Pathology or severe mental function, and is alien to the culture in which he has been regarded whether or not the individual is apprehended or legally adjudicated is not crucial.” This definition is not as clear about the meaning which it will attach to misbehaviour, relatively used in it.

Gibbons¹⁵ defines “Juvenile Delinquency consists of acts or infractions which are prohibited in statutes of individual states”.

Prof. Walter C. Reckless¹⁶ has suggested stand to resolve the problem of defining delinquency. These three problems are:-

¹² Sol Rubin Crime and Juvenile Delinquency (1958)

¹³ Ibid

¹⁴ Robert D. Writ and Peter F. Briggs quoted in Ruth Shonle Cavan, Juvenile Delinquency (3rd Edition).

¹⁵ Don C, Gibbons, Delinquent Behavioural(3rd Edition).

- a. Delinquency as a social problem
- b. Delinquency as a behavioural problem.
- c. Delinquency as a legal problem.

Prof. Walter C. Reckless has analysed the above said problems in three distinct steps as, first, “legal definition of crime and delinquency”, second is “delinquent behaviour as a social problem” and last one is “causative behavior”. In consequence the “Legal Definition” is not to have the final declare. Prof. Reckless has very rightly said “behaviour is an observable phenomenon. It is the focus of concern and it is the target for outlawing, i.e. for legal definition or for coverage by criminal law and sanctions.”

India has agreed to the recommendations made by the U.N. Congress. The Children Act, 1960 defines a delinquent child as “a child who has been found to have committed an offence”. A child under the Act means “a boy under the age of 16 years and a girl less than 18 years”. However separate arrangements have been made for the utmost care and protection of the neglected and economically deprived children who if not treated and cared timely may turn into delinquency. These children deal by the Child Welfare Boards.¹⁷ The Government of India has enhanced the age of a juvenile, “in Juvenile Justice (Care and Protection) Act, 2000, to 18 years for both boy and the girl in fulfillment of its commitment to the United Nations declarations”.

2.4 Juvenile Delinquency: Nature and Characteristics

As per the recent definition, the term “Juvenile Delinquents” or “Children in Conflict with the Law refers to any children below the age of 18 years who has come in contact with the juvenile justice system as a result of committing a crime or being suspected of committing a crime”. It must be kept in mind

¹⁶ Walter C. Reckless, *The Crime Problem* (Indian Reprint, 1971).

¹⁷ K. Kusum, *Juvenile Delinquency- A Socio-legal Study* (1979) Published by KLM Book House, New Delhi

that, the number of cases recorded for juvenile delinquency till 2000 were collected as per the definition of Juvenile justice Act, 1986. According to this Act, “boy below the age of 16 years and girl below the age of 18 years were considered as Juveniles”. According to amended act in 2000, the age of juvenile boy and girl was brought at par as below the age of 18 years.

2.5 Incidence and Rate of Juvenile Delinquency

The percentage of crimes registered under IPC against the delinquents to total IPC crimes reported in the whole country during 2004-2005 remained static at 1.0%. There was a slight increment to 1.1% in 2006 which again remained stagnant in 2007. In 2008 it again increased slightly to 1.2% but thereafter decreased to 1.1% in 2009. This share again decreased to 1.0% in 2010 and thereafter slightly increased to 1.1% in 2011. Further, the share increased slightly to 1.2% in 2012 and remained stagnant at 1.2% in 2013 and 2014¹⁸.

2.6 Share of Juvenile Crime: Indian Penal Code (IPC) and Special Local Laws (SLL):

IPC Crimes: The cases registered under various sections of IPC crimes against juveniles in conflict with law in 2014 have increased by 5.7% over 2013 as 31,725 cases against juveniles were registered under IPC crimes during 2013 which increased to a total number of 33,526 such cases in 2014.

The highest number of cases registered against juveniles were reported under the crime head which included ‘theft’ (20.0%), ‘rape’ (5.9%) and ‘grievous hurt’ & ‘assault on women with intent to outrage her modesty’ (4.7% each). These four crime heads have together accounted for 39.7% of total IPC cases (33,526 cases) of juveniles associated in conflict with law.

Special And Local Laws (SLL) CRIMES: Data shows that the number of juveniles arrested under SLL crimes have increased by 21.8% in 2014 as

¹⁸ National Crime Record Bureau, 2014

compared to 2013. The highest percentage of cases registered against juveniles was reported for the crime under 'Prohibition Act' which accounted for 41.3% of total SLL cases (5,039 cases) registered against juveniles¹⁹.

2.7 State-wise Distribution of Cases registered against Juvenile Delinquency under Indian Penal Code (IPC) and Special Local Laws (SLL):

The States of M.P (6,346 cases), Maharashtra (5,175 cases), Bihar (4,044 cases), Rajasthan (2,174 cases), Delhi (1,946 cases), Chhattisgarh (1,611 cases) and Gujarat (1,595cases) have reported high incidence of cases registered against juvenile under various sections of IPC. These seven States taken together have accounted for 68.3% of total cases of juveniles in conflict with law in the country. A total of 121 cases and 94 cases registered against juveniles under murder in Maharashtra and Madhya Pradesh respectively during 2014. The highest cases of rape registered against juveniles in the country was reported from Madhya Pradesh (434 cases) followed by Maharashtra (208 cases), Uttar Pradesh (176 cases) and Rajasthan (149 cases) which was 21.8%, 10.5%, 8.8%, 8.1% and 7.5% of total rape cases registered against juveniles respectively in the country. Among UTs, 120 cases of rape registered against juveniles were reported in Delhi during the year 2014.

The highest number of cases of kidnapping & abduction registered against juveniles in the country was reported from Bihar (273 cases) followed by Uttar Pradesh (260cases), Madhya Pradesh (147 cases) and West Bengal (102 cases). These four States together have accounted for 53.7% of total such cases (1455) reported in the country²⁰.

The highest cases registered against juveniles under special and local laws was reported in Gujarat (2,785 cases), which accounted for 55.3% of total such cases under SLL, followed by 12.0% in Tamil Nadu (604 cases), 6.5% in Bihar (327 cases), 4.6% Maharashtra (232 cases and 3.7% Chhattisgarh (188

¹⁹National Crime Research Bureau. 2014. *Crime in India Compendium, New Delhi*.

²⁰National Crime Record Bureau (NCRB), 2014.

cases). These five States taken together have accounted for 82.1% of total such cases of juveniles in conflict with law under SLL crimes reported in the country²¹.

2.8 Juveniles Apprehended

A total of 48,230 juveniles were apprehended during 2014 out of which 46,638 were boys and 1,592 were girls. The percentage of girls to total juveniles was 3.3% i.e. 1.0 percentage point less than such share in 2013 (4.3%). 872 juveniles were apprehended in the age-group of below 12 years, 11,220 juveniles were apprehended in the age-group of 12-16 years during 2014 whereas majority of juveniles apprehended (36,138) were under the age group of 16-18 years. The percentage shares of Juveniles apprehended under these age-groups were 1.8%, 23.3% and 74.9% respectively. The decrease in the number of juveniles apprehended was 15.9% in 12-16 years age group (from 13,346 in 2013 to 11,220 in 2014) and increase by 25.3% in 16-18 years age group (from 28,830 in 2013 to 36,138 in 2014) during 2014 over 2013. The overall increase in juveniles apprehended at the national level was 10.9% during 2014 as compared to 2013. Out of total 48,230 juveniles apprehended during 2014, 42,566 juveniles (88.3%) were apprehended under IPC crimes while 5,664 juveniles (11.7%) were apprehended for committing SLL crimes. The highest number of juveniles were apprehended for theft (8,863) followed by criminal trespass & burglary (3,802), rape (2,144) and riots (2,074).

These heads taken together accounted for 39.7% of total juveniles apprehended under IPC crimes. Out of total 5,664 juveniles apprehended under SLL crimes in the country during 2014, the highest number of juveniles were apprehended under the 'The Prohibition Act' (2,088) followed by 'the Juvenile Justice(C&P of Children) Act' (521) and 'the Gambling Act' (494).

²¹ National Crime Record Bureau (NCRB), 2014

These three crime heads under SLL taken together accounted for 54.8% of total juveniles apprehended under SLL crimes²².

2.9 Classification of Juveniles by Attributes

It is observe that, out of the total juveniles apprehended in different crimes, 10,530 were illiterate and 15,004 had education up to primary level which together accounted for 52.9% of the total juveniles apprehended during the year 2014. Children living with parents (38,693) have accounted for 80.2% of the total juveniles apprehended. The percentage of homeless children (1,632) involved in different categories of crimes was just 3.4%²³.

Juvenile delinquency: 2012²⁴

ALARMING STATISTICS			
Year	Juveniles caught	Age 16-18yrs	Age 12-16 yrs
2013	2,140	1,148	875 boys+10 girls
2012	1,541	860	617 boys+12 girls

Year	Types of Case		
	Theft/ Snatchings	Rape	Murder
2013	928	163	76
2012	523	63	100

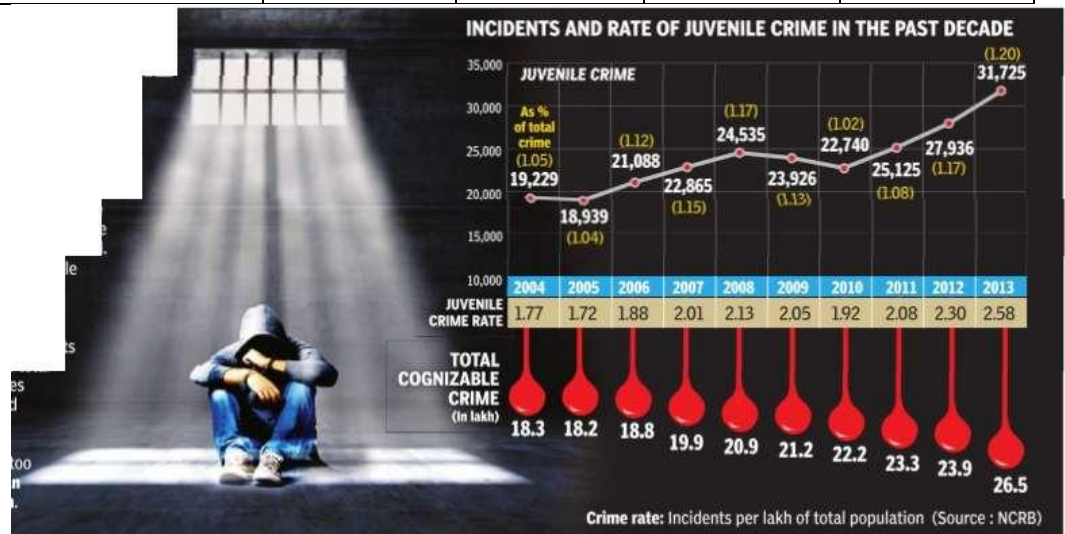
CULPRIT JUVENILES				
	Delhi	AP	Maha.	Bihar
Murder	100	68	183	65

²² National Crime Record Bureau (NCRB)2014

²³ National Crime Record Bureau (NCRB), 2014

²⁴Crimes by juveniles: 2010-2013 (NCRB data)

Attempt to Murder	74	26	188	178
Rape	63	81	106	31
Kidnapping(Total)	18	72	44	14
Kidnapping(girls)	10	59	33	91
Robbery	13	22	100	14



2004-13: incidents and rate of juvenile crime in India

2.10 Classification of Juvenile Delinquency

We cannot easily evaluate the extent of the problem in any part of the country till we do not have the exact data and the data recorded also does not indicate the true extent of the problem because majority of such delinquent acts go unnoticed or unreported in our records. It has also been stated that delinquency rates are also higher in all developed countries.

Various classifications of the juvenile delinquency have been enumerated by various authors. The following important classifications are listed below.

Hirsh²⁵ characterize the various kinds of juvenile crimes/offences:

- a Out of the home in late nights, disrespect of parents, and so on.

²⁵ Hirsh, N., Dynamic Causes of Juvenile Crime. Cambridge; Mass, Sci-Art Publisher, 1937.

- b Absentee, either from home or school.
- c Damage done to both public and private property.
- d Violence created in the society by using any means such as knives and guns.
- e Sex offenses and activity like criminal assault and rape.

Eaton and Polk²⁶ classify the delinquents by the various kinds of offences such as:

- a. Traffic violations which include driving without license, drunk driving and any other such offence.
- b. Automobile theft, uncontrollable behaviour and some minor traffic violations.
- c. Human addiction such as alcohol and drug addiction
- d. Violations related to property which includes all property thefts.
- e. Bodily hurt which includes homicide offenses that involve sexual deviation; such as rape and all other acts of violence against a person.

Kvaraceus²⁷ classify juvenile who become delinquent in relation to three major variables:

- a. The individual social class
- b. The degree of comprehensible emotional pathology.
- c. The extent to which the offenders engage themselves in delinquent behaviour.

Sellin and Wolfgang²⁸ classified the delinquent behaviour into two classes on the basis of kinds of offence.

²⁶ Eaton, J. W. and Polk, K., Measuring Delinquency. Pittsburg; university Pittsburg Press, 1961.

²⁷ Kvaraceus, W. C. and Miller, W.B. Delinquent Behaviour; Cultuer and The Individual Washington; National Education Association, 1959.

²⁸ Sellin, T. and Wolfgang, M., The Measurement of Delinquency. New York; John Wiley and Sons, Inc., 1964.

Under the class one list they included:

- a. Damages to property;
- b. Theft of property; and
- c. Physical and bodily injuries.

Under the class second, they include:

- a. Coercion.
- b. Property loss and property damage threatened.
- c. Victimization committed against any person.
- d. Victimization committed against a commercial establishment.
- e. Victimization which involve two individuals such as rape.
- f. No victimization which includes truancy.

Ferdinand²⁹ presented two categories of juvenile offenders:

(1) Neurotic Offenders

Neurotic offender delinquency is due to influential unconscious impulses which often produces guilt and motivates them to indulge into delinquent activities in their society. For example, sometime stealing is done to fulfill their partners wishes and not for personal material gain. To these delinquents, their internal problems should be handled by externalizing the problem within the surroundings.

(2) Character Disorder Offenders

This category of offenders often feels very guilty and regret when they commit petty criminal acts. Because there is lack of positive identification models in their surroundings, they failed to develop willpower and do what they want to do when they get the chance of doing it. They are incapable to control their impulses in a socially acceptable manner. These delinquent are belongs to disorganized families and they had got inhospitable

²⁹ Ferdinand, T.N., The Offence Pettrans and Family Structure of Urban, Village, and Rural Delinquents. Journal of criminal Law ,Criminology and PoliceScience,55,1964,86-93.

environment in their early days. These delinquent are self-centered and feel to be unapproachable and they also feel difficulty in making meaningful relationships.

Trojanovicz³⁰ classified juvenile offenders in the following five categories:

a. **Gang Organized Delinquency**

According to this classification youngster formed groups and do their illegal activities within a group. These juveniles often suffer from the frustration of inability to achieve goals of middle class and come from backward areas and often express themselves and try to achieve their objectives through their gang.

b. **Unsocialized Delinquents**

Delinquents classified in that category would have criminal records and generally come from the homes where they were neglected and rejected. Families of these children are prone to physical violence. They had seen hate and aggression within the homes and families; it often transmitted to the theses children and by the time they become very aggressive. These delinquents do not be taught how to control their impulses in a socially acceptable manner.

c. **Accidental Delinquency**

In this category delinquents would be one who is law-abiding most of the time but who has a lapse of judgment. They involve himself accidentally in a delinquent activity. These delinquent are a problem to any one because their delinquent behaviour comes to an end when he realizes what he has done or when they have been caught in the delinquent activity.

³⁰Trojanovicz, R.C. Juvenile Delinquency; Concept and Control. New Jersey; Prentice Hall Inc.1973, 57-60

d. **Occasional Offender**

The occasional offender/delinquent is parallel to the accidental delinquent in that they become indulgent in minor offenses but they are not habitual.

e. **Professional Delinquency**

In this category delinquent usually steals things for getting some profits. They have done stealing for economic gain and to satisfy their desire.