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Ms.Rajni Kohli & Ms. Kunjana Mittal
Both Assistant Professor
MMU,Mullana

M.9466764754
email-id:rajnikohli45@gmail.com

JUVENILE DELINQUENCY IN INDIA

ABSTRACT

Crime rate is day by day increasing in India and the most shocking trend that can be noticed is that it is upheaving among Juveniles too. Criminal cases of all sorts ranging from thefts to murder or smuggling to sexual crimes are committed by them. Juvenile are humans below the age of 18. We are constantly reminded that there are problems with juvenile violence. Nightly we hear of shootings in communities and even in our schools. Increasing levels of juvenile violence are a national concern. The concern has focused on punishment, but very little on prevention or intervention.

The future of our world depends on responsible citizens who possess the ability to express and resolve conflicts while working together for civic improvement. Juvenile Justice Act is basically for the protection, treatment and rehabilitation of juvenile who committed a crime due to some influential factors. They are sent to Juvenile homes where many services are provided such as health, education or vocational training so that they could live a healthy life when completed with punishment years.

INTRODUCTION

Crime by juveniles is a harsh reality in India. A juvenile can be defined as a child who has not attained a certain age at which he can be held liable for his criminal acts like an adult person. There is a difference between the term Juvenile and Minor. Though in common language we use both the terms interchangeably but 'juvenile' and 'minor' in legal terms are used in different context. The term juvenile is used with reference to a young criminal

offender and the term minor relates to legal capacity or majority of a person. Thus, Juvenile is a child who is alleged to have committed certain acts or omissions which are in violation of any law and are declared to be an offence.

In recent times juveniles were found to be involved in most heinous of the crimes such as murder and gang rape. Not all criminals reveal their criminality early in life. Origins of criminal behavior in childhood are a complex matter, delinquency is reasonably predictable early in some children's lives. Similarly, antisocial behavior in the form of juvenile delinquency is predictive of adulthood crime. It seems evident, though, that early problem behavior should not be neglected for two reasons – it is predictive of later, more serious, problems and, if it is acted on, then even simple interventions may be effective at reducing future delinquency.

Children are considered to be gifts from God so we as parents, guardians and society have a duty that children should be allowed and provided opportunity to grow up in a healthy socio-cultural environment so that they could become responsible citizens. It is the duty of the State to provide equal opportunities to all children for their development during the period of their growth. The future of our world depends on responsible citizens who possess the ability to express and resolve conflicts while working together for civic improvement. So Children are expected to be obedient, respectful and have good quality in them. However, due to various reasons certain percentage of children do not follow settled social and legal dictum. Such children are most often than not get involved in criminal behaviour which is known as juvenile delinquency or juvenile crime. Many experts believe that the present law is inadequate to deal with the situation and we need changes in it so that for heinous crimes juveniles may also be tried and punished as adults. But there are views in opposition as well which do not subscribe to this view.

Meaning and Definition:

Juvenile means children who have not yet reached the age of adults in the sense that they are still childish or immature.

Delinquency is a kind of abnormality. When an individual deviates from the course of normal social life, his behaviour is called "delinquency".

Thus, Juvenile delinquency is defined as *an individual under the age of 18 who fails to abide by the laws.*

In simple words, it can be said that juvenile delinquency is a type of abnormal or antisocial behaviour by a juvenile who is below an age specified by statute.

When a juvenile, below an age specified under a statute exhibits behaviour which may prove to be dangerous to society and/or to him he may be called a 'Juvenile delinquent'.

C.B. Mamoria defines juvenile delinquency as, "The phrase 'juvenile delinquency' may be loosely used to cover any kind of deviant behaviour of children which violates normative rules, understanding or expectations of social system".

The Second United Nations Congress on the Prevention of Crime and Treatment of Offenders (1960) states, "By juvenile delinquency should be understood the commission of an act which, if committed by an adult, would be considered a crime."

Juvenile Crimes in India

Several petty and heinous crimes are being committed regularly in India such as theft, burglary, snatching, robbery, dacoity, murder and rape etc. in whole of the country. And the unfortunate thing is that all types of these crimes are also being committed by children below the age of 18 years.

Among juveniles also there is a specific trend that juveniles between the age of 16 to 18 years are found to be more involved in heinous criminal acts. According to the National Crime Records Bureau, the data of 2013 shows that of the 43,506 crimes registered against minors under the Indian Penal Code (IPC) and the Special Local Law (SLL) by juveniles, 28,830 had been committed by those between the ages of 16 to 18. The statistics also show the number of juveniles found to be in conflict with law under the IPC and the SLL has risen 13.6% and 2.5% respectively in 2013, as compared with 2012.

Recently, the inhuman gang rape of a young girl was committed on December 16, 2013. This act was most brutal which shocked the collective conscience of the nation. It was later found out that among five accused, one was minor and he was the most barbaric one.

Again, in another brutal gang rape case which is known as Shakti Mill Rape case, a minor was involved. These and several more recent events have triggered a public debate that the present Juvenile Justice (Care and Protection) Act, 2000 which treats persons below the age of 18 years as minor or juvenile, should be amended.

Law relating to juvenile crimes

In India, the first legislation dealing with juvenile crimes was the Apprentices Act, 1850 which provided that children under the age of 15 years found to have committed petty offences will be bounded as apprentices. Thereafter, the Reformatory Schools Act, 1897 came into effect which provided that children up to the age of 15 years sentenced to imprisonment would be sent to reformatory cell.

After the Independence, with an aim to provide care, protection, development and rehabilitation of 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. According to this act a juvenile can be detained only for a maximum period of 3 years irrespective of the gravity of offence committed by him. It provides immunity to the child who is less than 18 Years of age at the time of the commission of the alleged offence from trial through Criminal Court or any punishment under Criminal Law in view of Section 17 of the Act.

The purpose of this new Act was to rehabilitate the child and assimilate him/her in mainstream society. The rationale is that a child still has the possibility of getting reformed due to his/her tender age and lack of maturity and it is the responsibility of the State to protect and reform the child.

- **Proposed Amendment in Juvenile Justice Act, 2000:**

Recently due to major hue and cry in public against the increasing number of crimes being committed by the juveniles, the Government has decided to present the proposed amendment in law in the current Parliament itself. This amendment would have far reaching effects on our criminal justice system.

In brief major changes are as follows:

- The proposed legislation would be replacing the existing Juvenile Justice (Care and Protection) Act 2000.
- It has clearly defined and classified offences as petty, serious and heinous.
- It has been noticed that the increasing number of serious offences being committed by juveniles in the age group of 16-18 years. Thus, in recognition of the rights of the victims alongside the rights of juveniles, it is proposed that such heinous offences should be dealt with in special manner.
- 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.

CAUSES OF JUVENILE DELINQUENCY

No one is born as a criminal. Circumstances make him so. Socio-cultural environment, both inside and outside of home, plays significant role in shaping one's life and overall personality. According to Healy and Bronner, the causes of juvenile delinquency are:

(1) Bad company, (2) adolescent instability and impulses, (3) early sex experience, (4) mental conflicts, (5) extreme social suggestibility, (6) love of adventure, (7) motion picture, (8) school dissatisfaction, (9) poor recreation, (10) street life, (11) vocational dissatisfaction, (12) sudden impulse; and (13) physical conditions of all sorts.

However, as far as India is concerned, it is Poverty and the effect of media, especially the social-media which make juveniles more inclined towards criminal activities.

Poverty is one of the biggest causes which force a child to get involved in criminal acts. Also, role played by social media today which is having a more negative than positive imprints on young minds.

The causes of juvenile delinquency may be classified under two major factors: (A) Social factors, and (B) Personality factors.

A. Social Factors

1. Broken Homes:

In one of the studies conducted by Uday Shankar in India 13.3% of the 140 delinquents came from broken homes. The home may be broken up by death of one or both of the parents, or by prolonged illness or insanity, desertion or divorce. Interaction in home is a very important means for socialising the child. The mother plays vital role in this regard. If she divorces her husband or deserts him or dies, the growth of the child will be affected.

Such a child loses not only mother's love but also parental control and becomes an easy victim to the outside anti-societal influence. It cannot, however, be said that broken home invariably leads to delinquent behaviour on the part of the children.

2. Poverty:

A very large proportion of delinquent children come from poor homes. They commit their offences as member of gangs. Uday Shankar's study has revealed that as many as 83% of the children come from poor families. Poverty compels sometimes both of the parents to be outside the home for a very long period to earn their daily bread. The children will be uncared for. Such children may consciously or unconsciously join hands with gangsters and become delinquents. This mostly happens in slum areas and areas in which mostly working class people live.

3. Companions and Gangs:

As the child grows older he goes into the neighbourhood and becomes a member of the playgroup or peer group. If by chance he joins the group or the gang that fosters delinquent attitudes he is also likely to become a delinquent.

Offences are also committed by the adolescents due to bad companionship. Studies have shown that delinquent acts are done in company. In his Illinois Crime Survey of 1928 Shaw analysed 6000 boys were involved in the crime. He found that in 90% of the cases two or more boys were involved in the crime. But in Uday Shankar's study in India only 23% of persons committed delinquent acts due to bad company. It cannot, however, be presumed that mere companionship by itself causes delinquency.

4. Beggary:

Beggary is often the cause of juvenile delinquency. Child beggars mostly come from either very poor families or broken homes. These children are betrayed of the needed love and affection of the parents. They realise that only through deviant practices, they can satisfy their desires and meet their needs. They thus become delinquents.

B. Personal or Individual Factors:

Personal factors such as mental deficiency and emotional disturbances may also contribute to juvenile delinquency.

1. Mental Deficiency in Delinquency:

It has been observed that good number of delinquents is mentally deficient. Studies have revealed that there is larger proportion of mentally defectives in children. It is quite natural to assume that the dull and mentally handicapped or defective adolescents do not have the necessary insight to make distinctions between 'right' and 'deviant' methods and behaviour.' Such children are often used by the more intelligent children of the gang or the adults for their criminal purpose.

2. Emotional Problems of the Individual:

Mental troubles and emotional maladjustments are strong factors in delinquency. Emotional problems of inferiority and jealousy are very common among the delinquent children.

Thus from the psychological point of view "Delinquency is a rebellion and an expression of aggression which is aimed at destroying, breaking down or changing the environment". This rebellion is mostly against the social conditions which deny the individual his basic rights and the satisfaction of his fundamental needs. Thus, delinquents are not born so, but they become so due to social circumstances and personal deficiencies. They are mostly emotionally maladjusted children who become delinquents to get the attention of their parents or as a protest against their treatment.

Thus, it may be said that juvenile delinquency is the result of both social or environmental and personal or individual factors.

3. Juvenile Justice

The Juvenile Justice (Care and Protection) Act, 2000 is enacted as human rights legislation and it is now in force in all State uniformly, repealing the entire Children's Act enacted by states individually. This legislation deals with the two types of juveniles. "Juvenile in conflict with law" as defined under Section 2(1) and child in need of care and protection as defined under Section 2 (d). A juvenile or a child as defined under Section 2 (k) is a person who has not attained the age of 18 years. The penitentiary system shall comprise treatment of prisoners, the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

In **Sheela Barse v. Union of India** Ms. Sheela Barse, a dedicated social worker took up the case of helpless children below age of 16 illegally detained in jails. She petitioned for the release of such young children from jails, production of information as to the existence of juvenile courts, homes and schools and for a direction that the District judges should visit jails or sub-jails within their jurisdiction to ensure children are properly looked after when in custody. The Court observed that children in jail are entitled to special treatment. Children are national assets and they should be treated with special care. The Court urged the setting up of remand and juvenile homes for children in jails. In **Sheela Barse v Secretary Children Aid Society** the Supreme Court came forward to protect the rights of the children in the observation homes.

JUDICIAL TRENDS ON JUVENILE DELINQUENCY

The Supreme Court and various High Courts play a vital role in development of Juvenile Justice System in India. At primary stage, the cases of the juvenile delinquent are dealt with by the lower courts but their judgments being not binding on the other courts are not able to

reflect on any policy. So the trends of the judicial approach towards a juvenile in conflict with law, reflected by the judgments of Hon'ble Supreme Court and various high courts are being examined. The courts/ juvenile justice board are under statutory and Constitutional duty to deal with the juveniles in conflict with law who are produced or brought before it. The competent authority in deciding the cases has to make due enquiry and give full opportunity to the juveniles to put his case not only at the time of enquiry regarding the commission of offence he/she is charged with but also at the initial stage of the case when the question of determination of his/her age comes up before the court or the Board concerned.

The problem of child delinquency is a major problem faced by developing countries as well as the developed country and it is increasing with a great pace. Even in small urban and rural areas the problem is growing rapidly and this problem if not taken care of by providing preventive and remedial measures would destroy 'the child' which is future of a Nation. To tackle and deal with the problem the Governments have established many courts and Boards for implementation of various laws enacted by the legislation. The courts have contributed a lot in the fields of juvenile justice by interpreting various legislative enactments enacted for the benefit of juvenile offenders.

Though Children Acts, Juvenile Justice Act, 1986 and Juvenile Justice (Care and Protection of Children), Act, 2000 are mainly concerned with juvenile justice system in India but the judiciary on various occasions has expressed great concern relating to proper implementation of beneficial provisions of law relating to children.

Judicial Trends:

Judicial trends set by various courts relating to child delinquency can be examined under following heads :-

1.Determination of Age of Juvenile

It is primary duty and responsibility of the court that before convicting a person it must determine the age of such person whether he is juvenile or not. The courts have held that very young children should not be sent to prison.

In **Smt. Prabhati v. Emperor** it was held that as far as possible such young children should be released under the supervision and care of their parents or guardians. The court must have

clear evidence of the age of a person before sending him/her to reformatory school. It was clarified that a child could not be sent to a reformatory school unless an order of institutionalization, that is, of imprisonment, was made.

2. Jurisdiction of the Board/Court.

In **Raghib's Case** the question for consideration before Supreme Court in the appeal by special leave was whether a person under 16 years of age and accused of offence under section 302 can get benefit of Haryana Children Act. The undisputed facts are that the appellant alongwith three others was convicted of the offence of murder and sentenced to imprisonment for life by the Sessions Judge. The appeal was dismissed by the High Court. The appellant then filed an application for special leave to appeal under Article 136 of the Constitution. Leave was granted confined to the question of the applicability of the Act to his case. It is also not disputed that the appellant was less than 16 years at the time he first appeared before the trial court. He was thus a 'child' within the meaning of that term under Cl. (d) of Section 2 of the Act.

The Supreme Court noticed its earlier decision in another case and held that the trial of a child under the provisions of the Act was not barred. In that case, however, it appears, S. 27 of the Code was not brought to the notice of the Court. In that view of the matter, the Bench consisting of two members including one of us (Baharul Islam, J.) before whom this appeal came up for hearing referred it to a larger bench, in order to avoid possible conflict of decisions. This is how this appeal came up for hearing before this Bench consisting of three members. After examining provisions of Section 27 Cr.P.C. and provisions of Haryana Children Act, 1974 allowed the appeal setting aside conviction and sentence upon the appellant and quashed the entire trial and directed that Raghib shall be dealt with in accordance with the provisions of Haryana Children Act, 1974.

3. Apprehension and Production of Juvenile

Juvenile Justice (C & P) Act has defined and imposed special duties on the police keeping in view the sensitivity of the issue of juvenile's apprehension and detention. Broadly the following duties have been imposed on police by the Act.

1. As soon as a 'Juvenile in conflict with law' is apprehended by Police he shall be placed under the charge of the Special Juvenile Police Unit or the designated Police Officer, who shall immediately report the matter to a member of the Juvenile Justice Board. Till the time, such Board is constituted in Chandigarh, the juvenile shall be produced before the concerned Court.
2. SHOs will ensure that the designated officers personally attend cases involving child victims.
3. Juvenile, who is arrested and is not released on bail by Officer In charge of Police Station, shall be kept only in observation home until he can be brought before a Board/Court.
4. Officer-In-charge of Police Station as soon as may be after arrest of a Juvenile shall inform parent or guardian of the Juvenile and direct him to be present at the board. Officer-in-charge of Police Stations shall inform Probation Officer of such arrest to enable him to obtain information regarding antecedents and family background of the juvenile.

Suggestions

At present there are large numbers of people in the society who are demanding that juveniles in the age group of 16 to 18 years should be treated as adult as far as their conviction in heinous crimes such as rape, gang rape, murder, dacoity etc. is concerned. The reason is that in several of the recent incidents as described above, it has been found that the juveniles of 16-18 age group are involved in serious crimes and they are doing such criminal acts with full knowledge and maturity.

The maturity level of children has not remain the same as 10-20 years ago, a child gets mental maturity early in present socio-cultural environment due to the influence of Internet and Social Media.

Therefore, to have a deterrent effect it is important that such offenders in the age group of 16 to 18 should be punished as adults so that victims' could also get their justice.

Also, this view says that it is not only the responsibility of the child that he/she has committed such heinous crimes but it is also the responsibility of the society that why society has not been able to provide a proper and healthy childhood to the child and why such types of discriminations and deprivations, both social and economic, were there that the child was forced to commit crimes; also, why the State failed to provide care and protection to its children and let them drift towards criminal activities.

Thus, it can be seen that there are strong views in both far and opposition of the change or amendment in Juvenile Justice Act.

Conclusion

Juvenile Delinquency and the problems related to it have been faced by all societies, all over the world, however, in the developing world the problems are all the more formidable. The process of development has brought in its wake a socio-cultural upheaval affecting the age-old traditional ways of life in the congenial rural milieu. Juveniles are adversely affected by changing conditions. At the same time, the traditional social control system that served as a preventive check against any antisocial activity is gradually giving way. Consequently, the problem of juvenile deviance and antisocial propensities is rearing its ugly head – a situation that needs to be checked.

Separate rules must be made according to a kind of crime. Such as in case of thefts, smuggling or any small level of crime, guilty should be pushed in Rehabilitation Centre for its grooming while serious assaults like brutal rape must be handled differently. An exception could also be made especially for this crime that they'll be punished the same as adults because tis' height of crime cannot be ignored.

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