

Juvenile Delinquency: Overview, Prevention And Laws In India

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Abstract :

When an individual deviates from the course of usual social life, his behaviour is called "delinquency". When a juvenile, below an age specified under a statute exhibits behaviour which may prove to be hazardous to society and to him he may be called a 'Juvenile delinquent'. A number of India's instruments echo a fondness for social rather than judicial approaches in scheming juvenile delinquency. The prevention of juvenile delinquency is a vital part of overall crime prevention in society. The Juvenile Justice Act, 2000 lays down that juvenile in clash with law may be kept in an observation home while children in need of care and protection need to be kept in a children home during the pendency of proceedings before the competent authority. India is perhaps the only country in the world which has the dubious distinction of having maximum number of laws to regulate the conduct of society. It is the only country where almost all aspects of human behaviour are sought to be governed by laws rather than through education or innate enlightenment which is the preserve of every egalitarian society.

Keywords : Juvenile, Delinquency, Rehabilitation, Maladjustment, Observation homes

Introduction:

Delinquency is a kind of deviation. When an individual deviates from the course of usual social life, his behaviour is called "delinquency". When a juvenile, below an age specified under a statute exhibits behaviour which may prove to be hazardous to society and to him he may be called a 'Juvenile delinquent'. Each nation has its own specific definition of the age range covered by the word 'juvenile'.

According to Cyril Burt "When his antisocial tendencies appear so grave that he becomes or ought to become the subject of official action."

Friedlander says, "Delinquency is a juvenile misconduct that might be dealt with under the law".

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 delinquents are those offenders including boys and girls who are usually under 18 years of age. A juvenile delinquent is a young person consistent, or habitually defiant. Acts of delinquency may include (1) running away from home without the consent of parents, (2) habitual absence beyond the control of parents, (3) spending time indolently beyond limits, (4) use of offensive languages, (5) wandering about rail-roads, streets, market places, (6) visiting gambling centers, (7) committing sexual offences,

(8) shop-lifting, (9) theft etc. Juveniles may do such activities singly or through a team.

Preventing Juvenile Delinquency

A number of India's instruments echo a fondness for social rather than judicial approaches in scheming juvenile delinquency. The prevention of juvenile delinquency is a vital part of overall crime prevention in society. It is extensively believed that early-phase interference represents the best approach in preventing juvenile delinquency. Prevention requires individual, group and organizational efforts aimed at keeping teenagers from breaking the law. Various countries use different methods to dispirit delinquent and criminal behaviour. Some focus on penalizing prevention intended to frighten potential offenders by making sure they understand the possibility of severe punishment, or action may be taken to prevent current crime, which includes explaining the negative aspects of an offence to a delinquent and attempting to reunite offenders and their victims.

Some preventive steps within the economic sector, professional development programmes are being set up to provide legal alternatives for income generation. Supplying adolescents and young people with increased economic opportunities, professional training and education, new workplaces and assistance in organizing businesses can help prevent youth involvement in delinquent activities. Educational programmes are helping young people learn

how to engage in positive self-appraisal, deal with conflict, and control aggression. The programmes expose the myth of gang glamour and help young people find alternatives to illegal behaviour. Some work with troubled youth to help them develop the social and cognitive skills necessary to avoid conflict and control aggression. Education system matters a lot in a country and is an indisputable fact which holds across time and space.¹ Children raised in strong families, quality schools and healthy communities typically develop these skills as a matter of course. Law-enforcement agencies, schools, local communities and parents of adolescents are involved in these programmes. Recreation and youth development activities are directly encouraged “A wide range of recreational facilities and services of particular interest to young persons should be established and made easily accessible to them.

Often it is possible to reduce the level of juvenile delinquency by changing an urban environment, varying the physical features through architectural and landscape planning and providing opportunities to engage young people’s interest.

Laws and Statutes in India regarding Juvenile delinquency

The Apprentices Act, 1850 was the first legislation dealing with children in conflict with law, providing for binding over of children under the age of 15 years found to have committed petty offences as apprentices. Consequently, the Reformatory Schools Act, 1897 provided that children up to the age of 15 years sentenced to imprisonment may be sent to reformatory cell. Juvenile Justice Act, 1986 was enacted by the parliament in order to provide care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters relating to, and disposition of, delinquent juveniles as a uniform system of juvenile justice mechanism throughout our country. Under the Act of 1986, Section 2(a) 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" but later on the parliament enacted Juvenile Justice Act, 2000 (herein after 'JJ Act') and the age bar was raised to 18 years for both girl and boy.

The JJ Act, 2000 lays down that juvenile in clash with law may be kept in an observation home while children in need of care and protection need to be kept in a children home during the pendency of proceedings before the competent authority. This provision is in contradistinction with the earlier Acts which provided for keeping all children in an observation home during the pendency of their proceedings,

presuming children to be innocent till proved guilty. The maximum detention could be imposed on a juvenile is for 3 years remand to Special Home irrespective of the gravity of offence committed by him and JJ Act, 2000 immunises the child who is less than 18 Years of age at the time of the commission of the alleged offence and from trial through Criminal Court or any punishment under Criminal Law in view of Section 17 of the Juvenile Act. The Juvenile Justice Act, 2000 is the primary law for children in need of care and protection.

Juvenile Justice (Care and Protection of Children) Act, 2000

The Juvenile Justice Act, 1986 has been replaced² by a new Act called ‘The Juvenile Justice (Care and Protection of Children) Act, 2000’. This new law is more child-friendly and provides for proper care and protection as also for ultimate rehabilitation of children in need of care and protection. A clear distinction has been made in the new law between the juvenile offender and the neglected child.

The other salient features of this enactment are: (i) it prescribes a uniform age of 18 years below which both boys and girls are to be treated as children (ii) the Act directs that the cases related to juveniles should be completed within a period of four months (iii) it has been made compulsory to set up a Juvenile Justice Board (previously known as Juvenile Court) and Child Welfare Committee (previously known as Juvenile Welfare Board) either for a District or a group of Districts. (iv) special emphasis has been given for rehabilitation and social re-integration of the children and the alternatives provided for this are adoption, foster care, sponsorship and after-care. The new Act allows for adoption of a child within the purview of this Act by any community. The Juvenile Justice Board has been empowered to give such children in adoption even to a single parent and to parents to adopt a child.

The Juvenile Justice Rules, 2002 under the 2000 Act have already been framed by the Government. It states that 28 J.J board and 30 Child Welfare committees in respect of all the 30 districts will be constituted.

Programmes under the Juvenile Justice Act

The programme for Juvenile Justice endeavors to provide for full coverage of services envisaged under the Juvenile Justice Act so as to ensure that no child under any situation is lodged in prison; to bring about qualitative improvement in the juvenile justice services and to promote voluntary action for the prevention of juvenile social maladjustment

² Krohn Marvin & Lane Jodi (2015) “The Handbook of Juvenile Delinquency and Juvenile Justice”

¹ Nethrapal M.S.(2014),”Social issues of India”

and rehabilitation of socially maladjusted juveniles. The Juvenile IPC crimes in 2001 rose significantly by 78.1 percent as compared to the data of earlier years.³

Under the Programme for Juvenile Justice, the Government of India provides assistance to the State Government for establishment and maintenance of Observation Homes, Juvenile Homes, Special Homes and after-care institutions for children in conflict with law and children in need of care and protection.

The cost of maintenance of the inmates of the Observation Homes is borne by the State Government and Central Government on a 50:50 sharing basis under a Centrally Sponsored Plan Scheme. The number of inmates in these Observation/Special Homes during the year has been varying between 110-120.

As per the provisions of the Juvenile Justice Act (Care and Protection of Children Act) 2000 (amended in 2006) State governments are required to establish a Child Welfare Committee or two in every district. Each Child Welfare Committee should consist of a chairperson and four members. The chairperson should be a person well versed in child welfare issues and at least one member of the board should be a woman. The Child Welfare Committee has the same powers as a Metropolitan Magistrate or a Judicial Magistrate of the first class. A child can be brought before the committee (or a member of the committee if necessary) by a police officer, any public servant, CHILDLINE personnel, any social worker or public spirited citizen, or by the child himself/herself.

The Child Welfare Committee usually sends the child to a children's home while the inquiry into the case is conducted for the protection of the child. The Child Welfare Committee meets and interviews the child to learn his/her background information and also understand the problem the child is facing. The probation officer (P.O) in charge of the case must also submit regular reports of the child. The purpose of the Child Welfare Committee is to determine the best interest of the child and find the child a safe home and environment either with his/her original parents or adoptive parents, foster care or in an institution.

A final order must be given within four months of the admission of the child before the Child Welfare Committee. The Child Welfare Committee also has powers to hold people accountable for the child such as in the case of child labour, the employers are fined or made to give bonds to the children. Child Welfare Committee also has the power to transfer the child to a different Child Welfare Committee closer to the child's home or in the child's state to dispose of

the case and reunite the child with his family and community.

Special Provisions for the Juvenile Delinquents

“The center of interest in juvenile court is always a juvenile and his welfare, and not the act or its consequences which might have resulted in his or her being brought before the court.”

The Juveniles have been given special rights for under the Act :

- Juvenile cannot be kept in police lock-up or jail.
- Juveniles cannot be treated or sentenced in the same manner as the adult criminals.
- Cases involving juveniles are tried by juvenile Justice Board and not by regular courts.
- Juvenile Justice board consists of magistrate and two social workers.
- The case is decided by majority.
- If a Juvenile criminal is convicted, at maximum he gets three years in a reform facility. Thereafter he must be released on probation.
- Juvenile can only be kept at the special home till he attains 18 years of age.
- Capital punishment (hanging) or life imprisonment cannot be imposed on a Juvenile offender, irrespective of the gravity of the crime.
- Section 46-subsections (1), (2) and (3) provides for absolute power of the State Government to discharge and transfer a neglected juveniles from one juvenile home to another.⁴

Establishment of Observation Home

The Observation Home is set up by the Government for the temporary reception of minors pending any inquiry regarding them under the Juvenile Justice Act. The Act provides that inquiries shall be held expeditiously and shall be completed within three months. Many of the boys, however, spend 8 months or more confined in the Home, as the Juvenile Welfare Board invariably fails to complete its inquiries within the time frame specified by the law.

The State Government may, by rules made under this Act, provide for the management of special homes, including the standards and various types of services to be provided by them which are necessary for re-socialization of a juvenile, and the circumstances under which, and the manner in which, the certification of a special home may be granted or withdrawn.

⁴ Bhattacharya S.K, (2000), “Juvenile Justice : An Indian Scenario”

³ Criminal Justice India Series Vol. 20, 2005

The rules made under sub- section (3) may also provide for the classification and separation of juvenile in conflict with law on the basis of age and the nature of offences committed by them and his mental and physical status.

Conclusion:

India is perhaps the only country in the world which has the dubious distinction of having maximum number of laws to regulate the conduct of society. It is the only country where almost all aspects of human behaviour are sought to be governed by laws rather than through education or innate enlightenment which is the preserve of every egalitarian society.

In this fast changing world where development of science and technology keeps us on the run with rapidly occurring incredible changes that affect our life styles, we can't remain contented/being confined in a straitjacketed idealist frame of laws which have no bearing on the present day situation. We have to be pragmatic and realistic rather than bigoted with a kind of idealism that hardly works now.

In order to make full use of the legal provisions available for juvenile, the State may initiate the following steps:

- Through a program of education, promotion, and organization, form groups of local citizens and assist these groups in conducting activities aimed at the prevention and control of juvenile delinquency, making use of local people and resources for the following purposes:
- Combating local conditions known to contribute to juvenile delinquency;
- Advise local, state, and federal officials, public and private agencies, and lay groups on the needs for and possible methods of the reduction and prevention of juvenile delinquency and the treatment of delinquent children;
- Consult with the schools and courts of this state on the development of programs for the reduction and prevention of delinquency and the treatment of delinquents;
- Assist any community within the state by conducting a comprehensive survey of the community's available public and private resources, and recommend methods of establishing a community program for combating juvenile delinquency and crime, but no survey of that type shall be conducted unless local individuals and groups request it through their local authorities, and no request of that type shall be interpreted as binding the community to following the recommendations made as a result of the request;

- Evaluate the rehabilitation of children committed to the department and prepare and submit periodic reports to the committing court for the following purposes:
- Administering within the state any juvenile justice acts and programs that the governor requires the department to administer;
- Visiting and inspecting jails, detention facilities, correctional facilities, facilities that may hold juveniles involuntarily, or any other facility that may temporarily house juveniles on a voluntary or involuntary basis for the purpose of compliance pursuant to the "Juvenile Justice and Delinquency Prevention Act of 1974.
- Applying for, allocating, disbursing, and accounting for grants that are made available pursuant to juvenile justice acts, or made available from other state, or private sources, to improve the criminal and juvenile justice systems in the state. All money from juvenile justice act grants shall, if the terms under which the money is received require that the money be deposited into an interest bearing fund or account, be deposited in the state treasury to the credit of the juvenile justice program purposes fund, which is hereby created. All investment earnings shall be credited to the fund.
- Assisting, advising, and making any reports that are required by the governor, attorney general, or general assembly.

We may conclude that we have to take a serious view of the changing trends of behavior among our children which has virtually made age as too superfluous and irrelevant factor determining who actually is a Juvenile in real sense and who is not and tailor out a socio-legal plan to govern their conduct in such a way that they get full opportunity to develop their faculties without losing the bliss of their childhood such as innocence, naughtiness, playfulness, which are the basic attributes of childhood and ultimately turnout to be good human beings. The aim of juvenile justice should be that any reaction to juvenile offenders, should always be in proportion to the circumstances of both the offender and offence.⁵ Then only we could proudly say our children are assets of our nation on whom we can stake our bright future otherwise they would become a liability to not only the parents but to the whole society.

References:

⁵ Winterdyk, John.A. (2015) "Juvenile Justice : International Perspectives, Models and Trends"

- Attar, A D: Juvenile delinquency: A comparative study. (Popular Prakashan, Bombay, 1964)
- Bhakhrey, Savita: Children in India and their rights. (National Human Rights Commission, New Delhi, 2006)
- Chaturvedi, T N Ed. Administration for child welfare.(IIPA, New Delhi, 1979)
- Dep, R & Tiwari, M M : Role of the police in combating juvenile delinquency in India. (Sardar Vallabh Bhai Patel National Police Academy, Hyderabad, 1972)
- Lawania, Shipra: Juvenile Delinquency. (Rawat Publications, Jaipur & New Delhi, 1993)
- Mookerjee, Asutosh: Juvenile justice: An in-depth study of matters relating to children. (S C Sarkar, Calcutta,1989)
- Sarkar, Chandana: Juvenile Delinquency in India: An etiological Analysis. (Daya Publishing House, Delhi, 1987)
- Ved Kumari: Juvenile justice system in India. (Oxford Univ. Press, New Delhi, 2004)(NHRC)