

Analytical View on the Concept of Juvenile delinquency

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If every saint has a past then every criminal has a future- Mahatma Gandhi

So in the case of a child offender, special care should be given to his future for it is yet in a budding state and is not beyond repair. Juvenile delinquency refers to the antisocial or criminal activity of the child (below 16 years of age for boys and 18 years for girls) which violates the law. In true context, that same activity would have been a crime if it was committed by the adult.

The term 'juvenile' has been defined in clause (h) of Section 2 of the Juvenile Justice Act, 1986. The term 'delinquency' has been defined in clause (e) of section 2 of the Juvenile Justice Act, 1986. A child is born innocent and if nurtured with tender care and attention, then he/she grows in positive way. Physical, mental, moral and spiritual development of the children makes them capable of realizing his/her fullest potential. On the contrary, harmful surroundings, negligence of basic needs, wrong company and other abuses may turn a child to a delinquent. With changing societal trends, children now appear to possess strong likes and dislikes and also show expressions that indicate maturity at a very early age. These qualities also make Children more vulnerable to the designs of the criminality such as abusers, peddlers, and traffickers. Moreover, the influence of the media on the psychosocial development of children is profound. With advent of communication technology in recent times, a child's exposure to media including television, radio, music, video games and the Internet, has increased manifold.

Children constitute about 40% of India's population and India has a National Policy for Children declaring children to be a national asset. Even so majority of India's children continue to be in difficult circumstances. India has signed the UN Convention on the Rights of the Child and obligated itself to work towards ensuring all the rights enshrined therein to all its children. India has witnessed an increase both in crimes committed by children and those committed against them. There has been 97.9% increase in crimes committed by children between 2003 and 2004, with more children being appeared for arson, theft and cheating¹.

Over 33,000 juveniles, mostly between the age group of 16 to 18, have been arrested for crimes like rape and murder across Indian states in 2011, the highest in last decade. According to a Home Ministry data, of the total of 33,387 juveniles apprehended in 2011, 21,657 were in the 16-18 age group, 11,019 of 12-16 age group and 1,211 between 7-12 age group (PTI, 2013). Whereas, 32,145 such youngsters below 18 years of age were held in 2006, 34,527 in 2007, 34,507 in 2008, 33,642 in 2009 and 30,303 during 2010, the data said².

The data also shows increasing cases of rape by juveniles. As many as 1,419 such cases were recorded in 2011 as compared to 399 cases in 2001, it said. It is pertinent to mention that a juvenile and five others were arrested by Delhi Police for brutally raping and assaulting a 23-year-old girl in the national capital on December 16, 2012. The victim later succumbed to her injuries. The cases of murder by juveniles have also shown a surge in last ten years. As many as 531 Youngsters below the age of 18 were apprehended for murder in 2001 as against 888 arrests between January and December 2011. According to the data, 6,770 juveniles were

¹ www.legalservicesindia.com

² www.mightylaw.com

arrested in Maharashtra, 5,794 in Madhya Pradesh, 2,692 in Chhattisgarh, 2,542 in Rajasthan and 2,510 in Gujarat among others in 2011. In the same year, a total of 2,474 adolescents were arrested in Andhra Pradesh, 2,083 in Tamil Nadu, 1,204 in Uttar Pradesh and 1,126 in Bihar, the data said.

Of the total number of juveniles arrested in 2011 under different sections of IPC and Special and Local Laws (SLL), 6,122 were illiterate, 12,803 were primary pass outs, 10,519 were above primary and below matriculation qualified and 4,443 were metric and higher secondary qualified, the data said. A total of 27,577 juveniles, who were held for criminal acts, were living with parents, 4,386 were living with guardians and 1,924 were homeless, the data said giving details of their family background. Therefore, it is imperative to understand the concept of juvenile delinquency and delineate the conditions giving rise to high rates of crimes and conflicts with law³.

In modern civilized countries a criminal is not looked upon as a sinner or a bad person, but rather as a mentally diseased individual or one who has been victimized by circumstances. There was a time when even small children were severely punished if they committed some crime. But as psychologists proceeded to draw the attention of the civilized world the causes of juvenile delinquency, the tradition of punishing children lost favour, to be replaced by efforts at improving and rehabilitating them. Now-a-days in every nation efforts are made to correct

the juvenile delinquent rather than punish him¹. We have children being locked up in prison cells in clear violation of all procedural and human right laws and on the other hand, we have dreaded terrorists trying to exploit the country's legal system in a bid to bypass stringent anti-terror laws.

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

The problem of juvenile delinquency is not new. It occurs in all societies simple as well as complex, that is, wherever and whenever a relationship is affected between a group of individuals leading to maladjustments and conflict. In a developing country like India the problem of juvenile neglect and delinquency is considerably low but gradually increasing according to the National crime record bureau report 2007. What is worrying more is that the share of crimes committed by juveniles to total crimes reported in the country has also increased in last three years. Considering the magnitude of the problem and issues involved, analysis indicates that the number of factors for neglect and delinquency are mostly common and interrelated, based on socio-economic and psychological reasons. Poverty, broken homes, family tensions, emotional abuse, rural-urban migration, break-down of social values and joint family system, atrocities and abuses by parents or guardians, faulty educational system, the influence of media besides the unhealthy living conditions of slums and such other conditions explain the phenomena of juvenile delinquency. The neglect of children by their parents, family, society and the nation create detrimental effect on their physical, mental growth and over all development. Needless to say that most of the factors causing delinquency are in plenty in the Indian context and any attempt to prevent and control them can be fruitful for society. After all, the children represent the nation and the coming future of the country. Even international instance like UN Standard Minimum Rules for the Administration of Juvenile Justice, also known as Beijing Rules, 1985 and UN Convention on the Rights of Child, 1989, are notable and has articulated the global consensus on giving special attention to the children who come in conflict with law. In the above context, this paper tries to highlight the growth and development of

³ ibid

juvenile justice system in India, further, take a brief look at constitutional provisions, Juvenile justice Act, 2000 and extent of delinquency in India.

Children having been recognized supremely assets of the Nation. The government of India through its National Policy for Children stated that their nurture and solicitude are our responsibility. Equal opportunities for development to all children during the period of growth should be our aim, for this would serve our larger purpose of reducing inequality and ensuring social justice. Children ought to have been the subject of prime focus of development planning, research, and welfare in India but unfortunately, it has not been so. Despite the Constitutional vision of a healthy and happy child protected against abuse and exploitation, and a National Policy for Children, the majority of children in India continue to live without a cared, protected and meaningful childhood. The juvenile justice system as conceived by legislation aims at providing care, protection, treatment, development, and rehabilitation of delinquent and neglected juvenile.

India is a signatory to UN Declaration on The Rights of the Child, 1959 which defined and recognized various Rights of the children namely: The right to health and care, the right to protection from abuse, the right to protection from exploitation, right to protection from neglect, right to information, right to expression and right to nutrition etc have been defined as basic rights of children by the Convention of the rights of the child. Accordingly, India has adopted a national policy on children in 1974 for achieving the above said rights for its children. The National Policy for Children has reaffirmed the Constitutional provisions for adequate service to children both before and after birth and through the period of growth to ensure their full physical, mental and social development. The Government of India with a view to taking action to review the National and

State legislations and to bring them in the line with the provisions of the Convention, has developed appropriate monitoring procedures for assessing programmes in implementing the Convention on the Rights of the child. India has also become a party and signatory to the world Declaration on survival, protection and development of children, 1990 and for the purpose of fulfilling its commitment made at the world summit a national plan of action for children has been formulated by the under the Ministry of Human Resource Development, keeping in mind the needs, rights and aspirations of approximately 300 million children in the country. Where according to a report, 147 million children live in kutcha houses, 72 million children in India between 5 and 14 years do not have access to basic education. A girl child is the worst victim as she is often neglected and is discriminated against because of the preference of a boy child.⁴

In India scene for the children has changed a lot and their problems and related issues have been given attention and are being discussed at various forums. The question of providing proper protection and care to the children of such a big number is a big challenge. A good number of our children on account of socio-economic reasons have adding themselves in the list of delinquent child. Present day youth especially children are under tremendous social pressure due to new changing social perceptions. A report of UNICEF in 2005 on the state of world's children under the title "Child under Threat", speaking regarding India, mentioned that millions of Indian children are equally deprived their right of survival, health, nutrition, education and safe drinking water. This is what is happening to the most of the young children who if properly taken care of, would shine the future of the country. The cache statements "Children are supremely important national asset"⁵ and the greatest gift of humanity,⁶ in the present scenario and on ground level realities appear hollow.

⁴ [http Smile Foundation Organisation Child Right HTM Access.](http://SmileFoundation.org)

⁵ *Laxmikant Pandey vs. Union of India*, 1984(2) SC 244, 249

⁶ *Bandhua Mukti Morcha vs. Union of India* (1997) 10 SC 551-553

The children in India require double sided protection. At the one hand they need to be provided with the basic necessities for their overall development making them physically strong, mentally alert, academically brilliant by affording them, irrespective of their sex, family atmosphere for proper growing and grooming of the child. The other side requires prevention and treatment of a child who is termed to be a delinquent.

The action is required on two fronts. Firstly, by preventing and arresting the increase in number of the juvenile delinquency, and secondly by giving the delinquent child or a juvenile in conflict with law proper opportunity to reform himself and join the mainstream of the society. Juvenile delinquency is difficult to be defined as to its behavioral connotations. There is difference of opinion given by the various authorities in the field and also in the type of offences and Behaviour which is included in the juvenile delinquency. There, is however, an enhanced awareness that the juvenile delinquency constitutes a problem of many dimensions that must be studied by variety of approaches. Some of the definitions have made the concept thorough wide to incorporate all problems of juvenile misbehavior while others have focused only on Behaviour which constitutes a criminal offence specifically prohibited by statutory definitions and that can be brought firmly before the court, like disorderly conduct, vagrancy, conspiracy, attempt to violate statute. There is another opinion also which says that confusion has been created between delinquency and other social, emotional and behavioral problem of children and a related confusion is regarding the appropriate function and method of the court, now Boards dealing with the juvenile offenders. Whatever be the definitions provided by the various authorities and scholars on the subject the fact remains that the children being in the centre stage the growth and change of human values and to look after the wellbeing of the children is most important. Today's delinquent will be a criminal tomorrow. Thus there is need to give specific importance to children in society. Importance of a child is well recognized since ages. Children are valued assets of a nation. Their importance can well be imagined and appreciated from what

Winston Churchill said about them. He had said “that there is no finer investment for any community than putting milk into babies.” This appeal to the people everywhere, this fundamental faith in juvenile justice, this reorganization of the worth of the infants born and unborn, is the beginning of juvenile justice, says Justice Krishna Iyar.⁷ “Child is the father of man” and in order to enable fathering of a valiant and vibrant man, the child must be groomed well in the formative years of his life. He must receive education; acquire knowledge of man and materials and blossom in such an atmosphere that on reaching age, he is found to be a man with a mission, a man who matters so far as the society is concerned.⁸ In *Bandhua Mukti Morcha's*⁹ case the importance of a child has been highlighted observing that including the children being lights to the society as a whole. If children are deprived of their childhood socially, economically, mentally, the nation's get deprived of the potential human resources for social progress, economic empowerment and peace and order, the social stability and good citizenry.

If we can control juvenile delinquency we shall be controlling and checking the future criminals in making an open admitted fact is that tendency among young people to commit crime and indulge in anti-social activities is increasing. The National Policy for Children has rightly observed that the Nation's children are supremely important asset. Childhood is a universal human experience and has vital stakes.

The future, development and stability of a society depend on the quality of its children. Child welfare is of supreme importance to mankind. At present time the child is considered as an important social unit and is held to be entitled to all that makes for healthy living, sufficient recreation, schooling adopted to his natural living methods, intelligent home care and the right

⁷ V.R. Krishna Iyar, “Jurisprudence of Juvenile Justice: A preambular perspective”, quoted in article “Right of Child and Child Labour: A Critical Study” by Srinivas Gupta. JILI, XXXVII (1995) p. 531.

⁸ . *M.C.Mehta vs. State of Tamilnadu*, AIR 1997 SC 701.

⁹ *Bandhua Mukti Morcha vs. Union of India*, AIR 1997 SC 2218, page 2220.

to develop his abilities to their fullest extent¹⁰. Total wellbeing of the child includes not only the care of maladjustment and delinquent children but also the development of child physical, mental, emotional and social faculties.¹¹

Development of children is key concern of the Government which believes that it is childhood that holds potential and set the limits on account of future development of the society. Investment in the requirements and priorities of children is the sign and qua known of a developed nation.

The Central Children Act, 1960 recognized importance and the protection of children saying that Children are the most venerable group in any population and in need of the greatest social care. On account of their venerability and dependence they can be exploited, ill-treated and directed into undesirable channels by anti-social element in the community. The state has to difference of affording proper care and protection to children at all times.¹²

Juvenile delinquency is a gateway to adult crime, since a large percentage of criminal careers have their roots in childhood causing serious problems all over the world. Today, it has become a topic of great concern and needs to be discussed at a serious note. The complexity grows as we go into the statistical data of developed countries when compared to the still developing ones. A total of 44284 crimes were committed by the juvenile offenders during 1978 which showed an increase of 0.6% over 1977. It has been noted that theft and robbery add to a major percentage of these crimes. Murder, rape, dacoity, burglary, kidnapping are a few more that add to the rest of it. On the basis of the available statistics, an inference can be drawn that these crimes are on the increasing path.

CAUSES OF DELINQUENCY:-

The causes for juvenile crime are usually found at each level of the social structure, including society as a whole, social institutions, social groups and organizations, and interpersonal relations. Juveniles' choice of delinquency are fostered by a wide range of factors, the most important of which are described below.

Theoretical Causes:-

As per the behavioral study done on delinquent children by the psychologists, it suggests that the child does any delinquent act because his mind tells him to do it. In other words he does this because he wants to do it. These kinds of acts provide immense satisfaction to the offenders and so they see nothing wrong in it.

Social Disorganization:-

As the joint family system is coming to an end a, new trend has evolved where in both the parents are working and as a result children are left neglected and such isolation leads the child's involvement in wrongful acts.

Bad Company:-

¹⁰ Edwin R.A. Saligaman (Editor-in-Chief), "Encyclopedia of the Social Sciences" Vol.III, Macmillan Company 1951 reprint, page 380.

¹¹ Alice Jacob and Kusum Kumar, "Child Welfare", published in S.N. Jain (Ed), "Child and the Law," (1979) page 41.

¹² See, the Object and Reasons Appended to the Children Act, 1960.

One of the major reasons as to why children are entering into the worlds of crime is because of their bad company. Children who are in bad company knowingly or unknowingly indulge in criminal activities. It is this Bad company which motivates them to commit crime.

Labeling:-

This is the theory of our society. Generally when we see someone or hear someone's involvement in a crime, we actually label him as a criminal. For example, calling someone a failure may push him towards doing wrongful acts. Such terminology becomes identification marks of these individuals and they thus rarely make an attempt to come out of it.

Atmosphere at home:-

An individual may have certain problems within his home which may have led him to the wrong society. Like treatment from step mothers, poverty, Effect of T.V or Internet or other media. Such cases are mostly seen with children who do not have anyone to look after them after they return from school or there is least or excess of discipline exercised on them by the elders of the family.

Neighborhood:-

Neighborhood is that part of the society which may affect the acts of an individual at large. It marks an individual's ability to deal with Delinquency. If one finds gamblers, quarrelling couples, drunkards around him, then this is all that he would fall into and finally end up as a criminal.

Guardian's Behavior:-

Guardian here refers to parents, grandparents, relatives, teachers and any other caretaker that the child may come across in his daily life. The behavior of all of the above towards the child should be ideal, at the same time they should understand the needs and problems of the child to prevent him from indulging into crimes.

Juvenile Delinquency and It's Legality:-

Juvenile Justice Act, 1986, was the first central legislation on Juvenile Justice, prior to which each state had its own enactment on juvenile justice, which differed in the way juveniles were treated by the different state legal systems. The Indian Constitution provides in clause (3) of article 15 and clauses (e) and (f) of Article 39, Article 47 and Article 45.

On 20th November 1989, the United Nations General Assembly adopted the Convention on the Rights of the Child i.e. right to survival, protection, development and participation. The Government of India, ratified the said UN Convention on the 11th December 1992, and re-enacted the existing law, viz., Juvenile Justice Act, 1986.

However since it did not yield the expected result, so the government proposed an act called Juvenile Justice (Care and protection of children) Act, 2000. The Juvenile Justice (Care and Protection of Children) Act, 2000, which has replaced the earlier Juvenile Justice Act, 1986, has been enforced in the entire country except the State of Jammu & Kashmir from 1st April 2001.

Juvenile Justice (Care and protection of children) Act, 2000

The Act seeks to consolidate and modify the law relating to juveniles in conflict with the law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children.

Sections 9 to 12 of the Juvenile Justice Act facilitates the Government to establish Juvenile Homes, Special Homes, Observation Homes and After Care Organizations respectively for the Juveniles.

For the betterment of the children the Juvenile Justice Act,2000 has introduced Special Trial Process.

Section 3 : If an inquiry has been initiated against a juvenile and if during the course of which he ceases to be a juvenile then the inquiry may be continued as if he had been a juvenile.

Section 4 :- The state Government can constitute one or more juvenile welfare boards for discharging the duties conferred upon them in relation to the neglected juveniles under this Act.

Section 5 : the state Govt. to constitute one or more Juvenile courts for exercising the power conferred upon such court in relation to delinquent juveniles under this Act.

Section 6 : This section provides that a person appointed as a member of the Board or as a Magistrate shall possess special knowledge of child psychology and child welfare.

Section 7: This section asks the Board or the Juvenile Court to hold its proceedings in a room which is different from the ordinary setting if a civil or criminal court.

Section 29 : This section allows a guardian or parents who have a certain extend of control over the child to be present at the court thus providing the child with the mental support that he needs and destroying the feeling of loneliness that may engulf the child.

Conclusion

In recent years, children and their problems have been receiving attention of both government and the society. But it has been seen that the problems are enormous and never ending, thus resulting in lack of everything that has been done till today. If these problems are not curbed soon then the growth of the children will be hampered giving a dark future to our country. The amendments that have been raised should be implemented in such a manner that the fruitful result is achieved. The social, economic and other factors which have been the root causes of Juvenile Delinquency needs to be dealt with at the very initial stage. Every society must, therefore, devote full attention to ensure that children are properly cared for and brought up in a proper atmosphere, where they could receive adequate training, education and guidance in order that they may be able to have their rightful place in the society when they grow up.

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