
JUVENILE DELINQUENCY AND JUVENILE JUSTICE

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ABSTRACT

The clearest revelation of the soul of a society is in how the children in it are treated. But every treatment does not come to light. To our most unfortunate horrors, there are some “treatments” that deprive the child, the future of civilization, of its childhood. Where the brightly lit streets come to an end, the dark alleys begin; similarly, the fate of some vulnerable children, who are neglected and victimized, is as dark as the neglected corners of those dark alleys. Every society victimises their vulnerable children, and society as a whole does not really care about their awful fate until the vulnerability turns into delinquency. Children are not born delinquent. While those children suffer an irreparable loss of their childhood, mature adults fail to recognise the fruits of their own blunders and mark them as ‘delinquent juveniles’. Studies show that the population of street children in India is the largest among all the countries in the world. The number of children living and working on the streets of urbanized India is quite high, and in a journal, the count is mentioned as “at least 18 million”. As the United Nations Children’s Fund (UNICEF) defines street children, it shows that those children are fated to spend their lives on the streets and are actually away from home since the streets are considered to be the home for those children, where there is nobody to protect the ill-fated and the most vulnerable ones. They grow up on the street itself. They are neither supervised nor directed by responsible adults.

Keywords : *Society, juveniles, delinquent, vulnerable, neglected.*

1. INTRODUCTION

“The true character of a society is revealed in how it treats its children.” – Nelson Mandela

Both nationally and internationally, ever since society has started adopting its new features and civilization, it has pretty much been concerned about providing justice to the children. As a result of this change, even though the laws of the land did take turns becoming more child-friendly, their practice has yet to be done. Even after the enactment of various laws for children, ignorance and knowledge of those laws are something that acts as the real devil. Children and their guardians are not aware that various laws have already come into existence that can help them improve their living status. Referring to the increased number of cases brought to the court, it becomes clear to us how and why the introduction of child welfare has become a full-fledged system. Since India already houses the largest population of children, it is high time for adults to change their general mindset towards children. A fact that also has to be kept in mind is that, with the change in generation, the mentality of the children also changes. The management of children is something that must change with time. Thus, it is clear that the mentality of a child who was born in 2019 will differ from that of a person who was a child in 2001. This change is mainly because of the advancement of technology and the use of social media, which everyone is exposed to nowadays. In a report, it was evident that the number of children under the age of 18 was 428 million in 2001 and is predicted to remain at 400 million in the coming decade.

Children in need of care and protection (CNCP) were looked after in the family by various family members since, in traditional India, there was a trend towards joint families. Besides families, village communities, caste groups, and religious institutions also took care of many children in the absence of families. Traditionally, there were extended villages, and villagers took the responsibility of the village children as their duty, even though they were not their own. Being born into a happy and comfortable home with a healthy environment is a privilege that not many children are destined to enjoy. With the spread of urbanization and industrialization, family structures broke down. Nuclear families have become more common. Frequent divorces have become common in today's society. They indeed have their own reasons, but in most cases, these deteriorate the condition of the child.

According to an estimated report, the number of deprived children in India is around 340 million, of whom the majority are impoverished. Deprived children mean children who are often deprived of their basic rights such as family care, protection, good health, shelter, education, and health, which, in turn, has given rise to a new section of children known as Children in Especially Difficult Circumstances (CEDC) who are not only vulnerable but also poor, marginalised, and impecunious.

All cultures share the view that the vulnerability of children is inversely proportional to their age, i.e., the younger the child, the more vulnerable he or she is, and young children are not expected to defend themselves against the ills of society or protect themselves from the vultures' eyes. Impoverished children and their guardians work day and night just to chew that simple bread before going to bed. People, to whom even education seems to be a luxury, are not expected to be aware of their rights under modern laws, and thus, they are obviously illegally treated without any protest.

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2. VULNERABLE CHILDREN

Children in especially difficult circumstances are at risk of experiencing harm or of being moulded into an unsocial person and achieving poor outcomes due to various factors such as physical, educational, emotional, and health needs in their lives¹. The mentality of the children who are exposed to adverse conditions in their lives often takes on the shape of the circumstances they are being exposed to. These children are at risk of being harmed in various ways and are known as vulnerable children.

Vulnerable children are of two types²: -

1. Delinquent,
2. Non-delinquent.

¹ Abhinav Singh & Bharathi Purohit, *Street Children as a Public Health Fiasco*, 23 PEACE REV. (2011)

² *Id.*

Children who are non-delinquent but are vulnerable are categorised in three different circumstances: -

A. Destitute children

- Orphans
- Abandoned

B. Neglected children

- Parents lack economic means
- Parents have physical, mental or terminal illness
- Children with single parent
- Children of refugees, migrant and construction workers

C. Victimized children

- Child beggars
- Abused children
- Children of prostitutes
- Rape victims
- Child sex workers
- HIV or AIDS affected children
- Children engaged in substance and drug abuse
- Child labourers

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3. JUVENILE DELINQUENCY: MEANING, CONCEPT AND CAUSES

The phrase “juvenile delinquency” consists of two words: “juvenile” and “delinquency”. The word “juvenile” means young, not an adult. A person who is below 18 years of age, that is, a minor, is what I term a juvenile³. The word “delinquency” is the noun of the adjective “delinquent”. The word delinquent is used for a person who is badly behaved, is an offender, a culprit, a wrongdoer, a criminal, or more appropriately, a law-breaker. In general, a delinquent

³ Shovonita Acharjee, *Juvenile Delinquency: Understanding the Constitutional and Criminal Jurisprudence in Light of the Changes Incorporated in the Recent Amendments*, 4(1) INT'L J. L. MGMT. & HUMAN. 245, 250-251 (2021)

child is an adolescent who is in conflict with the law and, by nature, is not mature. Any kind of dishonest behaviour in children is termed delinquency in juveniles. Cyril Burt defines delinquency as occurring in a child “when his anti-social tendencies appear so grave that he becomes or ought to become the subject of official action.”

Any unpleasant behaviour of a child that can be subject to legal action if committed by an adult and in an extended form must immediately be subject to psychological tests, even if they may not seem serious for a child⁴. Actions like —

- Stealing,
- Series of lies, even if they are unnecessary,
- Running away from home,
- Manipulating marks,
- Drug addiction,
- Using vulgar language,
- Smoking,
- Alcoholism,
- Visiting gambling centres,
- Habitual obstinacy towards parents,
- Committing sexual offences,
- Bunking classes regularly, etc.

may cause the child to choose the wrong path if these behaviours are not identified and rectified at a tender age.

3.1 Interactive Factors Within a Family Which Determine Delinquency

Studies indicate that juvenile delinquency is a result of the interactions of contextual, individual, and situational factors. Some of these factors within a family are:

⁴ *Id.*

- Children whose either of the parents or both parents are criminals
- Children who are disciplined in harsh ways
- Those who are severely neglected or are physically abused,
- Those who belong to families with poor management,
- Children who do not experience parental involvement in their lives,
- Children who witness frequent conflicts within the family,
- Children of parents with attitudes favouring violence,
- Children who are separated from their families.

These have all been linked to later delinquency.

- Academic failure, low commitment to schooling, truancy, and early school leaving also predict delinquency.
- Delinquent siblings, delinquent peers, and gang membership also predict delinquency, though the effects of these factors appear to be the greatest in adolescence.
- Finally, poverty, community disorganisation, the availability of drugs, and neighbourhood adults involved in crime are also linked to increased risk for later violence.

3.2 Causes of Delinquency in Juveniles

There are numerous factors that make a child act dishonestly. However, some of the leading causes are as follows:

- **Broken homes** – When the parents are divorced or do not live together, the parent with custody of the child often finds it difficult to take care of the child with all the other necessities. The frustration lands on the child, and they slowly seclude themselves with the notion that they are the root of all problems. Thus, when they cannot find affection at home, they seek it elsewhere and often end up with weird personalities. Broken families and homes contribute greatly to juvenile delinquency in children. Also, children who

suffer from insecurity, a lack of parental affection, especially from a loving mother, separation, or the desertion of family bonding are also likely to become delinquents⁵.

- Poverty – Children who witness poverty right after they are born often give up hopes for themselves and indulge themselves in theft, hoping for the slightest well-being of their family members. Sometimes they are even forced and trained to do so by their family members or other neighbourhood gangs. Since their morality does not get the chance to develop due to a lack of education, they lack the power of judgement as to what is good and what is not⁶.
- Delinquent areas – Curiosity in children is always at its peak. Those who are born and brought up in delinquent areas like places near railway stations, liquor shops, red-light areas, etc. are already exposed to the world, which is way beyond their age. If the children living in these areas lack proper guidance from the elders, it is very likely that they will develop delinquency.
- Companions and gangs – Crime, for the first time, is always committed by gangs. Delinquent neighbourhoods, which cook up criminals, train the juveniles to commit heinous crimes when they grow up. The crimes committed by gangs are usually violent in nature, which can include large-scale theft, robbery, murder, gang rape, drive-by shootings, kidnapping or abducting, trafficking, etc. Gang members are most likely to be involved in drugs and alcohol.
- School Dissatisfaction – Sometimes, children are not satisfied with the way the teacher teaches in class. This can make them want to bunk classes. When the behaviour of a teacher towards a particular student is not very warm, the student starts feeling left out of the class. Other factors, like workload, approachability towards teachers and other students, ineffectiveness of teaching, over-strict and rigid rules, and discussion of uncomfortable topics, cause dissatisfaction among the pupils, and they refrain from attending classes.
- Wrong and over-use of social media – This is one of the biggest causes of delinquency in children. Children who have easy access to smart phones but are not yet mature enough

⁵ Riyaka Surong & Anniesha Lyngdoh, *A study on the causes of juvenile delinquency and its prevention by the community*, 8(4) INT'L J. INDIAN PSYCHOLOGY (2020)

⁶ *Id.*

to watch certain contents have no sense to distinguish between what to watch and what not to. This is caused by irresponsible parents who think it is a progressive way to make their child smart by making them sit with smart phones and internet access. The children develop a bad habit of gulping down social media standards and start misbehaving with elders frequently. A disrespectful child who is addicted to social media is indeed disagreeable, but what is worse is a parent who finds it funny.

- **Films and pornographic literature** – Adult films and pornographic literature affect human beings when they are in their transition state in life. They develop curiosity about sexual impulses and other things that cannot be discussed with just everyone. The parents or the closest guardians of a child mostly fail to make a proper explanation of this curiosity; it is not addressed at all. Sexual literature is taboo in society, but this taboo ultimately gives birth to delinquent children. Let us say that when a 13-year-old boy comes across something that is not appropriate for his age, he will obviously not understand it. So in order to get that, he will approach his parents. If parents shut him up sternly and make him uncomfortable regarding his questions, the child obviously will not stop there. He will rummage through various sources and ultimately try to find out what is so abnormal about it that cannot be discussed. Now, if this keeps increasing up to a level where it goes out of control, that too without the supervision of his parents, there are high chances of the child going delinquent. This gives rise to rapes by minors when they get into gangs with majors.
- **Beggary** – Beggary is often the cause of juvenile delinquency. Child beggars mostly come from either very poor families or broken homes. These children are hungry for the love and affection of their parents. They crave the satisfaction of their inner impulses, desires, and ambitions. They choose to do the same. Trafficked children are also forced to beg. As beggars, they get annoyed to see others enjoying life. Some of them may even become rebels. They realise that only through deviant practices can they satisfy their desires and meet their needs. They thus become delinquents.

4. REMEDIES

4.1 Preventive measures

- Creation of public and private agencies that would have members actively devoting themselves to prevention techniques.
- Staff and members of organisations that are concerned with delinquency must be properly trained and checked for the absence of corruption⁷.
- Clinics for disturbed and maladjusted children must be established to treat those children with proper care and guidance about health.
- Giving proper education to the uneducated families so that they meet the minimum requirements of their children.
- Underprivileged children are to be given proper guidance about building good character and the mentality to earn honestly in law-abiding ways.
- Broadcasting child welfare measures via various means of propaganda like radio, newspapers, television, magazines, and movies to influence children to act normally and build proper concepts
- Spotting vulnerable children and keeping them away from delinquent areas like gambling centres, alcohol shops, etc. and improving the social areas
- Schools must play an active role in spotting children with delinquent mindsets and giving them proper treatment.
- Working in congested localities to raise awareness about proper sanitation so that children are not affected by disease-causing germs.
- Creation of recreational agencies that would engage children in wholesome activities so that their minds are not diverted to unworthy topics.

The problems of beggary and poverty are to be removed or controlled, and the general economic standards of the people must be increased to prevent children from becoming delinquents due to economic exigencies.

⁷ Ashutosh Chauhan, Vivek Shukla, Ankesh & Mansi Sharma, *Juvenile delinquency in India: Causes and prevention*, 6 INT'L J. HEALTH SCI. (2022)

4.2 Methods of Rehabilitation

The primary goal of the rehabilitation approach is not to punish or exact revenge on the delinquents. This approach aims to assist the delinquent kids in receiving the right direction and instruction so they can grow up to be normal kids and never do the same crimes again. India has periodically passed a number of laws aimed at addressing juvenile delinquency. Here is a brief summary of a few of them:

- **Apprentices Act of 1850⁸:** This Act has been the earliest step taken towards preventing delinquency. The Act binds children, both boys and girls, between the ages of 10 and 18 as apprentices. Orphans and poor children can benefit from this act. Children can be employed as apprentices by employers with the intention of training them in some trade, craft, or employment by which they can gain a livelihood later. The father or guardian may bind a child above 10 and under 18 up to 21 years of age for a period not exceeding 7 years. A female child may be so bound until her marriage. The Act also dealt with children who committed petty offences. This could encourage youngsters to engage in productive endeavours rather than just idle ones.
- **Reformation Schools Act of 1897⁹:** This act is regarded as a turning point in the history of delinquent treatment. Nearly every Indian state has this act in place. By virtue of this Act, juvenile male offenders could be detained for up to three years in reformatory schools by the courts. It could possibly be expanded to include seven. After turning eighteen, no one may be imprisoned here. State governments may create and manage reformatory schools in accordance with this Act to facilitate the quick rehabilitation of offenders. Every school is required to offer the prisoners hygienic conditions, food, clothing, industrial training, water supply, medical attention, and beds. It is said that these reformatory schools have produced beneficial work.

⁸ Apprentices Act of 1850, No.19, Acts of Parliament, 1850 (India)

⁹ Reformatory Schools Act, 1897, No. 8, Acts of Parliament, 1897 (India)

- **Provision in the Criminal Procedure Code:** Convicted juvenile criminals under the age of 15 may be sent to state-established reformatory schools under Section 399 of the Criminal Procedure Code (CrPC)¹⁰. Children under seven cannot be held accountable for their illegal activities, according to Section 82 of the Indian Penal Code¹¹. This age is extended to 12 under certain circumstances under Section 83 of the same Code¹². Certain convicted offenders under probation were also allowed to be released under Section 562 of the CrPC or approved of their release while offering guidance¹³.

- **Children Acts:** Various provinces of India took an interest in making some comprehensive laws in 1920 and afterwards to deal with delinquent children. Of these, the Children Acts, enacted by Madras in 1920 and followed by other states, are more important. The main provisions of the Children Acts are as follows:
 - i. No child under 14 years of age can be imprisoned under any circumstances, and no person between 14 and 16 years of age can be imprisoned unless he is certified to be an unruly person.
 - ii. Except in the case of grave offences, any person arrested on a charge is required to be released or bailed. In any case, such persons could not be kept in jails.
 - iii. The child or youthful offender cannot be sentenced to death or imprisonment except under extraordinary conditions. Persons below 12 are to be sent to junior-certified schools and 12 to senior-certified schools.
 - iv. The court may discharge the person after due admonition; it may hand him over to his parents or guardians after taking a bond from them that they would be responsible for his good behaviour for 12 months.

¹⁰ The Code Of Criminal Procedure, 1973, § 399, No. 2, Acts of Parliaments, 1974 (India)

¹¹ Indian Penal Code, 1860, § 82, No. 45, Acts of Parliament, 1860 (India)

¹² Indian Penal Code, 1860, § 83, No. 45, Acts of Parliament, 1860 (India)

¹³ The Code Of Criminal Procedure, 1973, § 562, No. 2, Acts of Parliaments, 1974 (India)

- **Juvenile Smoking Acts:** Acts have also been passed to address the specific pattern of antisocial behaviour in young children. Of these, the majority of states have laws against juvenile smoking. This Act prohibits minors under the age of sixteen from smoking in public areas. Nevertheless, none of the states ever put these acts into effect.
- **The Suppression of Immoral Traffic in Women and Girls Acts, 1956¹⁴:** The purpose of this Act is to prevent prostitution and to protect young girls. The Act outlaws a number of prostitution-related behaviours, including forcing young women into brothels, soliciting in public areas, and operating brothels out of residential buildings. Additionally, precautions are taken to shield girls from moral harm and brothels.
- **The Probation of Offenders Act, 1958¹⁵:** Under these Acts Under this Act, juvenile courts can place youthful offenders under the supervision of probation officers.
- **The Borstal Schools Acts for Adolescents:** These Acts were enacted in order to provide adolescent offenders—that is, those who commit crimes between the ages of 15 and 21—with specific treatment. A Borstal School is a type of remedial institution where criminals are subjected to moral and disciplinary repercussions. These repercussions would facilitate their transformation.

4.2.1 Institutions to Rehabilitate Juvenile Delinquents

Preventive measures alone are not enough. To solve juvenile delinquency, more effective methods such as rehabilitation and reformation are necessary. Some institutions that aim at rehabilitating juvenile delinquents in India are as follows:

- Juvenile Courts

¹⁴ Suppression of Immoral Traffic in Women and Girls Acts, 1956, No. 104, Acts of Parliament, 1956 (India)

¹⁵ The Probation of Offenders Act, 1958, No. 20, Acts of Parliament, 1958 (India)

- Remand Homes
- Certified Schools
- Auxiliary Homes
- Foster Homes
- Reformatory Schools
- Borstal Institutions
- Fit Person Institutions and Uncared Children Institutions

5. THE MAIN CULPRIT OF NIRBHAYA CASE – A JUVENILE

An intern of physiotherapy, aged 23 years, Jyoti Singh, was beaten, brutally assaulted, gang-raped, and tortured mercilessly by six men, including a juvenile, in a bus that she was travelling in with her male friend. The doors of the bus were shut down, and the girl was dragged to the back of the bus and repeatedly gang-raped for over an hour. In the event of her fighting back, she was inhumanely tortured by inserting an iron rod into her body through her private parts and pulling and ripping off her intestines¹⁶. Then she and her friend were thrown out of the bus to die on the roadside. When she was brought to the hospital, the doctor declared that she had only 5% of her intestines left inside her body. She didn't survive. So, why is the Nirbhaya case being narrated here? What has this to do with juvenile delinquency? It definitely has because every inch of the above sentences portrayed crime, in which an active role was played by a juvenile (a minor). It was a juvenile who was responsible for this brutality, along with five other men. It was that juvenile who raped her mercilessly and proceeded to insert the iron rod, ripping off her intestines. The names of the other convicts did come to light, but it was the name of that same juvenile that was concealed, and, as per our compassionate laws, even though the other culprits were sentenced to death, the juvenile was just sent to a reformation home and was released. He was tried separately, concentrating on the fact that he was a "minor", even though he could behave like "majors". He was neither given rigorous imprisonment nor was he sentenced to

¹⁶ Mukesh and Anr. vs. State for NCT of Delhi & Ors. (2017) 6 SCC 1

death even after committing the barbarous crimes, just because he was juvenile. Do all juvenile criminals deserve to be forgiven?

6. CONCLUSION

Juvenile delinquency is a serious issue that cannot be solved just by legislative measures. Today's children are tomorrow's adults. If society is taken as a house, its children are its first pillars. So if the pillars are not made to stand properly, the house is destined to get damaged. Thus, in order to make the house strong, its founding pillars are to be managed first. Similarly, in order to form a firm, law-abiding, and dedicated society, the children are to be educated properly and taken care of responsibly. In India, although laws for children are already in existence, there is no proper enforcement in all the states. Children in remote areas live in pathetic conditions. Strong official machinery is necessary to take care of this negligence seriously and sincerely. The governments of each state must actually focus and work on the not-so-highlighted areas in their own states instead of just worrying about their chairs. Many non-governmental agencies have developed, but not all are for the welfare. Many of them are corrupt and linked to child trafficking. With the passage of time, technology is evolving, and with the evolution of technology, crimes are increasing, of which children are the easiest victims. A delinquent juvenile is not born, but rather a product of the delinquent, careless, and irresponsible society itself.