

# JUVENILE DELINQUENTS AND THE JUVENILE JUSTICE SYSTEM IN INDIA: A PERCEPTION AFTER THE FACT

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## **Abstract**

Experts felt Juvenile delinquents are basically resulting of societal malfunctions; all of them need particular care and close attention at their age. Since the last 50 years various studies have been done on the various aspects which help in understanding juvenile issues in different culture and society. The appearance of 'culture of indifference', aggression, violence, haughtiness, arrogance, depression, and irresponsibility among modern youth are leading to the depth of deviation among juveniles. Experts have provided a levelheaded picture of the very significant feature of contemporary society that 'provokes youth towards crime'. In a nutshell; it can be said that juvenile delinquency is a consequence of result of social changes and maladjustments with age as an in dependent factor. Development experts felt latest developmental aspects including changing and new social, economic, political and cultural arrangements in the modern society owing to fast industrialization and urbanization are acting as causing factors for the speedy increase of delinquency. This paper is based on the review of various literatures and concludes that Juvenile delinquents problems need to be handled with the new normative approaches.

**Keywords:** Delinquents; law; JJ act; society; punishment; observation homes

## Introduction

A worldwide occurrence of Juvenile Delinquency has become a reason of societal anxiety all over the globe. We know that delinquency is a worldwide incident, in the sense that it is found in all human groups. Perhaps there is no society with having a silence as far as misbehavior or crime by persons, more so among the younger ones i.e children which are hard to digest. The nature of human behavior is such that breaking of standards or principles of behavioral issues or events are sometimes hardly kept intact, in tune with that of norms, values, regulations, code of conduct etc. of the regular society. The difficulty of human misconduct has been observed throughout the time and space and felt all through human world and at all levels of civilized society (Guptha, 2001). Children's situation has drawn an increasing international attention and condemnation since 1970s. During the same period many international Non-Government Organizations (NGOs) and other agencies have begun to speak out against the inhuman conditions under which children living in many developing countries. The issue of children has generated renewed interest because of the various emerging factors (Wind, 2004). In this issue Indian Government has also accepted to subscribe to the values and principles of the United Nations Convention on the Rights of the Child (CRC) and to implement the following four principles of the CRC to protect the children in India: India has also ratified the CRC, as well as several other UN resolutions on children's rights (from various resources).

The present child wellbeing system in India matches the British model of child welfare, which was built and developed with a conviction that the state (in spirit) is a parent of the children. The symbol which has known as the doctrine of "parens patriae" (policy of the land) symbolizes that it is state's key duty, answerability and final accountability in maintaining and protecting the children at any cost. State will frame welfare programmes for the children. Also responsibility of the State extends providing welfare services for children, focusing children who are in risk for example abandoned, street children, children with disabilities, abused children, orphan children etc. Also state will take proper measure to correct their deviant behavior. It is estimated that a large proportion i.e about 40% children are in very difficult circumstances or

vulnerable in India. Majority of them are from the socially excluded sections. This includes children from very poor households, abused children, children victims of natural calamity, children forced into labour, trafficked children, children resulting from civil unrest, child laborers, children victims of armed conflicts, migration, terrorism etc. (Pradheepa et al., 2005).

Experts felt child conflict with law is a kind of irregularity when a person normally below 18 years of age deviates from the route of usual social life because of various reasons. His/her behavior is called Juvenile. Juvenile who is below the age of 18 years who shows behaviors having a potentially to be dangerous to society or against the law of the land or against the interest of the larger public may be termed as a 'child who violates the law' (Juvenile delinquent). Law experts feels "*Delinquency*" signifies deviant behaviour, a behavioral pattern which violates institutional expectations i.e., expectations which are shared and recognized as legitimate within a social system" (web based)

As per the Recent National Crime Records Bureau report, the highest increase in incidents of crime committed by juveniles in 2017 includes 1) 14%; theft and snatching, 2) 32%; assault on women with intent to outrage her modesty, 3) 52.7%; insult to the modesty of women, 4) 77.5%; under rape/unkenpt to rape/murder case. The same report says around 41.45% juveniles have been arrested for different crimes in 2017 out of which around 56.3%% were in the 16-18 age group, and 45.5% came from the poor families. Majority of them were illiterate or had attended only primary level of schooling and few of them were not even saw the face of the school (National Crime Records Bureau, 2018).

It is generally opined that the reason of delinquency, nature and degree of juvenile delinquency, origin and types of delinquency, patterns of delinquency changes throughout the time and space irrespective of society, religion, state or country. However, the pattern and the dynamics of recent juvenile delinquency is extremely interesting to be considered for sociologists or anthropologists to comprehend analytically and theoretically to develop a new accounts or insights about the changing pattern of behavior and misbehavior among children in various cultural settings. Through this analysis we can come to a conclusion about how fast changing social, economic,

political and cultural arrangements and globalization and urbanization in the modern society are causing as a key and immediate motivation factors for delinquency among youth (Nalasami, 2015; Cantor, 2000).

### **Reasons for Juvenile Delinquency**

There are various factors causing delinquency, for example social factors, inhabitant vs. immigrants factors, family influence, sibling position, joint and nuclear family, interpersonal relationship, step parents, corporal punishment, quarrel, parental exploitations, peer group, economic factors including poverty and unemployment, geographic factors, psychological factors, educational pressure, societal issues, influence of mass media etc. As per recent NCRB report (2011) economic conditions have been a main issue. The majority offenders were belongs to the extremely poor families (57%). The same reports further says lack of education is one more significant issue and over 55% juvenile are from incomplete primary education and from broken families which led them to commit crimes as per the report.

### **Dimensions of the Problem**

The dimension of the problem of juvenile delinquency is not fully assessed in India, nor is the roots of the juvenile delinquency specifically traced. In most of the countries, juvenile offenders are a neglected group. In our country, the police are given the leeway in picking up children found in difficult circumstances. Later, this leads to abuse and harassment, and finally the children come out as hardened criminals.

The incidence of Juvenile delinquency varies widely in different states. In 1990 out of 29339 number of Juvenile cases in India, were 12349, 9254 and 10033 from Madhya Pradesh, Maharashtra and Delhi States–India respectively. It is found that more than 30% of Juvenile delinquency of India are found in Madhya Pradesh State only. These three states have jointly contributed to 56.3% of total Indis' delinquency of 2002. Since 1998, Madhya Pradesh, Maharashtra and Delhi the states of western corner of Central India, show high Juvenile delinquency cases in India (Krishannapa, 2015; Shahnawaz, 2012; Rajesh, 2014).

As per NCRB data (2011) around 64% of all juvenile delinquency belong to the age group of 16-18. In 2011, 33,887 juveniles were arrested for 25,178 in various instances of crime. Out this around 1,211 juveniles are in 7-12 years of age group, 11,019 fell in the 12-16 years age group while 21,657 fell in the 16-18 years age group. In Delhi around 925 boys arrested for juvenile crimes in 2011 out of which 567 were in the 16-18 years age group. In 2011 'the growth in rape by juveniles (34%) over 2010 was again among the highest. The NCRB data also shows rapes cases by the juveniles have been increased to 188%. Further, theft and robbery by the juveniles has increased by 200% and abduction of women rose to 66%. Also it is found that in 2011 around 70% of all juvenile crimes registered in Madhya Pradesh, Maharashtra, Chhattisgarh, Andhra Pradesh, Rajasthan and Delhi states only' (Sources: NCRB Reports and Times of India Report (Jan 16/2013). National study on child abuse (2015), by the Ministry of Women and Child Development has stated that two out of every three children had been sexually abused, and 61.05% of children reported that they suffered sexual abuse in one way or other.

Furthermore, a reliable prototype of economic jeopardy is linked with development of delinquent behavior among children including low income levels of families, poverty, unemployment etc. Majority of the parents of this type of children belongs to lower levels of income and thus their economic status will be very pathetic and imposable to imagine (NCRB, 2011). In some cases, parents are most of the time, fraught to get the two square meals to their children. Hence neglect their children and in some families where both the parents are working cannot watch or control or track their children's movement (Dinesh, 2002). Awful friends, TV, fast changing life style, westernization, new types of entertainments, short cuts to earn money to fulfill the desires are also provoking children to step in wrong route as experts felt. Finally, the embellished children show a feeble attachment to their parents and connect in unsuitable behavior. Single child policy also affects here.

Once these children are recognized as delinquents, they will get legal help and will be kept out of the dangerous environment and will be sent to the Govt /NGO managed children homes where they will be enrolled in a sequence of correctional approaches including social prevention, behavior

therapy, needy counseling, social rehabilitation, and structural alteration etc. However, nowadays these children's homes are under series of criticism for its style of functioning. Juveniles here creating a commotion in institutes, giving a tough time to staff and escape from the children homes have become a regular phenomenon. Recently experts who have visited certain children homes in few states describe the condition inside as 'depressing' 'abysmal' and 'useless' (sources: F. India on-line news paper). It is reported that in some cases inmates are being inhumanly handled. In preponderance situation, chance for them to demand their rights under 'children category' of the services giving by the homes is very less. Today these homes are being failed by not giving them proper and required living conditions. Also it is reported that Javelins are being used to perform some menial jobs inside home. Often these juveniles are largely treated as notorious a criminal which leaves a negative impact on their minds in the future. Staff has no tolerance or sympathetic or willingness to consider them as risky young and growing adolescents, most of who seem to be from the socially excluded society. Hence, sociologists felt Government managed homes are like a 'custodial approach' but what we need is 'rights based approach' to reform juveniles. It is the need of the hour (Rath, 2007).

### **Juvenile Justice System**

Juvenile justice (JJ) shall be deemed as an essential content of the national development process within all-inclusive framework of valid and accessible social justice for all juveniles as well as contributing to the protection of the young and the continuation of a peaceful order in society. Suitable Juvenile justice would give a valid provision to each juvenile to get natural justice for any act/deed. In this background India had first JJ act in 1850. Next, with the enactment of JJA 1986, two distinct machineries were set-up to deal with 'neglected juveniles' and 'delinquent juveniles'. Pending their inquiries before their respective competent authorities, both these categories of children were kept in the children's Home. However, JJ act 2000 for the first time provided for "juveniles in conflict with law" and "children in need of care and protection" to be kept separately awaiting their investigation (Child line India Foundation NGO, 2013).

However, the progressive juvenile law enacted in 2000 had some problem and was not implemented correctly and that there was a need to revert of its few clauses. Since 2015 we have a new JJ act. In many ways, this Juvenile Justice (Care and Protection of Children) Bill, 2015, is a forward-looking and comprehensive enactment that provides for dealing with children in conflict with the law and those requiring care and protection. However, its laudable features have been overshadowed by one provision that states that children in the 16-18 age groups will henceforth be tried as adults if they are accused of committing 'heinous offences'. Government believes that the provision will help address public disquiet over the perception that young offenders are getting away with light punishment after committing crimes such as murder and rape.

Further, JJ act, 2000 has laid down 'various non-institutional dispositional orders that may be passed by the JJ Board as alternatives to institutionalisation'. Based on this provision and principle, 'most of the juveniles are free on probation given that other forms of diversion are missing'. Statistics found that 36.8% of the juveniles were released on probation in 2017, a figure, only below the number of cases pending (from NCRB 2018). However, recently the juvenile who convicted in the *Nirbhaya case (gange rape and murder)* was released after serving the ceiling sentence possible under the current Juvenile Justice (JJ) Act. However in this case there was an extraordinary pressure for the same juvenile to be further punished", But, this was not supported by the Supreme Court. Because of large scale public pressure in the wake of this special case, the Parliament has recently enacted a new JJ Act in 2016 (Rao, 2008).

It is learned that under the new JJ Act, 2016 children aged between 16 and 18 years will be trailed as adults in case of 'heinous crimes' if any. Also The JJ Board may transfer special cases to the children's court if it is found necessary. Next, as per this new act, change in word from 'juvenile to child' or 'child in conflict with law' to remove the downbeat implication linked with the existing word 'juvenile' (Law guide, 2016). Also, this act has given some new definitions for children who are orphaned, abandoned etc. and minor, solemn and atrocious offences committed by children. Further, the same act has given clear picture about powers, duties and responsibilities, and

compositions of JJ Board and Child Welfare Committees (CWCs) and new modus operandi for their inquiries.

Juveniles in conflict with law had to suffer a lot as there are less supportive and preventive measures apart from the governmental that provision as per Juvenile Justice Act demands. Children homes or correctional homes are specially meant for the Juveniles. However, nowadays Childrens homes (correctional homes) are under series of criticism for its style of functioning. Juveniles are escaping from the children home because of pathetic conditions inside. It is reported that in some cases they are being cruelly handled. Children inside the homes are facing their tough time again. Juveniles are being used to perform low level jobs inside home. Unnoticed deaths are being happened here. Different forms of exploitations of children have become a major issue for concern in Children's homes. It is reported that juveniles are largely being treated as 'notorious criminals' so that after releasing from the home they may not come back to the main stream of the society. These homes are supposed to conduct correctional programmes, such as social prevention, behavior change counseling, social therapy, etc. with the help of the experts. However, studies say no such efforts are being seriously made in the children homes (Pradheepa et al., 2005).

### **Children Homes /Observation Homes:**

Children homes are originally predestined to rehabilitate the children conflict with law/juveniles. However, structural, organizational and operational framework and efficiency and effectiveness of the management of the both Govt. and NGO managed children homes across the country are under stiff criticism soon after the implementation of CRC policy. Hence, the present study will critically examines the working style of the children homes in the Three Indian states focusing types of institutional services, education, rehabilitation policy and programme, CRC implementation, vocational training, institutional infrastructure, facilities provided, welfare programmes, recreational arrangements, disposal of cases etc. As we know children constitute about 42% of India's population and India in her National Policy for Children declares 'children to be a national asset'. Today juvenile delinquency



or children conflict with law is considered as a leading, common and most complex issue, as it causes major agony to the entire society. Today, every society, religion, culture, social group, community and state is suffering the huge harm and loss causing by juvenile delinquency. It has become a major growing problem in the transition society like India. Statistic reports say juvenile delinquency growing 3-5% percent per year (Paranjape, 2017).

It is general notion that the State is responsible to create and maintain children homes/ observation homes for Juveniles during the pending of their enquiry. The children who are under the age of 18 years are admitted to these homes by the police he/she found guilty initially. Hence Govt. and NGOs (accredited) are running required observation homes in India. These types of homes are basically providing required accommodation, security, maintenance, medical facility but also provide opportunities for mainstreaming the child after completion of sentences. These types of institution render education and recreational facilities, vocational training, behavioral therapies etc. to change the mindset of the juveniles. The institution also plans for required rehabilitation process. Also one of the key aim of such homes are not only to facilitate the Juveniles with accommodation, educational and vocational trainings but also train them to cultivate good character, protection against moral danger etc. leading socially useful growth and development of the juvenile in the future (Special Homes: There is one home called as Special Homes. Normally these homes will be established with the help of NGOs. If a child convicted, then he/she will be given three years of conviction and thus will be sent to the Special Homes. Various types of child development programmes will be conducted in these homes (Nagi, 2007).

Studies show that the programmes and functions which are conducted in the Juvenile Homes are not being catered to the psychological and emotional requirements of the juveniles. The content of the programmes are not giving any attention focusing emotional issues and creativity and eradicate their anxieties and worry about their future. In some cases inmates at the homes are being subjected to the various types of exploitations including sexual abuse. Also it is reported that some unexplainable deaths are being occurred at such children's homes as per the study conducted a study about the intervention programmes implemented in the juvenile homes in Kerala and

found that they are effective only to a certain extent and not very impact oriented (Jyothi, 2010; Nalaswami, 2015).

Various study and research reports have found that if delinquency policies are to be truthfully effectual, main concern must be given to excluded, marginalized, susceptible and deprived children in society. Further the issues relating to children conflict with the law should be the central focus of any national children policies. The administration of juvenile justice should be decentralized so that local Govt. agencies will more vigorously take part in preventing children doing crime and resending child offenders back to the main stream of the society through various corrective measures. Hence finally he/she will become an accountable person to the society. Police people must be sensitized in this issue. Children homes must be scientifically up graded. Local NGO can play a vital role in bringing the delinquent children back to the society (Peiser, 2001; Jyothi, 2010).

Studies done on the conditions in Children homes have noted that sexual abuse among inmates is very serious and requires urgent corrective action by the state. The period of custody at children homes should be used for identification of the problems and must provide proper social, medical, and psychological rehabilitation to put off their deviant behavior (Patel, 2001). It is not happening here. Govt. should envisages appropriate action through the concerned authorities to make urgent efforts to create safe living conditions of all children who care the inmates in different children homes in the country. Also authorities must take action to implement CRC properly in children homes.

It is found that children homes are lacking infrastructural insufficiencies and untrained staffs. The quality of food and water being supplied to the homes is also under criticism. Some homes are running in rented building. In some cases no good ventilation and proper place to sleep for inmates. Also in majority states there are no specialized cadres in the JJ system- like Probation Officers, Public Prosecutors, Superintendents, Police officers, or even Magistrates of the JJB, etc., are largely dreadful if at all available, and on the other hand get blamed when children escape or commit suicide. Also most State governments do have some kind of training offered for functionaries, JJBs, Juvenile police unites, Child welfare board members

and others, these are irregular and lack of vision for capacity building, a complete curriculum, or cutting edge training material is need of the hour (Patel, 2001).

Rehabilitation process is a very debatable issue in juvenile cases. Return of the juvenile to the open community reveals a tough process as stigma leaves behind. The civilized society finds it stiff to manage with the problem of re-entry of those inmates into the active community. This key issue reflects the absence of coordination among the parts of the Juvenile justice system in the country. Inmates released on completion of punishment without parole and having no family hold or job may face difficulties to live in the society. This is because the scheme of community rehabilitation is given a last concern by the juvenile justice system in India. The safety and the security of the larger public is the primary and leading concern here.

### **International Effort**

The UNO has firmly believed that every state must provide proper care, protection and treatment for the children conflict with law and excluded children crying for care and protection. It is generally believed that there should be a child friendly approach in the adjudication and disposition of the issues pertaining to children conflict with law. In this regard the four significant decision took are 1) U.N. Declaration of the Rights of the Child, 1959 2) International Convenient on Civil and Political Rights, 1966 3) The Beijing Rules, 1985 4) U.N. Convention on the Rights of the Child, 1989 5) The United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990. (Havana Rules), United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985. (The Beijing Rules), United Nations Guidelines for the Prevention of Juvenile Delinquency, 1990 (The Riyadh Guidelines - Sources: web based)

The first act or legislation measure on juvenile justice in India came in 1850. Indian Govt. has brought many acts including to prevent Juvenile delinquency (a) Apprentices Act, 1850 (b) Reformatory Schools Act, 1897(c) The Children Act, 1960 (d) The Orphanages & Other Charitable Homes. Also Govt. of India has brought some other policy including 1) National Policy for

Children, 1974, 2) The Children (Amendment Act), 1978, 3) Juvenile Justice Act, 1986, 4) Juvenile Justice (Care and Protection of Children) Act, 2000, 5) National Charter for Children, 2003, 6) Commission for Protection of Child Rights Act, 2005, 7) Juvenile Justice Rules, 2007. Further, Indian Judicial system has also Responded well through its land mark verdicts some of them are Right not to mix juvenile offenders with hardened criminals, by SheelaBarse V/s Union of India cases. Also some of the noted verdict in this issue are 1) Sanjay Prasad Yadav V/s State of Bihar, 2) Krishna Bagwan V/s State of Bihar, 3) Abdul Mannan & others V/s State of W.B. 4) Raghuvir Bajaj V/s State of Haryana, 5) Munna V/s State of U.P., 6) Sanjay Suri V/s Delhi Adm (from various resources).

It is found that juveniles are suffering a lot, as there are only few supportive and deterrent measures apart from the government that provisions in the Juvenile Justice Act. Juvenile Justice Act states that a sponsorship programme may provide supplementary support to families, to meet medical, nutritional, educational training and other needs of the children with a view to get better quality of life (Ramesh, 2015). Next, JJ act has a provision ‘for different sponsorship like individual, group or community sponsorship’ (newspaper based). But nobody is interested here. However, it is reported the state machinery seems to have forgotten the policy and programme under Integrated Child Protection Scheme (ICPS) to make sure the security of children, with stressing on children in need of care and protection, children in conflict with the law and other marginal children in the country.

It is proposed that the appropriate accomplishment of the JJ Act 205 in all the states will make sure secured environment for juveniles in children home. Besides, importance needs to be given to the Correction System in the children’s homes which is not mentioned in the after mentioned Act. Community based services should be introduced for the needy for the efficient and cultural specific rehabilitation process, and reunion of the juveniles back to the active societal settings with the help of NGOs. Experts felt the need-based policy is need of the hour for the former juveniles (Tripathi, 2016). Hence, it is argued that community involving NGOs, civil societies, psychologists, police officers, and media should be involved in the system to recognize and notice children who are suffering from needs deficiency. This must be done on the

children who are in the children homes and outside. In this regard there is an urgent need to have comprehensive investigation of the functioning of the selected Public and Private Children homes in the selected states and to reveal the exiting preventive, curative, rehabilitative models.

## **Conclusion**

The social problem of delinquent children in India includes housing problem, peer groups, low level medical services, detachment, low personal relations, separation from the main stream of society, lack of basic minimum requirements, poor health status, societal critics, stigma, disability hatredness towards system etc. Also various emerging aspects such as family status, family violence, childhood violence, peer group interactions were potentially enough to blemish the young minds at any age. It is opined that if the child does not learn the good value and norms of life and cannot regulate himself/herself to the context which he/she has to face in life and very often, he/she expresses his aggravation in the form of delinquent activities in the future. Rehabilitation and the success rate of the juvenile delinquent is dependent upon different stake holders involved in the rehabilitation process willing to make the changes and sacrifices essential to achieve the goal of a rehabilitated juvenile re-entering society as a strong citizen. This plays a main role in the success or failure of juvenile delinquents.

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