

Juvenile Delinquency: An Early Age to Crimes

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Abstract

Crimes by juveniles is a harsh reality in India. In recent times juveniles were found to be involved in heinous crimes such as murder and rape. Juveniles who are considered to be childish or immature in their senses often unknowingly under the peer influence or societal trends commits crime. As there is a general saying 'No one is born criminal, circumstances make him so.' Socio-cultural environment around juveniles has a significant influence and impact on their acts. The Juvenile Justice Act, which has been amended with times, deals with the delinquency committed by juveniles with the purpose of rehabilitation of juvenile and assimilate him/her in mainstream society. The rationale is that a child still has the possibility of getting reformed due to his/her lack of maturity and tender age. The approach is that it is the responsibility of state to protect and reform the juvenile. But with the increase in heinous crimes by juveniles, the Juvenile Justice (Care and Protection) Act, 2015 was amended and juveniles aged between 16-18 can be put to trial as an adult. In this present article, we would be discussing about how the cases of juveniles are treated differently than adults, what provisions are there which help in reforming the child and whether the amendment in the juvenile law deterred the government from the reformatory approach.

Keywords: Delinquency; Juvenile Justice System; Juvenile Justice Act; Juvenile Justice Board.

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Introduction

The concept of Juvenile Delinquency is new, but the behaviour of the youngsters to which it refers to is age old. The term was not coined to describe a new type of behavior but rather signaled important developments in the approach to treatment of Juvenile offenders. The rationale behind this is to make a refinement between the disciplines endorsed for the juveniles and disciplines endorsed for the adults.

As per the Juvenile Justice (Care and Protection) Act, 2015¹, "*juvenile means a child below the age of eighteen years*".² Simply, it can be said, a person who has not attained the age of majority or is not an adult.

The common issue in present day society is the deterioration of moral character among the adolescents. It has been observed that the inclination of youth towards anti-social activities and to commit crimes is ever expanding. Juvenile Delinquency occurs when there is a violation of a

statute by a juvenile. Delinquency is essentially the initial step towards adult crimes or is a gateway to adult criminality. One can without much of a stretch can say that today's delinquent will be tomorrow's criminal. Having this proposition in mind, we have separate law and statutes which deals with the crimes done by juveniles differently as compared to adult offenders, however with the recent amendments, the Judicial System can consider juveniles as an adult in case of serious and heinous crime.

Defining Delinquency

The term '*Delinquency*' is derived from a Latin word '*Delinquer*' means '*to omit*'. Romans use the term to refer to that person who fails to perform their obligations or duty. In 1484, William Coxson³ used the term '*Delinquent*' to depict those persons who are found guilty for customary offence. In other words, it can be said that, delinquency is a form of behaviour which is against the norms of the conduct of society. Delinquency is a kind of abnormality when an individual deviate from the course of normal social life.

'Juvenile Delinquency' has been distinctively interpreted by various penologists. Juvenile delinquency is defined as 'the habitual committing of criminal acts or offences by a young person, especially one below the age at which ordinary criminal prosecution is not possible.' The term refers to a large variety of disapproved behaviour of youngsters and teenagers which the society does not support of, and for which some sort of advice, discipline or restorative measure is advocated in public interest. It may therefore be construed that a juvenile is a youthful individual between childhood and manhood or womanhood who indulges in anti-social behaviour, which, if not checked, may transform him into a potential offender.

Juvenile Delinquents

It has been already been discussed that, juvenile delinquents are those offenders who is below the age of majority and were indulged in a criminal activity. Mainly there are two main categories of offenders: *Repeat Offenders* and *Age-Specific Offenders*.

- a) **Repeat Offender:** The category of repeat offenders includes, those Juvenile Delinquents who were showing the signs of an anti-social behaviour during the

time of adolescence. These offenders are continuously engaged in the criminal activity and after adulthood having an aggressive behaviour. They were also known as "life-course persistent offenders."

- b) **Age-Specific Offender:** This type of delinquent behaviour generally begins during the adolescence. Unlike the repeat offender the behaviour of the age-specific offender ends before the minor become adult. Age-specific offender leave their delinquent behaviour behind when they enter the adulthood, they have more mental health problem, and have great financial problem than those adults who never had delinquent as juvenile.

Factors of Juvenile Delinquency

The ever-changing social environment always had a significant impact on the process of a child's psychological development, which to a great extent relied upon social settings and the underlying social frame, of mind of kids and youth. Interdisciplinary studies on juvenile delinquency reveal that across the world, many behavioral changes occur in the juveniles/adolescents, which are related to the sudden changes in their body due to hormonal surge, associated with puberty. The changes are most apparent in physical parameters, such as change in height and weight of the adolescents and are soon followed by other sexual and physical changes of maturity. The various factors which lead to Juvenile Delinquency are as follows:

- a) **Adolescence Instability:** The psychological and sociological factors are important in adolescent behaviour. Physical maturity is also an important factor. The child in this age wants to maintain his own identity, fashion, dress, language, food and play, thereby more prone to the negative and anti-social behaviour. The problem become more when the adolescents are not kept in containment and their development gets tainted.
- b) **Uncongenial Home:** The juvenile delinquency in some cases is the result of uncongenial atmosphere at home. The parents behaviour with their children and the behaviour of parents among themselves are of vital concern in moulding the child's psychology from very beginning. The way the child is nursed is very important throughout his life and not only during the age of maturity.
- c) **Poverty:** Poverty plays an important role

in cases of juvenile delinquency. When the children see others enjoying the life comfortably, the desire to have those things by hook or by crook develops and gives birth to the delinquency. Theft and gambling are the starting point of it.

- d) **Associational/Peer Impact:** When the child moves outside his family, he encounters with various classes of persons of all ages and gender. He develops a definite circle of association outside the home and school. He adapts the habits of the group to which he is associated. Often under peer pressure adolescent choose negative track and indulge in illegal activities.

Laws for Juveniles

- a) **Indian Penal Code:** As per the Section 82⁴ up to the age of 7 years there is an absolute irrefutable presumption that the child is *doli incapax*. The immunity is granted to the children who are below the age of 7 years on the pragmatic approach of the State that they do not have the capacity to have the requisite *mens rea*. According to Section 83⁵ if the child above 7 years and below 12 years has not attained maturity of understanding to judge of the nature and consequences of his conduct, then he shall not be liable under the law. To make them liable they must attain the age of maturity of mind (mischievous discretion).

In *R. v. Krishna*⁶ where a child of 9 years of age stole a silver chain and sold it for 5 annas, the lower court convicted the buyer and acquitted the child. In another case, *Harilal Mallick v. State of Bihar*⁷ it was held that not only it has to be proved that the child being under the age of 12 but also it has to be proved that the child did not have enough understanding at that point of time and was immature. If enough proof is not laid down in front of the court to prove the immaturity of the child, then it will be presumed that the child accused intended to do what he really did. Thus, in this case a child of 12 years or so used a sharp sword in killing a person along with his two brothers and evidence of age or immaturity or understanding was led on his behalf, thus held liable.

- b) **Juvenile Justice Act:** According to Section 2(35)⁸, Juvenile means a person who has not attained the age of 18 years. The Act provides uniform age for both boys as well as girls, whereas in the older act i.e., Juvenile Justice

Act, 1986 there was different age which has now been replaced. This definition is wider than the definition provided under Section 82 and Section 83 of the Indian Penal Code. The Act of 2015 provide that no juvenile can be sentenced to death or imprisonment or committed to prison in default of payment of furnishing security.

The Juvenile Justice (Care and Protection) Act, 2015 defines, under section 2 (13) defines '*child in conflict with law*' as a juvenile who is alleged to have committed an offence. Under section 2 (14) the same Act, there is another category of children- '*Child in Need for Care and Protection*'. These children are defined as the ones who are found without any home or settled place or abode and without any ostensible means of subsistence.

The two categories of children are also treated by different institutions- juvenile offenders under the Juvenile Justice Board, and the vulnerable children under the Child Welfare Committee.

Further, the trial of the juvenile offenders are held in a very informal manner, where the offender cannot be brought to the JJB handcuffed. The police officials or other government personnel are dressed informally. The identity of the offender is always concealed, and in no case, media can mention the name of the offender in newspapers or on news channels. After the trial, offenders are kept under the observation homes or Special homes.

All these child friendly measures of Indian government are indicative of the fact that government does not want to jeopardize the lives of the young criminals and wants to give them all a chance for improvement. All the provisions are very much in line with juvenile jurisprudence.

Age Determination Issue

The determination of Age is always a tricky and controversial issue in Juvenile Justice. In number of cases court had decided in this regard. In *Jaya Mala vs. Home Secretary, Government of J&K*⁹ the apex court held that, the age as ascertained by medical examination is not conclusive proof of age. It is a mere opinion of the doctor and a margin of 2 year could be on either side. In another case, *Bhoop Ram vs. State of U.P.*¹⁰ the apex court held that in case of conflict between documentary evidence and medical report, the documentary evidence will be considered to be correct.

In the case of *Gopinath Ghosh vs. State of West*

*Bengal*¹¹, the accused had given his age much above the cut-off age prescribed for being a child. However, in this case, the court not only allowed the plea of child status to be raised for the first time but also referred the matter to the sessions judge for a determination of the age of the accused. Approving this approach, the Supreme Court in *Rajinder Chandra vs. State of Chhattisgarh*¹², further laid down that the standard of proof for age determination is the degree of probability and not proof beyond a reasonable doubt.

Birth Proof

In a direction that will benefit thousands of children incarcerated in jails, the Delhi high court has linked birth registration system with the juvenile justice administration to ensure that they get permanent birth certificates.

The order, once implemented, can ensure that age inquiries conducted by juvenile justice boards and child welfare committees are treated as a birth record. Once such a record is available it will be difficult for police to put children in jails meant for adults even as repeat juvenile offenders won't be able to take advantage of the loophole in the JJ Act that prescribes a fresh age inquiry every time an accused claims to be a minor.

Later, the *National Commission for Protection of Child Rights (NCPCR)* held discussions and filed its report supporting the proposal. The commission stressed the need to put in place proper infrastructure and tweaking of rules so that a database is maintained for age inquiries. The Delhi Legal Services Authority too said that once the police has access to age declarations in their database they can verify if an arrested person is an adult or a juvenile, removing the current large scale reliance on bone ossification medical tests which in any case has inbuilt ambiguity of two years.

Reality of Juveniles Crimes in India

Juvenile delinquency has been increasing in capital city Delhi and other places in India at an alarming rate. The involvement of the juveniles in serious offences like murder, attempt to murder, kidnapping and abduction has raised concerns in the nation. After the *December 2012 Gang rape* in Delhi (or *Nirbhaya case*, as it was commonly called), many debates and discussions pointed to the softer approach of Juvenile Justice System to serious offences. It has been found that the youngsters can be as brutal as the adults, which forced the people to reanalyze the definition

and approach to juvenile delinquents in India.

The number of juvenile delinquents has risen by leaps and bounds in the last few years. According to the *National Crime Records Bureau*, 25,125 cases were registered against juveniles under IPC crimes in 2011. The number steadily rose to 31,369 in 2015.

Table 1: Cases registered against Juvenile in conflict with law and Crime Rate under IPC during 2011–2015¹³

Year	Cases Registered		Percentage cases of Juvenile in conflict with law to total cognizable Crimes	
	Against juveniles in conflict with law	Under total cognizable IPC Crimes		
2011	25,125	23,25,575	1.0	2.1
2012	27,936	23,87,188	1.2	2.3
2013	31,725	26,47,722	1.2	2.6
2014	33,526	28,51,563	1.2	2.7
2015	31,396	29,49,499	1.1	2.5

As it is evident from the data in Table 1, there is an increase in number of cases registered against juveniles in conflict with law. From 2011 to 2015, this number has increased from 25,125 to 31,396 (in category of Against Juveniles in conflict with law) and from 23,25,575 to 29,49,499 (Under total cognizable IPC Crimes). Though the percentage of cases of juvenile in conflict with law to total cognizable crimes has ranged from 1.0 to 1.1, the Rate of crime under cases of Juveniles in Conflict with law has increased from 2.1 to 2.5.

Table 2: Cases registered in India against Juvenile in conflict with law under different crime heads of IPC during 2015¹⁴

S. No.	Types of crime	No. of cases
1.	Murder (Section 302 IPC)	853
2.	Attempt to commit murder (Section 307 IPC)	980
3.	Culpable Homicide not amounting to murder (Section 304IPC)	36
4.	Attempt to commit Culpable Homicide (Section 308 IPC)	60
5.	Rape (Section 376 IPC)	16988
6.	Kidnapping and Abduction	1630
7.	Dacoity	193
8.	Robbery (Section 392 To 394, 397 And 398 IPC)	1358
9.	Criminal Trespass/Burglary (Section 457 To 460 IPC)(Total)	2605

Table 2 shows number of cases registered all over India for the juveniles under various crimes under

different heads of IPC during the year 2015. These figures are alarming.

The NCRB data indicates that there has been an increase in crimes committed by juveniles, especially by those in the 16-18 years' age group. NCRB data given below shows the trends of juvenile offences.

Table 3: Statistics showing the crimes by juveniles in comparison mode

Juveniles between 16-18 years apprehended under IPC¹⁵

Crime	2003	2013
Burglary	1,160	2,117
Rape	293	1,388
Kidnapping/abduction	156	933
Robbery	165	880
Murder	328	845
Other offences*	11,839	19,641
Total	13,941	25,804

Table 3 shows the figures for Juveniles aged between 16-18 apprehended during 2003 and 2013. It is evident that involvement of juveniles in the age group of 16-18 years is very high and rapidly increasing.

Main Causes for Unprecedented Increase in Juvenile Delinquency in India

Despite intensive rehabilitative measures and special procedure for tackling the problem of juvenile delinquency, there is a growing tendency among youngsters to be arrogant, violent and disobedient to law, with the result there has been considerable rise in the incidence of juvenile delinquency. The main causes for this unprecedented increase in juvenile delinquency can be as follows:

1. *The commercial development and economic growth in India have resulted into urbanisation that successively has given rise to new issues such as housing, slum dwelling, overcrowding, lack of parental control and family disintegration and so on.*
2. *Temptation for modern luxuries of life lures youngsters to resort to wrongful means to satisfy their wants. All these factors cumulatively result in a massive increase in delinquency in urban areas. It has rightly been commented that today 'there is no crime but there are only criminals in the modern sense of penology'. It is, therefore, desired that the society be shielded from offenders by eliminating situations which are conducive to delinquency.*

3. *Disintegration of family system and laxness in parental management over children is yet one more potential cause of increase in juvenile delinquency. The British Home Secretary Mr. Butler once said that the natural consequences of broken homes are lack of parental control, absence of security and want of love and affection towards children, which are contributing factors for juvenile delinquency.*
4. *Unprecedented increase in divorce cases and matrimonial disputes is yet another cause for disrupting family solidarity. Discriminatory or step-motherly treatment with children also has an adverse psychological effect on youngsters. Once a child feels neglected, he is bound to go astray, and this furnishes a soothing ground for juvenile delinquency.*
5. *The rapidly changing patterns in modern living also makes it difficult for children and adolescents to adjust themselves to new ways of life. They are confronted with the problem of culture conflict and are unable to differentiate between right and wrong. This may drive them to commit crime.*
6. *Biological factors such as, early physiological maturity or low intelligence, also account for delinquent behaviour among juveniles. Youngsters are not able to control their biological impulses prompted by hormonal changes. There are more rape cases in urban areas than in rural areas, as the societal control in the former have weakened.*
7. *Migration of deserted and destitute boys to slums brings them in contact with anti-social elements carrying on prostitution, smuggling of liquor or narcotic drugs and bootleggers. Thus, they lend into the world of delinquency without knowing what they are doing is prohibited by law.*
8. *Poverty is yet another potential cause of juvenile delinquency. Failure of parents to provide necessities of life such as food and clothing etc. draws their children to delinquency in a quest for earning money by whatever means. At times, even the parents connive at this for the sake of petty monetary gains.*
9. *Besides the aforesaid causes, illiteracy, child labour, squalor, etc., are also some of the contributing factors aggravating juvenile delinquency.*

It must be stated that the nature of delinquency among male juveniles differs radically from those

of girls. Boys are more prone to offences such as, theft, pickpocketing, gambling, eye-teasing, obscenity, cruelty, mischief, etc., while the offences commonly committed by girls include sex-involvements, running away from home, truancy and shop lifting. It is further noteworthy that delinquency rate among boys is much higher than those of girls, the reason being that boys by nature are more adventurous and enduring than those of girls.

Amendments in Juvenile Justice Act

Due to this trend, legal definition of child under Indian legal system came under question. The new Juvenile Justice (Care and Protection) Act of 2015 took into cognizance the involvement of juveniles in heinous crimes and brought out some amendments. Under the new legal provisions, if a child of 16 years or above commits a heinous crime, a preliminary assessment of his mental and physical maturity will be made by the JJB. Level of maturity will be matched to his capacity to commit such an offence, his ability to understand the consequences of his offence and the circumstances in which he allegedly committed the offence.

The Juvenile Justice Bill was introduced in the Lok Sabha in 2014, after it was felt in the post- Nirbhaya case that some action needs to be taken against the increasing involvement of juveniles in the age group of 16 to 18 in heinous/ serious crimes. The serious crimes have not been defined in the Indian Acts per se, but they may be taken to mean the category of crimes which would entail imprisonment for 7 years or more for adults. It was felt that JJ Act 2000 was flawed with implementation issues, and the new Bill intended to close these loopholes.

Methods of Treating Delinquents

The seriousness of offences committed by juveniles is taken into consideration under the JJ Act and Rules in the following ways:

- Juveniles who are not released on bail, are required to be first placed in the reception unit of an institution called the *Observation Home (OH)*, pending inquiry. Here, along with age, physical, and mental status, the degree of offence allegedly committed is also considered, in order to classify and segregate the juveniles so that all children residing there get the requisite care and protection while in the home.

- Juveniles who are alleged to have committed serious offence are placed at *Special Homes (SH)* (institutions where a juvenile may be placed as per a final order of the JJB) instead of the OH during the period of inquiry. The state governments have been empowered to frame rules to provide for the classification and segregation of juveniles also in SH on the basis of age, nature of offence committed and their mental and physical status.
- The JJB can also pass a final protective custody order that a juvenile above 16 years of age who has committed an offence 'so serious in nature' that it would not be in his interest or the interest of other juveniles in SH to place him there and that none of the other measures specified would be suitable.
- Juveniles who have been found guilty of committing heinous or serious offences can, at the most, be sent to SH for a maximum period of three years. At the time of passing final orders, the JJB can also reduce the period of stay if it satisfied that it is necessary to do so having regard to the nature of the offence and the circumstances of the case.
- Such juveniles, like all others, are entitled to be socially integrated/rehabilitated through adoption, foster care, sponsorship, and aftercare. After care organizations are mandated by law to take care of juveniles after they leave the SH for the purpose of enabling them to lead an '*honest, hardworking, and useful life*'. Such after care can be provided for a maximum of three years, and for a juvenile between 17 and 18 years of age, till he/she attains the age of 20 years. All juveniles in aftercare come under the jurisdiction of the JJB.
- *Individual Care Plans (ICPs)* must be prepared for all juveniles within one month of their admission into an institution in order to ensure they get individualized attention in their journey towards reformation, rehabilitation, social mainstreaming, and restoration back into the community. The JJBs are required to pass final orders based on these ICPs prepared by a probation officer or voluntary organization based on interaction with the juvenile and his family where possible.
- Moreover, a Mental Health Care Plan, with recommendations from experts has to be maintained in every case file and integrated into the ICP of every juvenile.

From the above analysis, juvenile law in India does indeed provide for a juvenile jurisprudence grounded system which focuses on reforming and rehabilitating juveniles who commit serious crime through services that are monitored and reviewed rigorously. It also retains the focus on the ends of justice, considering the interests of the victim and the wider society.

Conclusion

The Juvenile Justice Act of 2015 can be seen as a very progressive step of the Indian government towards keeping pace with changing trends in juvenile crimes. The bold step under the Act on treating the juvenile offenders found guilty of committing heinous crime as adults, subject to the observations of the Juvenile Justice Board. The Justice Verma Committee took a stand against the lowering of age of juveniles in conflict with law. It was observed in the report that *“Any attempt of reducing the age of juvenile, or excluding certain children from the purview of the Juvenile Justice (Care and Protection of Children) Act 2000 on the basis of nature of the offence and age, will violate guarantees made under the Constitution and international instruments, the United Nation Convention of Rights of the Child (UNCRC)”*.

But the Supreme Court in India took a stand contrary to the suggestions and warnings of the Committee. It was argued that the age of 18 years was fixed because of the expert notion of psychologists that children/juvenile up to this age are malleable and can be reformed through redeeming and restoring techniques. It was then argued that putting them with adult criminals would re-socialize them into the world of crime and convert them into hard core criminals. The Indian courts keep this fact in mind when dealing with offenders who are not habitual criminals. The judges don't want to burden the jails with criminals.

However, when the latest trends in juvenile delinquency in India are analyzed, in respect of the age pattern and nature of offences committed, it appears that we need to review and amend our juvenile justice policy. The same kind of trends appeared in US and UK, with peaking of heinous crimes committed by the juveniles in the age group of 16 to 18 years.

In India, it is indicated from the crime trends that existing laws (prior to 2016) were not proving to be a deterrent. The constant exposure of children to violence and lack of understanding about the consequences of crime committed makes them

quite prone to delinquent tendencies. The problem gets worsened in absence of some adults in role of responsible guardians to give them and help them in filtering the information that comes to them through various sources.

In the face of fast pace of industrialization and globalization, the self-control and parental control that was earlier enough to prevent individuals from committing offences has become weak. The primary socialization that functioned through groups such as family, peer groups, traditional neighbourhood ties, close kin circles is fast becoming ineffective in Indian society. All this has led to present trends in juvenile delinquency.

It is to be kept in mind that the legal sub-system is a part of the larger social system. Any change in the larger whole, that is the society necessitates changes in the constituent parts or the smaller sub-systems. Thus, when changes are occurring in the society at a fast pace, the legal system has to go in sync with the society. The Juvenile Justice (Care and Protection) Act 2015 has brought these changes.

The fact that children are considered to be gifts from God and are greatest personal as well as national assets. We as individuals, parents, guardians and society as a whole have a duty that children should be allowed and provided equal opportunity to grow up in a healthy socio-cultural environment so that they could become responsible citizens, physically fit, mentally alert and morally healthy. It is the duty of the State to provide equal opportunities for development to all children during the period of their growth which would reduce inequality and ensure social justice.

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*Note: Other offences include cheating, rioting, etc.
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