

The Emerging Trends of Juvenile Delinquency in India

Sandeep Kumar

M.A. & J.R.F. in Psychology

Email:sheoransandy123@gmail.com

Abstract: Today juvenile delinquency is a major problem of our society and it is also a major determinant of social order. Moreover, most of the studies indicate a trend of increase in juvenile crimes in the recent years. That is why the government of India has passed and implemented an effective legal framework to combat such crimes. However in December 2012, after nirbhaya case in Delhi this crime was recognized as serious juvenile offense. Therefore, the Juvenile Justice Bill was introduced in Lok Sabha in 2014. Now it was said that J.J. Act (Juvenile Justice Act) had some loopholes and the new Act would bring a drastic change in juvenile crimes. The present research paper highlights the emerging trends of juvenile delinquency in India.

Keywords: Delinquency, Crimes, JJ Act, Emerging Trends, NCRB.

Introduction: Children are part and parcel of any society and they are also the rock of any nation on which its future is built. Moreover, they have to become the leaders of the country, the creators of national wealth, who care for and protect the human community of the land to which they are rooted. However, these children across the world develop at different rate and develop different world- view. They increase their ability to think abstractly and develop their own views regarding social and political issues. They develop ability to indulge in long- term – planning and goal setting and likewise there is also a tendency of making comparison of self with others. They yearn for separate identity and independence from parents. This is the age when peer influence and acceptance becomes very important. They also develop strong romantic/ sexual ideas, and tend to show indulgence in love and long- term relationships. Therefore, to understand the latest trends in juvenile delinquency, statistical data from National Crime Records Bureau (NCRB) and some other sources has been taken and analyzed. Further, it is noteworthy to say that this data has been linked with latest amendments made in

the Juvenile Justice Act. Nevertheless, we cannot deny the fact that it is a deeper insight into the problem in the whole country.

It is a well-known fact that Juvenile delinquency is a serious offence and it is detrimental for the social order in any country. Today, most of the studies show that there is a trend of increase in juvenile crimes world-over, with more and more involvement of the youth in violent crimes. India shows similar trends of increasing rate of violent crimes committed by the juveniles. That is why it is a very serious concern for the nation and solutions to end the problem need to be sought very carefully. Indian legal system and judiciary has responded to these trends and has brought some amendments in the laws pertaining to juvenile justice in India. Furthermore, it is to know that Juvenile crimes have become such common phenomena that they raise serious concern in any nation. In common terminology, juvenile is a child who has not attained a certain age at which he can think rationally and often understand the consequences of his/ her act. Hence, the juvenile can't be held liable for his/her criminal acts. A juvenile delinquent may be regarded as a child who has allegedly committed /violated some law, under which his/her act of commission or omission becomes an offence. Under the Indian Laws, Section 2 (k) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (referred generally as JJ Act) juvenile is a person who below 16 years. Prior to JJ Act of 2015, the age bar for juveniles was 18 years (Juvenile Justice (Care and Protection of Children) Act, 2000, 2006, 2012). In fact, the age of the juvenile under the Indian legislations has taken variation in temporal and spatial perspectives. It varies from 14 to 18 years under different laws and different Indian states. Therefore, age doesn't matter. Today, legislation related to juvenile delinquency is thought to be more effective in its implementation to combat this crime in India.

Juvenile Delinquency in India- Emerging Trends: The legal definition of child affects how the courts in a country deal with offenders. As per the international norms, and also under the juvenile Justice System in India, a minor or a child cannot be tried in the same manner as an adult. A child is treated as *doli incapax*, with no means is he/she is not capable of understanding consequences of his/ her actions. Keeping this fact in mind, children are dealt under juvenile justice system, and not under the adult criminal justice system. They can never be given imprisonment or death penalty. Hence, under the Indian legal system, Art. 40 (3) (a) of CRC

requires State Parties to promote establishment of minimum age below which child is presumed not to have capacity to deviate the penal law. Age of criminal responsibility is held to be 7 years- child below 7 years cannot be considered a child in conflict with law – section 82 of IPC, 1860. Thus, nothing is an offence done by a child between 7 and 12 years, who has not attained sufficient maturity to judge the nature and consequences of his/her conduct, and did not know that what she/he was doing was wrong - Section 83 of IPC, 1860.

Today, nobody can deny the fact that 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 many 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. D. Ghosh has concluded that due to access to internet, the psychiatrists feel that aspirations of adolescents and adults are becoming at par. On the contrary the NCRB data shows that there has been an increase in crimes committed by juveniles, especially by those in the 16-18 years' age group.

Indian Juvenile Justice Act: Keeping some important facts about the Juvenile crime, the government of India has framed some legislation work. To describe the problem, Juvenile Justice Act, 2000 defines, under section 2 (l) defines juvenile in conflict with law as a juvenile who is alleged to have committed an offence and is under 18 years of age (and above the age of 10 years) on the date of commission of crime. Under the various Indian laws, there is no consensus over the definition of child, which creates confusion and dilemma over the legal treatment of the children. However, after the nirbhaya case, some changes in the existing framework of juvenile delinquency have been emerged. Therefore, recent trends in juvenile delinquency and under section 2 (d) the same Act, there is another category of children- "Children in Need for Care and Protection" referred. 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. They may be street children/ indulging in beggary, child laborers, orphaned/

abandoned/ destitute children, abused children/ trafficked children, children suffering from physical deformity/ mental illness or victims of conflict and disaster situations. The Indian J.J. Act acts all such children and legally protects their rights, at least on paper. R. N. Choudhary (2005) in his study about the problem of juvenile delinquency talks about various laws that are prevalent in reference to juvenile justice in India.

Moreover, some scholars have pointed out that the need to incorporate the second category of children came from preventive approach of the JJ Act. The children who live under the condition of destitution, or under difficult situations, are very vulnerable to commit crime. Any trigger point in their lives can push the offender button, and they may convert into delinquents. So, keeping up to the philosophy prevention is better than cure, the JJ Act of India has made provisions for including both category of children, both who are offenders, or those who are quite likely to indulge in deviant acts should be treated under the Act.

Regarding the juvenile justice in India, it is very important to highlight that the two category of children are also treated by different institutions- juvenile offenders under the Juvenile Justice Board, and the vulnerable children under the Child Welfare committee. The Juvenile Justice Board consists of a metropolitan judge, or judicial magistrate of first class, and two social workers, at least one of whom should be a woman. Under the Act, there are also provisions for a Special Juvenile Police Unit in every police station. All these personnel must be preferably trained in child psychology, or should have sensitivity in child related matters. If the juvenile is a co- accused with an adult/ adults, joint trial of the juvenile offender cannot be held along with adult criminals. Further, the Juvenile Justice Act in India restricts the apprehension of juveniles, stipulates bail as a right to the offender, irrespective of the fact that the offence is bailable or not.

Furthermore, the recent trend about the juvenile accused it has been pointed out that the trials of the juvenile offenders are held in a very informal manner, where the offender cannot be brought to the Juvenile Justice Board 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, the offenders are kept under the observation homes or Special homes. Children in need for Care and Protection are sent to Children's homes. To conclude we can point out that children human rights are kept in mind as a priority base mechanism or legal framework.

Need for Amendments in Juvenile Justice Act: Most of the scholars agree with the fact that today we need to amend the existing framework of JJ Act. Therefore, due to the latest trend, legal definition of child under Indian legal system came under question. Malvika Tyagi (2016) in her study has pointed out that with trend of involvement of juveniles in violent crimes in India, state intervention is required in terms of making amendments and in terms bringing in new legal provisions. The new Juvenile Justice 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 Juvenile Justice Board. 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.

Here it is noteworthy to say that the Juvenile Justice Bill was introduced in the Lok Sabha in 2014, after it was felt in the post- Nirbhaya case that some action has 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 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 J.J. Act 2000 was flawed with implementation issues, and the new bill intended to close these loop holes.

Furthermore, it is to say that the J.J. Act has paid lot of attention to preventive measures in controlling juvenile delinquency. Keeping in mind the weakening family and community control on individual members, the Act has emphasized on the role of family in controlling juvenile delinquency (Prakash Haveripet, 2013). Family is the most fundamental structural and functional unit of society. According to the Act, family plays a very crucial role in taking care,

nurturing and protecting the children. Thus, the children are groomed to become responsible members of society. The family keeps the children away from bad habits, such as substance abuse, watching pornography etc.

Concluding Remarks: Now, we can conclude that the issue of Juvenile Delinquency in India has become a key concern of the society as well as administration. Today many youths are found indulged in juvenile crimes. However, Indian government has been making lots of efforts to deal with the problem, and has taken progressive and bold steps in this direction, more effective measures are required with respect to implementation. Moreover, in most of the studies, it has been found that many provisions for juvenile justice have been laid down and followed properly. Nevertheless there are many loopholes in the J.J. Act. That is why social workers, NGOs etc. have concluded that to make the Juvenile Justice more practical here are some suggestions:

First, Justice Board should be trained in child psychology and should be sensitized in child related matters, more often they are incompetent in this area. There are provisions for Special Police unit for dealing with Juveniles at every police station. In reality, these special units are not functional. So, when there are cases of juvenile delinquency or when neglected children are taken to police, the police department is not able to handle the cases in expected manner. The police personnel are not very sensitive to the issues that come up.

Second, it is suggested that strong steps are taken to make effective implementation of the laws pertaining to Juvenile Delinquency, so that we are able to deal with the problem in a holistic manner.

Third, it is also important to monitor the functioning of Observation Homes and Shelter Homes so that implementation of J.J. Act could be more effective.

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