



Vidhyayana - ISSN 2454-8596

An International Multidisciplinary Peer-Reviewed E-Journal

www.vidhyayanaejournal.org

Indexed in: ROAD & Google Scholar

Prevention of Juvenile Delinquency in India: Current Challenges and Issues

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Abstract

Juvenile delinquency, a complex issue that is increasing in India, is a matter of great concern. The involvement of young individuals in illegal activities is particularly depressing as they are in a period where they ought to design their life in a productive manner, a period that shapes an individual's life ahead. Recently, juveniles have been found participating in the most severe crimes, such as murder and gang rape. Their delinquent behaviour poses a serious threat to the stability and social order of our society, leading to social disorder and erosion of moral values.

Juvenile delinquency is an unfortunate reality in our country that demands attention. A comprehensive approach is necessary to discuss this matter, including the growth of a social welfare program that optimizes resources and emphasizes effective planning, monitoring, and evaluation of existing initiatives. This paper aims to examine the various factors contributing to juvenile delinquency and propose potential solutions, hoping that these findings may assist the executive and policy makers in preventing juvenile delinquency and stepping up various rehabilitation measures.

Introduction

Juvenile crime is an unfortunate reality in India. Nowadays, minors have been implicated in extremely severe offenses such as murder and gang rape.¹ Their delinquent behaviour poses a significant threat to social stability and order, leading to societal turmoil and a decline in ethical standards. These children are considered to be an invaluable asset to any state and represent the future of people. They possess the potential to contribute positively to the progress of the country. However, during their delicate developmental stage, they can either engage in constructive activities or embark on a destructive path that brings harm to the nation. Things they undertake during this critical period has a profound impact on their future, as young people today are the future of our nation. Therefore, the conflict between children and the law is indeed a matter of great concern, as it hinders their potential to become valuable members of society.

Juvenile crime is an effect of mixed society and the failure of both social and personal control mechanisms.² The genesis of crime is numerous and varied. Neighbourhoods, communities, and different levels of

¹ Dhananjay Mahapatra, 'Supreme Court: 'Juvenile' accused in Kathua case an adult' (*Times of India*, 17 Nov 2022) <<https://timesofindia.indiatimes.com/india/supreme-court-juvenile-accused-in-kathua-case-an-adult/articleshow/95566551.cms>> accessed 27 July 2023.

² Ivilita Gogua, 'Juvenile Delinquency – Causes, Prevention, and the Ways of Rehabilitation' (*Penal Reform International*, 23 June 2020) <<https://www.penalreform.org/blog/juvenile-delinquency-causes-prevention-and-the-ways-of/>> accessed 27 July 2023.



government must implement a variety of strategies to effectively address these causes. There is no proper solution or short method that can be executed through a formal system.

Delinquency among children poses a significant threat to society. It is a social and legal concept created through collaboration between the juvenile court, authorities, the general public, and court personnel. In an effort to address the rising involvement of 16 to 18-year-olds in serious crimes, the Juvenile Justice Act was enacted in 2015. However, despite the Act's intended objectives, records from the National Crime Records Bureau (NCRB) indicate an increase in juvenile crime, particularly within the 16 to 18 age group.

According to the latest "Crimes in India" report published by the NCRB in 2021, there were a total of 31,170 reported incidents involving minors, representing a 4.7% increase from the last year's 29,768 cases (page 21).³ Of these incidents, "the majority (76.2% or 28,539 cases) involved individuals between the ages of 16 and 18. Additionally, the crime rate among young people increased from 6.7% to 7.0%."⁴ This troubling data highlights the undeniable rise in juvenile delinquency in India in recent years, calling for critical examination of the underlying causes and exploration of alternative approaches to address the situation.

Who is a Juvenile?

In general, an individual under the age of eighteen is considered "child" and is deemed to lack the maturity to distinguish right from wrong.⁵ The concept of "Doli Incapax" signifies a person's incapability of understanding the nature and consequences of breaking the regulation.⁶ It is outlined in "Article 40(3)(a) of the United Nations Declaration on the Rights of the Child (UNDRC, 1959)", which stipulates that "the establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law."⁷

In contemporary times, criminal laws in most countries adopt the values of "doli incapax." The principle states that children must possess the knowledge and understanding that their actions are not criminal and be

³ National Crime Records Bureau, *Crimes in India* (Ministry for Home Affairs 2021).

⁴ *ibid.*

⁵ Ragma, 'Infancy and Criminal Liability: A comparative Study' (*Legal Service India*, n.d.) <<https://www.legalserviceindia.com/legal/article-4903-infancy-and-criminal-liability-a-comparative-study.html>> accessed 27 July 2023.

⁶ Rebecca Kriesler, 'Doli Incapax – When is a child too young or immature to be guilty of crime?' (*Hugo*, 13 Feb 2023) <<https://hugolawgroup.com.au/insights/doli-incapax-when-is-a-child-too-young-or-immature-to-be-guilty-of-crime/>> accessed 27 July 2023.

⁷ United Nations Declaration on the Rights of the Child 1959, article 40(3)(a).



aware of the consequences of their acts to be held accountable. It reflects that only juveniles aged twelve and above can face legal consequences. According to “The Juvenile Justice (Care and Protection of Children) Act, 2015” (JJA, 2015), a "child" is stated as “a person who has not completed eighteen years of age”.⁸ The law further distinguishes the word "children" into two types: "Children in Conflict with the Law" & "Children in Need of Care and Protection”. Children who are under the age of eighteen at the time of committing a crime are generally called "Children in Conflict with the Law." The United Nations Convention on the Rights of the Child (UNCRC, 1989), 1989, defines a "child" as “an individual under the age of eighteen, unless the child reaches the legal age of majority.”⁹

Juvenile Delinquency refers to:

Felony refers to an undesirable act committed by young individual which goes against social norms.¹⁰ A juvenile who is underage, determined by the particular nation, cannot be fully responsible for their criminal actions. Juvenile Crimes, therefore, refers to persistent illegal or criminal acts committed by minors that cannot be addressed solely by parents or guardians, but require the involvement of law enforcement agencies due to the potential harm they pose to society.

The terminology "delinquency" originates from the word "delinquer," meaning "to omit. The term “delinquent” was first used by William Coxson in 1484 to describe “a person found guilty of a customary offense”.¹¹ The same word appears in Shakespeare's well-known play "Macbeth" in 1605. Colloquially, delinquency denotes behaviour or misconduct that deviates from the prescribed code of conduct.

Young individuals within a specific age class are often susceptible to the allurements of their existence & can easily fall into the criminal behavior. It is crucial to timely curb criminal tendencies in young individuals to prevent them from becoming habitual criminals in the future. Consequently, many countries prioritize addressing the problem of Juvenile Crimes.

⁸ The Juvenile Justice (Care and Protection) Act 2015 (JJ Act 2015) s 2(12).

⁹ United Nations (n 8).

¹⁰ Krishna Raj, ‘Juvenile Delinquency’ (*Legalvidhiya*, 05 May 2023) <<https://legalvidhiya.com/juvenile-delinquency/#:~:text=Delinquency%20is%20defined%20as%20refusing,have%20enacted%20juvenile%20justice%20laws>> accessed 27 July 2023.

¹¹ Md Mohinuddin, ‘Juvenile Delinquency: Causes, Types, Factors, and Control’ (*Sweducarbd*, 02 Sept 2019) <<https://www.sweducarebd.com/2019/09/juveniledelinquencyessay.html#:~:text=It%20was%20William%20Coxson%20who,generally%20accepted%20norms%20of%20conduct>> accessed 27 July 2023.



Reasons of Juvenile Crime

Crime is impacted by several variables, which includes broken households, impoverishment, unfavourable economic situations, subpar living arrangements, a lack of educational attainment, surroundings, and unfavourable peer pressure.¹²

i) Broken Homes

In households where parents have passed away, are seriously ill, absent due to domestic duties, or divorced, the absence of proper parental guidance and support can contribute to an increase in juvenile delinquency.

ii) Poverty

Poverty is a major contributing factor to juvenile delinquency in India. Although delinquent behaviour can be found in all regions, it is observed that most of juvenile crimes are committed by individuals who are in penury or have been facing economical and social hardship.¹³ Due to their parents' long working hours to support the family, children from poor households often lack proper care. Consequently, they may unintentionally or knowingly come into contact with gang members, leading to a desperate requirement of money which can result to crimes.

iii) Wrong Company

Child's behaviour can be significantly influenced by their peer group, neighbours, and associates. If they are exposed to negative company, it can lead to criminal activities.¹⁴ When a child associates with an unfavourable friendship or group, it can alter their mindset, increasing the likelihood of delinquency.

iv) Mental Instability

Extensive research has revealed that many children who commit a crime as mentioned in law have some or other mental issues.¹⁵ Due to this, they become susceptible to vulnerability, thus giving them a chance to adult offenders to use them for criminal activities.

¹² William S. Comanor and Llad Phillips, 'The Impact of Income and Family Structure on Delinquency' (2002) 5(2) JAE 209 <<https://ucema.edu.ar/publicaciones/download/volume5/comanor.pdf>> accessed 27 July 2023.

¹³ *ibid.*

¹⁴ Wendy Mager, Richard Milich, Monica J. Harris and Anne Howard, 'Intervention groups for adolescents with conduct problems: Is aggregation harmful or helpful?' (2005) 33 JACP 349.

¹⁵ Shipra Tiwari, 'Juvenile Justice System in India and the Mental Health of Juveniles' (*SCC Online*, 05 June 2021)



v) Emotional Troubles

Among antisocial children, it is not uncommon to experience emotional difficulties such as jealousy and feelings of inferiority. These children develop antisocial behaviour when they perceive society as being against them, receiving unfair treatment and being denied their basic rights. Such a sense of inferiority can lead to juvenile delinquency.

vi) Psychological Troubles

Various factors can contribute to different mental health problems in children and adolescents, including low socioeconomic status, parental neglect, feelings of inferiority, attention deficit disorder, and other similar factors.¹⁶ Examples of resulting issues may include fears, depression, excessive anger, and complexes. These psychological challenges can potentially motivate a minor to engage in criminal behaviour.

vii) Low Academic Standards

The school environment in which a child is situated can also influence their propensity for delinquency. Overcrowded and underfunded schools often lack order and discipline, leading to defensive behaviours among students who constantly experience chaos and fear. Research has shown that an active interest of parents in academic and school-related activities have a positive impact on the psychology of the child thus, lowering the chances of delinquency.¹⁷

viii) Want of Money

There are many circumstances in which juveniles, regardless of their age, resort to unlawful means to improve their financial circumstances. Teenage boys, in particular, may turn to delinquency due to their limited resources. Financial struggles push them towards engaging in criminal activities, such as selling or supplying narcotics, in an attempt to earn their livelihood.¹⁸ They become involved in illegal acts as a means to enhance their economic state.

<<https://www.sconline.com/blog/post/2021/06/05/juvenile-justice-system/>> accessed 27 July 2023.

¹⁶ Lee Underwood and Aryssa Washington, 'Mental Illness and Juvenile Offenders' (2016) 13(2) IJERPH 228 <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4772248/>> accessed 27 July 2023.

¹⁷ Inês Barbosa da Fonseca, Gilda Santos & Margarida A. Santos, 'School engagement, school climate and youth externalizing behaviors: direct and indirect effects of parenting practices' (*URRENT Psychology*, 15 March 2023) <<https://link.springer.com/article/10.1007/s12144-023-04567-4>> accessed 27 July 2023.

¹⁸ Rebecca Gomez, Sanna J Thompson and Amanada N Barczyk, 'Factors Associated with Substance Use among Homeless Young Adults' (2010) 31(1) Substance Abuse <<https://journals.sagepub.com/doi/10.1080/08897070903442566>> accessed 27 July



Law on Juvenile Crimes

In India, the regulation addressing juvenile offenses initially took the form of the Apprentices Act, 1850. This Act allowed for the placement of children under the age of 15, who were found guilty of minor offenses, as apprentices. Subsequently, the Reformatory Schools Act of 1897 was enacted, which required juveniles below 15 years convicted of imprisonment to be transferred to a reformatory cell as a form of punishment. The Constitution of India, predating the UNCRC, in 1989, already included provisions under Articles 24, 39(3), and 45 to address the problem of "juvenile delinquency" and "child neglect" and safeguard the protection, growth, and well-being of children. In 1974, the Union Government adopted a national policy for children, reaffirming the constitutional provisions and emphasizing the state's responsibility to provide adequate services to children from pre-birth to adulthood, ensuring their physical, mental, and social well-being, and aligning the juvenile justice system which is governed by the Administration of Juvenile Justice and is outlined in the Minimum Rules of UN Standards.

Later India became independence, Parliament enacted "the Juvenile Justice Act" in 1986, for the explicit purpose of "providing care, protection, development, and rehabilitation for neglected or delinquent children."¹⁹ This law created a consistent framework for the entire nation. Under Section 2(a) of the Juvenile Justice Act, a "juvenile" is defined as a "child who has not attained the age of sixteen years" and a "girl who has not attained the age of eighteen years."²⁰ Subsequently, "the Juvenile Justice (Care and Protection) Act" was passed by the Parliament in 2000, bringing the consent age in the Juvenile Justice system to 18 years for both boys and girls.²¹

Thereafter, to ensure that kids are protected, the Juvenile Justice (Care and Protection) Act of 2000 came into force. As circumstances demanded, the above statute was changed in 2006 and then again in 2011. These changes were performed to close the gaps in the program's execution. However, a rise in the number of juvenile offenders committing crimes in recent years as well as the horrific events surrounding the "Delhi Gang Rape Case," pushed legislators to pass a new law on the subject. The Act's primary flaw was the lack of sufficient legal protections. Another significant factor in the failure of India's juvenile justice system to

2023.

¹⁹ Juvenile Justice Act 1986 (JJ Act 1986)

²⁰ JJ Act 1986, s 2(a).

²¹ 'The Juvenile Justice (Care and Protection of Children) Act, 2000 and The Juvenile Justice (Care and Protection of Children) Act, 2015 – A comparative analysis' (*Legal Service India*, n.d.) <<https://www.legalservicesindia.com/article/2482/The-Juvenile-Justice-Care-and-Protection-of-Children-Act,-2000-and-The-Juvenile-Justice-Care-and-Protection-of-Children-Act,-2015.html>> accessed 27 July 2023.



address crimes perpetrated by young people was its inefficiency. This law was thus amended to include The JJA, 2015 that focused on a juvenile-friendly approach to handling and adjudicating cases involving juvenile offenders.

Recently, Parliament passed “the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021”. The amendments include granting authority to the District Magistrate, including the Additional District Magistrate, to issue adoption orders as per Section 61 of the Act, with the aim of expediting case resolution and enhancing accountability. The Act further empowers District Magistrates to ensure smooth implementation and coordinate efforts to support distressed children. Under the revised provisions, registration of the “Child Care Institutions” (CCIs) shall be done “after considering the recommendations of the District Magistrate.”²²

To facilitate the holistic development of children, the Ministry has implemented the largest and most distinct outreach program in the world, known as the Integrated Child Development Services (ICDS). This program offers several services, which includes “supplementary nutrition, immunization, health check-ups, referral services, and non-formal pre-school education.”²³ Despite all these there still exist a gap to address the conditions of Juveniles in India.

Stoppages of Juvenile Delinquency

Preventing adolescent crime is a crucial aspect of overall delinquency prevention within humanity. It is widely acknowledged that initial intervention is the most effective method to stop juvenile crime. Offering assistance to children and their peoples at the earliest possible stage has proven to be the most successful strategy in curbing juvenile misconduct.

Prevention programs encompass a range of initiatives, including sports participation, education and treatment programs addressing drug misuse, family counselling, youth mentoring, and parenting support. The allocation of funds to protect against delinquency is being prioritized as governments understand the importance of investing in the welfare of young individuals. There are three main categories of adolescence crime prevention strategies:

²² The Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, s 14(ii).

²³ Department of Women and Child Development, ‘Integrated Child Development Services (ICDS)’ (*Department of Women and Child Development*, n.d.) <<http://wcdde.in/icds.html>> accessed 27 July 2023.



1. Specific Programme

Here, counselling and therapy, among others, are the major steps taken to deter and prevent juvenile delinquency.²⁴

2. Environmental Program.

The application of approaches within an environmental program intends to modify the socio-economic situations that may contribute to fostering crimes. The following methods, employed in crime prevention initiatives, represent these two categories of preventive approaches. There are various programs designed to prevent juvenile delinquency, including:

- i. Analyzing selected cases for examination and intervention to help identify potential offenders.
- ii. Handling cases independently or referring them to other organizations for appropriate treatment.
- iii. Utilizing non-psychiatric methods of treatment for addressing behavioural challenges in children.
- iv. Supporting the education of college students with a focus on addressing behavioural problems.

3. Educational Programme

Educational institutions offer substantial advantages as they provide an effective means of reaching out to both high school students and preventive programs. It is imperative for teachers to treat all children equally, ensuring they receive the ethical guidance necessary for their well-being. Moral development plays a pivotal role in shaping teenagers' lives, enabling them to discern between correct and incorrect decisions.

Judicial Reply to Juvenile Delinquency across India

The legal system in India has been quite significant and has issued numerous significant verdicts supporting the rights of Children. The Constitution requires judges to construe legislations in a way that provides respite and unique attention to improve the performance of "parents patriae."²⁵ It is critical to remember that

²⁴ Pupul Dutta Prasad, 'Reimagining Counselling in the Juvenile Justice System' (*EPW*, 11 Feb 2020) <<https://www.epw.in/engage/article/reimagining-counselling-juvenile-justice-system>> accessed 27 July 2023.

²⁵ Dr. Savita Bhakhry, 'Children in India and their Rights' (2016) <https://nhrc.nic.in/sites/default/files/NHRC_Children_Issues_27122016.pdf> accessed 27 July 2023.



broad social and economic maladjustment frequently leads to juvenile criminality.²⁶ Even if these young individuals are found to have violated the law, they should not face abuse.

In *Sheela Barse v. Union of India*²⁷ case, the Apex Court of India opposed the incarceration of juveniles, emphasizing that keeping children in prison has a detrimental effect on their minds. The case of *Gaurav Jain v. Union of India and others*²⁸ emphasized the importance of delinquency prevention, considering the child's developmental needs in cases of social maladjustment. The JJ Act 2015 covers juvenile care, treatment, and rehabilitation, and the government should fulfill these goals through various agencies.

In *Bachpan Bachao Andolan v. Union of India*²⁹ case, the Supreme Court highlighted the need for intervention strategies to address the growing usage and misuse of drugs, alcohol, and other narcotics among children, especially adolescents. The court called for the framing of a National Policy to tackle this crucial aspect of the juvenile problem.

The JJ Act 2015 is stated as progressive legislation, and the Model Rules 2016 have enhanced its effectiveness. However, implementation remains a serious concern, leading the Supreme Court to constantly review and monitor its implementation in judgment, such as *Sampurna Behrua v. Union of India*³⁰ and *Bachpan Bachao Andolan v. Union of India*³¹.

In *Sampurna Behrua*³² case, the Supreme Court issued various directions, including High Courts registering proceedings on their own in order to guarantee JJ Act, 2015 is implemented effectively. These instructions include, *inter alia*:

- the timely appointment of all positions within these commissions by the “Ministry of Development of Women and Children” and state governments.
- promptly filling all seats in the “Juvenile Justice Boards” (JJB) and “Child Welfare Committees” (CWC) following either the Model Rules or the Rules specified by the State Government. Delays in filling these posts could have adverse consequences for children and should be avoided.

²⁶ Comanor and Phillips (n 14).

²⁷ 1986 SCC (3) 596

²⁸ (1997) 8 SCC 114

²⁹ AIR 2012 SC 3445

³⁰ (2018) 4 SCC 433

³¹ *Bachpan Bachao Andolan* (n 31).

³² *Sampurna Behrua* (n 32).



- prioritizing conducting regular sessions to minimize pending cases and ensure fair behavior for minors who have committed crimes in law and underprivileged children who requires care and protection, as mandated as per the constitution and;
- The time-bound studies by NCPCR and SCPCR on various subjects, as believed proper under the Juvenile Justice Act of 2015, to address any identified issues effectively.

Conclusion and Suggestions

Juvenile delinquency and its related problems are prevalent in all societies worldwide, but in our country, these challenges are particularly daunting. The process of development has led to significant socio-cultural changes, disrupting customize ways of life in the once harmonious remote setting.

In India, the majority of young people face poverty and are deprived of opportunities for development and basic necessities. Child exploitation has sadly been accepted in society, leading to physical, sexual, and psychological abuse, with many children experiencing a combination of these forms of mistreatment. Such abuse significantly and permanently impacts a child's life, and addressing this problem remains challenging due to the underlying causes, such as low self-esteem and the intellectual trauma these children endure, which may contribute to their antisocial behaviour. The rising youth crime rates in India demand urgent attention and resolution.

While the government has introduced several regulations and laws to curb adolescence crime, the existing laws for juveniles fail to act as effective deterrents for juvenile offenders, leading to unproductive outcomes and failing to achieve legislative intent. Despite the impossibility of completely eliminating juvenile delinquency, there are strategies to control the issue. Rehabilitating and reintegrating antisocial individuals into society promptly serves their best interests. The state should also protect the rights of these children, implement corrective measures, and instil moral values that can uplift them socially and incorporate a changed sense of self-confidence.

In this age of rapid scientific & technological changes that have transformed our lifestyles, we must not adhere rigidly to outdated idealistic laws that no longer suit present-day conditions. Instead, we should adopt pragmatic and realistic approaches, rather than clinging to outdated idealism. To effectively utilize the available legal clauses for juveniles, the Nation may consider the following steps:



- i. The Clauses of the JJ Act 2015 should be diligently & appropriately executed to ensure that children who are in conflict with the law and children who need of proper care, protection, treatment, development, and rehabilitation receive the necessary assistance.
- ii. The primary focus should be on rehabilitating delinquent juveniles as early as possible and reintegrating them into society for best interest of the Children. The concern state must safeguard rights of these children and devise reformative approaches to instill values that uplift them socially, fostering newfound confidence to play constructive roles in society. Emphasis should be placed on understanding and addressing the needs of young people, subject to frequent evaluation. Organizational approaches, like those adopted by the police, should lean more towards reforming rather than strictly punishing offenders.
- iii. Preventing adolescent involvement in antisocial behaviour can be facilitated through financial assistance, professional training, and vocational education. Early therapeutic intervention is widely recognized as the most effective approach to reducing juvenile crime.
- iv. To prevent children from engaging in criminal activities, individual, group, and organizational efforts are necessary. The collaboration of individuals and NGOs can also contribute to curbing juvenile delinquency. Attention to their child from an early age must be provided to prevent them from being engaged in any delinquent behaviour.
- v. The Indian government has implemented several measures to address teenage delinquency, but effective execution remains a difficult assignment. Even government efforts are not successful. At the general level, various steps are needed, including community involvement and increased awareness of juvenile delinquency issues. Prioritizing a juvenile's rehabilitation and reintegration into society is needed than any number of punishments. It is vital to uphold societal norms rather than resorting to repressive measures against antisocial behaviour. Establishing ad hoc organizations and bodies can help identify and address abnormal and deviant behaviour in children.

To tackle the issue of juvenile delinquency, multiple entities must play their respective roles. The society, parents, rehabilitation homes, and other stakeholders each have distinct responsibilities. The provision of diligence, security, administration, growth, and reintegration for juveniles requires a significant increase in the participation of private, grassroot organisations and neighbourhood-based welfare organisations. If all these factors work harmoniously, there is a strong possibility that this real-life problem will be resolved relatively quickly and effectively.