

Juvenile Delinquency in India – The Cause and Its Remedies

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Juvenile Justice (Care and Protection of Children) Act, 2015 has been passed by Parliament of India. It aims to replace the existing Indian juvenile delinquency law, Juvenile Justice (Care and Protection of Children) Act, 2000, so that juveniles in conflict with Law in the age group of 16–18, involved in Heinous Offences, can be tried as adults.

Juvenile Justice Act, 2015

The Act came into force from 15 January 2016. The act will allow a Juvenile Justice Board, which would include psychologists and sociologists, to decide whether a juvenile criminal in the age group of 16–18 should be tried as an adult or not. The law introduced concepts from the Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption, 1993 which were missing in the previous act, 2000. The law also seeks to make the adoption process of orphaned, abandoned and surrendered children more streamlined. The provisions of this Act shall apply to all matters concerning children in need of care and protection and children in conflict with law, including —

1. apprehension, detention, prosecution, penalty or imprisonment, rehabilitation and social re-integration of children in conflict with law
2. Procedures and decisions or orders relating to rehabilitation, adoption, re-integration, and restoration of children in need of care and protection.

Juvenile Justice Board and its functions

Under section 4 of this Act a Board i.e. Juvenile Justice Board is constituted by the State Government which requires its members to be knowledgeable in child psychology for helping these deviated children to give a chance at having a better life. This is necessary in order to understand the moods or events due to which the children commit crimes at such an early age in their lives. Those children who are not major and have committed any illegal Activity they come under the purview of this Act which provides special homes so that they can be taken care of according to the norms of the society. According to section 63 of the Act special homes means a unit of police force of a State designated for handling Juveniles.

Even after coming out from special homes they also have to suffer sexual exploitation like prostitution, forced labour etc. There have been various conventions such as the Convention of 1949 against trafficking gave right to first Indian law against trafficking. The Suppression of Immoral Women and Girls Act 1956, other legislation relating to child trafficking are Children (Pledging of Labour) Act 1933, Immoral Traffic Act 1956, Child Labour (Prohibition and Regulation) Act 1986 (1). In order to safeguard them from such exploitation and ill demeanour chapter 4 of the Act provides various remedies like adoption, foster care, and after care organisation.

The functions and responsibilities of the Board includes below as per Juvenile act 2015—

- (a) Ensuring the informed participation of the child and the parent or guardian, in every step of the process.

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- (b) Ensuring that the child's rights are protected throughout the process of apprehending the child, inquiry, aftercare and rehabilitation.
- (c) Ensuring availability of legal aid for the child through the legal services institutions.
- (d) Wherever necessary the Board shall provide an interpreter or translator, having such qualifications, experience, and on payment of such fees as may be prescribed, to the child if he fails to understand the language used in the proceedings.
- (e) directing the Probation Officer, or in case a Probation Officer is not available to the Child Welfare Officer or a social worker, to undertake a social investigation into the case and submit a social investigation report within a period of fifteen days from the date of first production before the Board to ascertain the circumstances in which the alleged offence was committed.
- (f) Adjudicate and dispose of cases of children in conflict with law in accordance with the process of inquiry specified in section 14.
- (g) transferring to the Committee, matters concerning the child alleged to be in conflict with law, stated to be in need of care and protection at any stage, thereby recognising that a child in conflict with law can also be a child in need of care simultaneously and there is a need for the Committee and the Board to be both involved.
- (h) Disposing of the matter and passing a final order that includes an individual care plan for the child's rehabilitation, including follow up by the Probation Officer or the District Child Protection Unit or a member of a non-governmental organisation, as may be required.
- (i) conducting inquiry for declaring fit persons regarding care of children in conflict with law;
- (j) conducting at least one inspection visit every month of residential facilities for children in conflict with law and recommend action for improvement in quality of services to the District Child Protection Unit and the State Government.
- (k) Order the police for registration of first information report for offences committed against any child in conflict with law, under this Act or any other law for the time being in force, on a complaint made in this regard.
- (l) order the police for registration of first information report for offences committed against any child in need of care and protection, under this Act or any other law for the time being in force, on a written complaint by a Committee in this regard;
- (m) Conducting regular inspection of jails meant for adults to check if any child is lodged in such jails and take immediate measures for transfer of such a child to the observation home.

Meaning

Juvenile Delinquency refers to anti social or illegal behaviour by children or adolescence, and these children who commit crimes come under the jurisdiction of Juvenile court. The behavioral and qualifying condition for referral to Juvenile courts also vary from State to State.

The word Juvenile delinquent is defined as a young person who habitually breaks the law, especially somebody repeatedly charged with vandalism or anti social behaviour. Thus, those offence committed by adult and punishable which when committed by children under the age of 18 are denoted as Juvenile crimes. In India the Juveniles are kept in special homes and are not punishable like adults. The reason behind not treating them as criminals is because we follow reformatory theory. When a child is kept in special homes all the basic needs are

fulfilled. They are also provided with education as in National Charter for children 2003 it is given that every child should be provided with free and compulsory education.

Causes of Juvenile Delinquency

Family Influence

Theorists who believe in the peer influence model also tend to support the belief that family has a strong influence on development of delinquent behaviour. They clarify this by stating that the family type is also very important and children from non-traditional families have a greater chance of engaging in delinquent behaviour than children from traditional families. Economic condition inherit to single parent families may place children at a greater risk. A single parent also has the added pressure of trying to provide emotional support. While the reconstituted families experience difficulties in area of communication and emotional support.

One of the causes of Child's deviation is divorce, and what accompany it are displacement, fragmentation and disunion of the families. It is undisputable that a child who is deprived of a loving mother and caring father would hasten towards crime and eventually becomes corrupt. Children of divorced parents also face emotional conflicts regarding their allegiance to either one or both of their parents. They also face difficulties in scheduling time with their parents and adjustments to new influences when their biological parents remarry. The author State the following- "children and adolescents who experience the family disturbances due to divorce and remarriage typically demonstrate higher levels of aggressive, defiant, and delinquent behaviour.

Mental Disorder

Conduct disorder usually develops during childhood and manifests itself during an adolescence life. Some Juvenile behaviour is attributed to the diagnosable disorder known as conduct disorder. Juvenile delinquent who have recurring encounters with the criminal Justice system are sometimes diagnosed with conduct disorder because they show continuous disregard for their own and others safety. Once the Juvenile reach maturation their socially unaccepted behaviour has grown into life style and they develop into career criminal. Abuse also affects the child yet the link between abuse and Delinquency is not very strong. Abused children tend to manifest more problematic and aggressive behaviour than children who are not abused. Some children are incapacitated so they can feed their so-called caretaker. Children get support from their parents in problem solving, negotiating conflict, and social behaviour. Some children who are neglected by their parents run away from homes and appear in streets and railway station getting involved in small crimes. Also Children who have criminal parent are at a greater risk of becoming delinquent themselves. More than single parent children, children who grow up in home where marital violence prevails tend to be more delinquent. In such family children become introverts. According to research parental disruption is one of the key predictor for delinquent behaviour. This disruption can be varied in nature from divorce to parental depression, inconsistent parenting, constantly moving from one place to another and at least one parent committing crime. The conclusion is that lack of stability and consistency in lives of children leaves them at great risk for delinquent behaviour. Mental illness and substance abuse, which often co-occur among Juvenile offender, can contribute substantially to delinquent behaviour. Studies have found very high prevalence rate of mental illness among

detained and incarcerated Juveniles and Juvenile offenders. Lack of appropriate treatment may lead to future Delinquency, adult criminality and adult mental illness.

Social Environment

There are many reasons for widespread crises in families today such as changes in social environment. There have been many changes in our social environment over last 25 years. These changes have made the environment risky for the youth. There is evidence in the research to demonstrate that low self-esteem may also be one of the contributing factors to delinquent behaviour. In kalpan's theory however, young people are emotionally vulnerable. When young people experience rejection by their peer, some react by seeking out deviant peers in order to be accepted by people their own age.

Sexual Abuse

Child sexual abuse can result in both short term and long term harm, including psychopathology in later life. Physical and social effects including depression, post traumatic stress disorder, poor self esteem, anxiety disorders, general psychological distress and disorder are instilled in them. Not all victims of child abuse and neglected child experience behaviour consequence. Studies have found abused and neglected children to be at least 25% more likely to experience problem such as Delinquency, teen pregnancy, drug use and mental health problem. According to National Institute of Justice Study, abuse and neglected children were 11 times more likely to be arrested for criminal behaviour. A Juvenile is 2.7 times more likely to be arrested for violent and criminal behaviour than an adult.

Reformative Remedies

For reformation of Juveniles various remedies are available under the Act. After coming out from these special homes they sometimes also get exploited where child trafficking is one of the forms for their exploitation. Child trafficking shall include at minimum exploitation of prostitution of others or other form of sexual exploitation, forced labour, slavery and practices similar to slavery servitude or removal of organs. And thus to minimize these chances remedies are given in Juvenile Justice Act.

Adoption

Adoption means the process through which the adopted child is permanently separated from his biological parents and become the legitimate child of adoptive parent with all right, privileges and responsibility. Government has also constituted various agencies for adoption and these agencies are duty bound to keep check on children who have been adopted. To safeguard malpractices and deviations from prescribed guidelines for adoption notified by Government of India, Supreme Court of India has appointed an independent Non Governmental Organisations with experience in child adoption- 'The Indian council of social welfare' with head quarters in Mumbai and branches in all States as scrutiny agencies.

Central Adoption Resource Authority CARA is another authority which has been setup to keep check on the adoption policies. It is the National level body under Ministry of Women and Child Development for all matters relating to adoption. Under section 41(5) of Juvenile Justice (Care and Protection) Act 2015 another authority has been instituted for adoption of Juvenile child. Under this section- "No child shall be offered for adoption –

- Until two members of committee declares the child legally free for placement in case of abandoned child.

- Until two months period for reconsideration by the parents is over in case of surrendered children.
- Without his consent in case of child who can understand and express his consent.
- After fulfilling all these conditions only the child can be given for adoption.

Eligibility of prospective adoptive parents

1. The prospective adoptive parents shall be physically fit, financially sound, mentally alert and highly motivated to adopt a child for providing a good upbringing to him.
2. In case of a couple, the consent of both the spouses for the adoption shall be required.
3. A single or divorced person can also adopt, subject to fulfillment of the criteria and in accordance with the provisions of adoption regulations framed by the Authority.
4. A single male is not eligible to adopt a girl child.
5. Any other criteria that may be specified in the adoption regulations framed by the Authority.

Under Juvenile Justice (Care and Protection) Act 2015 a Board was constituted under section 41(6) of the Act for adoption of Juvenile child. According to which the board may allow a child to be given in adoption –

- To a Single parent.
- To parents to adopt a child of same sex irrespective of the number of living biological sons or daughters.

Foster Care

Foster care means placement of a child, by the Committee for the purpose of alternate care in the domestic environment of a family, other than the child's biological family, that has been selected, qualified, approved and supervised for providing such care.

1. The Foster Care may be used for temporary placement of those infants who are ultimately to be given for adoption.
2. The child may be placed in another family for a short or extended period of time, depending upon the circumstances where the Child's own parent usually visit regularly and eventually after the rehabilitation, where the children may return to their own homes.

In New York the State of children and family services estimates that New York City is home to more than 2000 sexually exploited children. In New York 75% Children have been in Foster care.

When children come out of special homes there are probabilities of their being exploited and following wrong path. Foster care and adoption serves as a means of securing their future by guarding them from such exploitation. According to section 44 after care organisation is also the place where Juvenile can be taken care of. These organisation works under the authority of State Government. These organisations are the place where the Juvenile can be kept after they leave special homes, children homes and for purpose of enabling them to lead an honest and useful life. It is also mentioned that after care organisation made under this section shall not provide for such Juvenile or child to stay in places for more than 3 years and the child is above 17 years but less than 18 years would stay in after care organisation till he attain the age of 20 years. In *Vithaljeet v/s Union of India* Supreme Court issued directions to

State Government for setting up rehabilitate homes for children found begging in streets and also the minor girls pushed in to flesh trade to prospective homes.

Conclusion

Exploitation of children has been a long standing practice. These delinquent go through a lot of abuse which vary in nature as physical, sexual, or psychological or as a combination. The abuse has a long lasting and profound effect on a child's life. The problem of child abuse is a serious one and it is unlikely that it gets solved any sooner.

Also the reason why this has prolonged is that the society has affected the children in a negative way and in the society there are factors such as family influence, social environment, mental disorder and sexual abuse. This develops in young people low self esteem and they go through mental trauma which later correlates with delinquent behaviour.

What needs to be done is the question that arises before us. We cannot uproot this menace but there are solutions to keep a control on the problem of Juvenile Delinquency. In the best interest of the delinquent he or she should be rehabilitated as early as possible and integrated back in the society. Also the State must protect the rights of these children and come up with reformative methods and instill in them values that can socially uplifts them and give them a new found confidence so that they can play a constructive role in the society.

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