



An analytical study on laws pertaining to juvenile delinquency in India

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Abstract

Minors engaging in criminal behavior are referred to as "juvenile delinquents." Contemporary research investigates the phenomenon of juvenile delinquency. This study investigates the correlation between parental, educational, and economic characteristics and teenage criminal behavior. The present study identifies low socioeconomic status, familial history (including nuclear, joint, or homeless households), and inadequate parental supervision as the primary factors contributing to the increasing prevalence of delinquency. Due to peer pressure or the circumstances in their immediate environment, people between the ages of 16 and 18 commit the majority of crimes. Juvenile delinquency is a grave offense that has detrimental effects on society.

An increasing proportion of young individuals engage in acts of violence, suggesting a worldwide pattern of adolescent criminal behavior. India is experiencing an increase in violent crime rates. Due to the critical nature of the matter, it is imperative to thoroughly deliberate on potential resolutions. In order to address these patterns, India's judiciary and legal system have implemented modifications to juvenile justice legislation. This study investigates the causes of juvenile delinquency and analyzes the explanations provided by academic professionals to clarify this topic. In order to address the issue of juvenile delinquency in India, legislative measures have been revised. Minors who engage in serious criminal activities are subject to adult prosecution. The distinct cognitive development of teenagers compared to adults renders juvenile justice very amenable to reform, particularly from a progressive perspective.

Keywords: Juvenile delinquency, economic status, family background and educational background

Introduction

"In the little world in which children have their existence there is nothing so finely perceived and finely felt, as injustice"

By-Robert Sapolsky^[1]

Juvenile delinquency is the term used to describe the involvement of minors in unlawful activities or actions that violate established rules of behavior. Derived from the Latin term "delinquer," meaning to omit, the term delinquency now pertains to young individuals who partake in misconduct and cause harm. The term juvenile originates from the Latin word "juvenis," which denotes youthfulness. The phrases "juveniles" and "minors" are often mistakenly interchanged. The phrases "minor" and "juveniles" can be used in two separate contexts. The term "juvenile" pertains to young individuals who have committed criminal acts, while the term "minor" relates to a child's legal ability or capacity.

The historical growth of India's juvenile justice system Prior to 1850, there was an absence of legislation specifically addressing issues pertaining to adolescents. The Apprentice Act, enacted in 1850, was the inaugural legislative measure^[2]. This statute contains the provisions for vocational training for juveniles who have been sentenced. Shortly thereafter, the Indian Penal Code of 1860 was sanctioned. According to Section 82 of the code, children who are under the age of seven are completely exempt from being held responsible for any criminal actions^[3].

On the other hand, Section 83 grants minors between the ages of 7 and 12 partial protection from legal consequences^[4]. According to this legislation, those who were 12 years old or older were classified as adults. Nevertheless, there

was a potential hazard associated with relocating the children to a conventional correctional facility, as it could lead to adverse consequences. Hence, the Reformatory School Act of 1897 was enacted, establishing specialized educational institutions for adolescent males below the age of fifteen^[5].

In order to address juvenile delinquency, the Further Children Act of 1960 was enacted, and other states followed suit by passing their own local kid acts^[6]. The Juvenile Justice (Care and Protection) Act, which underwent revision in 2015 and applies to all of India except Jammu and Kashmir, was designed to address the necessity for a uniform law to regulate juvenile delinquency. The enactment of the Juvenile Justice Act took place in 1986. This legislation enabled the establishment of one or more juvenile justice boards, each empowered to handle cases involving adolescents who are in legal problems and fulfill their assigned responsibilities. According to a recent amendment to the statute passed by the Lok Sabha in 2015, a minor who is 16 years or older and commits a major felony can be tried and punished as an adult. The juvenile justice board will assess the suitability of the juvenile to be treated as an adult based on the findings of a three-month preliminary inquiry^[7].

Evolution of Juvenile Justice Legislations in India

Prior to British colonization, India was governed by Hindu and Muslim rulers who upheld the principle that it was the duty of each child's family to regulate their conduct. There exists a demand for novel concepts.

Under British colonial governance, legislation was enacted to address matters concerning children. The Apprentice Act was enacted throughout the period from 1850 until 1919.

Another example is the enactment of the Code of Criminal Procedure in 1861. Additionally, the Reformatory School Acts of 1876 and 1897 were enacted.

According to the Apprentice Act (1850), it was determined that those who were both impoverished and under the age of 18 and had committed minor offenses should be subject to distinct treatment. These juvenile delinquents were assigned to work as apprentices for traders.

Section 82 of the Indian Penal Code of 1860 stipulates that children possess a distinct legal status. The legislation stipulated that children under the age of seven were exempt from prosecution, and established specific age thresholds for determining criminal culpability. Children within the age range of 7 to 12 were considered sufficiently mature to comprehend the consequences of their actions. According to the 1861 Code of Criminal Procedure, individuals under the age of 15 could be sent to reformatory procedures rather than being incarcerated in prisons.

Additionally, it established regulations for the supervision of juvenile offenders. These projects demonstrated a shift in the state's perspective towards juvenile convicts, viewing them less as criminals and more as individuals in need of assistance.

The Reformatory School Acts of 1876 and 1897 were significant legislative measures in this domain. The legislation established regulations for the transfer of prisoners to correctional institutions for periods ranging from two to seven years. Nevertheless, upon reaching the age of 18, they were sent to adult correctional facilities. The 1897 Act facilitated the provision of assistance to juvenile delinquents, enabling them to receive support and reintegrate into society. Under British colonial governance, there was an absence of a unified national legal framework. However, many provinces, like as Pondicherry, Madras, and Bombay, implemented their own regulations to address the matter of juvenile delinquency.

Following India's attainment of independence, the government formulated a juvenile justice program that drew upon specific provisions of the Indian constitution. The aforementioned articles are Articles 15 (3), 21, 24, 39 (e) and (f), 45, and 47. India's approach to juvenile justice is influenced by two key international agreements: the UN Convention on the Rights of the Child (CRC) and the Beijing Rules, commonly referred to as the UN Standard Minimum Rules for the Administration of Juvenile Justice.

The Central Child's Act (1960) is a significant legislation in India that safeguards neglected and distressed children by prohibiting their detention under any circumstances. It established a child welfare board and children's courts as two crucial entities responsible for the well-being and protection of these youngsters.

The Juvenile Justice Act of 1986 was enacted by the Indian government to establish legal provisions specifically for children. This legislation was enacted to ensure that children who have experienced neglect or engaged in criminal activities receive provisions for their well-being, safety, therapeutic interventions, and reintegration into society. Additionally, it examined the manner in which legal situations involving young children are managed inside the court system. Juvenile courts were established to adjudicate cases involving juvenile delinquents, while juvenile welfare boards were established to provide assistance to neglected children and those who have not engaged in any unlawful activities.

The Juvenile Justice (Care and Protection of Children) Act was enacted in the year 2000. It established a unified set of laws that are applicable over the entire territory. The primary objective of the new legislation was to ensure that no juvenile offender below the age of 18 would be incarcerated. Additionally, certain provisions of the Act stipulated the construction and provision of structures and tools to support the upbringing, safeguarding, and rehabilitation of children. Two additional amendments were implemented to the Act in 2006 and 2010. The Juvenile Justice Act ensures that the process of determining cases and placing them in suitable environments is child-centric and addresses the welfare, safeguarding, reintegration, and growth requirements of juveniles.

The Juvenile Justice Board, formerly known as the Juvenile Court, is authorized to employ a multidisciplinary team approach for conducting investigations. The legislation established the Child Welfare Committee with the purpose of safeguarding the welfare of children who are in vulnerable situations. In 2015, a legislation was enacted to address the issue of juvenile delinquency. This subject will be revisited later in this text.

Key Provisions Outlined in the Indian Juvenile Justice Act

As to Section 2(I) of the Juvenile Justice Act, 2000, a juvenile in conflict with the law refers to an individual who is between the ages of 10 and 18 who has been accused of committing a crime. Within the Indian legal framework, there exists a dearth of consensus over the precise delineation of a minor, resulting in perplexity and ambiguity surrounding the legal treatment of juveniles. Section 2(d) of the same Act introduces a distinct category of children referred to as "Children in Need for Care and Protection^[8]." These individuals are categorized as homeless youth, meaning they lack a stable place to live and lack visible means of financial support. They may be underage individuals residing on the streets, involved in soliciting for money, or participating in child labor. Additionally, they could be youngsters who have lost their parents, been deserted, or come from impoverished backgrounds. They may also have experienced abuse or been subjected to trafficking. Furthermore, they may be adolescents who are encountering physical abnormalities or psychological disorders. Individuals who are afflicted by illness or those who fall prey to strife and terrible events. The Indian Juvenile Justice Act offers legal safeguards for all such adolescents, although its execution may not consistently yield desired outcomes^[9].

The addition of the second set of youngsters was primarily motivated by the JJ Act's strong focus on prevention. Children who live in extreme poverty or difficult situations are particularly prone to participating in criminal behavior. Any triggering factor in their life can activate the offender mechanism, potentially causing them to become delinquents. Consistent with the principle that prevention is more efficacious than treatment, the JJ Act of India incorporates measures to encompass both cohorts of children: those who have perpetrated offenses and those who are at a heightened likelihood of participating in aberrant conduct. These youngsters are to be subjected to the provisions of the Act.

Children are categorized into two groups and receive distinct treatment from various facilities. The Juvenile

Justice Board is responsible for dealing with juvenile offenders, while the Child Welfare Committee is responsible for providing care and support to children who are at risk or in need of protection. The Juvenile Justice Board is composed of a metropolitan judge or a judicial magistrate of first class, along with two social workers, with the stipulation that at least one of them must be female. The Act also has provisions for the creation of a Special Juvenile Police Unit in every police station. All staff members must have a predilection for training in child psychology or exhibit sensitivity towards issues related to children. If a kid is involved as a co-accused with one or more adults, it is not feasible to carry out a combined trial of the juvenile offender with the adult offenders^[10].

Furthermore, the Juvenile Justice Act in India imposes restrictions on the arrest of individuals under the age of majority and ensures that the accused has the right to get bail, irrespective of the nature of the charge being bailable or non-bailable. The trials of juvenile offenders are handled in an informal way, where the offender is not allowed to be brought before the Juvenile Justice Board while physically confined with handcuffs. The police authorities and other government officials are dressed informally. The identity of the culprit is continually kept confidential, and the media is strictly prohibited from revealing the perpetrator's identity in any printed or broadcasted news platforms. After the trial, the culprits are assigned to either observation homes or specialized homes.

Types of Juvenile Crimes in India

Minors misconduct is evident in the area of behavior or conduct. Each scenario displays a unique group environment. Campaigners claim that children's craving for adventure, bravery, originality, and excitement is a major factor in why young people commit horrible crimes like assault and murder. Teenage sexual behavior and violence have increased due in part to peer pressure, the need for rapid financial gain, and easy access to illegal activity and explicit content on the internet. The fact that they are minors makes these issues worse because there won't likely be any legal repercussions. In a similar vein, rewards occur during the development of a young offender. The rate of juvenile delinquency has increased as a result of a lack of fear of punishment^[11].

1. Individual Juvenile Crimes^[12]

Individual misbehavior pertains to any aberrant conduct that a young individual partakes in on an individual basis. The perpetrators themselves are the root cause of the issue. Counselors ensure that they address the ramifications of mental health issues. The main catalyst for many mental health issues is dysfunctional and dissatisfying family interaction patterns. Upon comparing the delinquent and non-delinquent relatives, the experts found that a significant number of individuals who engaged in these offenses did so because they were disheartened and discontented with their everyday situations.

Regardless, they partake in deviant conduct as a means to differentiate themselves from friends or family. Certain individuals engage in criminal activities as a means to evade responsibility for their actions. Furthermore, experts have observed that individuals with immoral behavior experienced a significant change in their connection with their fathers, in contrast to their moms. Moreover, they implemented stricter and more radical measures.

2. Circumstantial Child Crimes

Our comprehension of the fundamental factors of situational wrongdoing is inadequate. Consequently, managing these deviant behaviors is comparatively easier than managing other forms of misconduct.

Accidental misconduct offers a novel viewpoint. The concept posits that misconduct is not inherently ingrained and, as a result, in order to mitigate it, the underlying incentives and strategies are often uncomplicated. Adolescents exhibit delinquent behavior due to a deficiency in self-discipline or a disrespect for household regulations. This is primarily because they do not possess a strong sense of responsibility for their activities and do not perceive any consequences even if they are caught^[13].

3. Organized Child Crimes

Organized child crimes refer to officially structured associations that carry out coordinated illegal activities. This refers to a set of principles and demonstrates how it influences children's behavior when they exhibit delinquent behaviors.

In the 1950s, instances of misbehavior were carefully investigated in the United States, leading to the establishment of the term "delinquent sub-culture." This concept refers to a set of principles and rules that motivate group members to engage in criminal activities, bestow status based on such actions, and establish social connections for those who do not belong to the groups defined by group norms.

4. Group Supported Child Crimes

Delinquencies are attributed to the organization of others, rather than the individual's character or the delinquent's family. The root cause can be traced back to the cultural and social environment of the individual's home and community^[14]. Contrary to psychogenic hypotheses, this collection of concepts focuses on the acquisition of knowledge and the sources from which it is obtained, rather than the difficulties that may lead to the motivation for wrongdoing.

Current Trends in Juvenile Delinquency in India

The approach taken by a country's judicial system towards individuals who have committed crimes depends on the legal categorization of a juvenile. Both global norms and the juvenile justice system in India specifically prohibit putting a kid or adolescent to the same judicial proceedings as an adult. When a young person is considered *doli incapax*, it means that they lack the capacity to understand the consequences of their actions^[15].

Men Rea is a term that describes the cognitive inability to comprehend the repercussions of one's own actions. Juvenile justice procedures are specifically tailored for minors, in contrast to adult criminal justice procedures, based on this reasoning. They are immune to incarceration or the death penalty^[16].

In accordance with Indian legislation, the state parties are obligated to encourage the establishment of a specific age below which a child is deemed incapable of committing a crime, as outlined in Article 40(3)(a) of the Convention on the Rights of the Child (CRC). As to Section 82 of the Indian Penal Code (IPC), 1860, a child below the age of seven is exempt from being held legally responsible for committing a crime^[17].

Therefore, the minimum age at which individuals can be held legally accountable for their illegal activities is set at seven years^[18]. According to Section 83 of the Indian Penal Code (IPC), 1860, a child aged between 7 and 12 cannot be held responsible for any wrongdoing if they do not have the mental capacity to understand the nature and consequences of their actions, and if they were unaware that their actions were against the law^[19].

However, there has been a worrisome increase in adolescent delinquency in Delhi, the capital city of India, as well as in other areas of the country. Nationwide apprehensions exist regarding the involvement of juvenile individuals in grave crimes such as homicide, attempted homicide, kidnapping, and abduction. The debates and disputes that followed the December 2012 Gang Rape in Delhi, commonly referred to as the Nirbhaya case^[20], mostly revolved around the lax handling of violent crimes by the juvenile justice system. The assessment and management of juvenile offenders in India have undergone reassessment as a result of the recognition that children can exhibit comparable levels of aggression to adults. Psychiatrists assert that the increased accessibility of the internet is causing a merging of expectations between adults and young people. Based on data from the National Criminality Records Bureau (NCRB), there has been a rise in juvenile delinquency, namely among those in the age group of 16 to 18. The following NCRB data presents the patterns of juvenile delinquency.

Conclusion

The Indian government's implementation of the Juvenile Justice Act of 2016 can be considered a progressive step in response to the changing trends in juvenile offenses. The Act outlines an ambitious plan to treat juvenile offenders convicted of major offenses as adults^[21].

The Justice Verma Committee was against lowering the legal age at which minors can commit crimes. According to the report, any attempt to lower the age of juvenility or exempt particular children from the reach of the Juvenile Justice (Care and Protection of Children) Act 2000 based on the nature of the offense and age would violate the guarantees provided by the Constitution and international agreements, such as the United Nations Convention on the Rights of the Child (UNCRC)^[22].

Nevertheless, the Indian Supreme Court took a stance that went against the Committee's advice and warnings. The age of eighteen was set in accordance with the professional judgment of psychologists, who maintain that people under this age are receptive to change and can be restored by redeeming and restoring techniques. After that, it was argued that putting children with adult offenders would reintegrate them into the criminal world and make them into people with deep-rooted criminal tendencies. When dealing with non-recidivist offenders, Indian courts take this into consideration. The judges do not want to jam too many criminals into the prison system.

It is clear that our juvenile justice policy has to be reviewed and amended after looking at the most current trends in juvenile delinquency in India, particularly with regard to the age distribution and types of offenses committed. Comparable trends were observed in the United States and the United Kingdom, where there was an increase in the number of severe crimes committed by individuals in the 16–18 age range^[23].

The United States has changed its juvenile justice policy, moving away from restorative practices and toward punitive ones. The UK is included in this as well. People under the age of eighteen are usually tried in the youth court. However, the matter may be sent to the Crown Court in circumstances involving serious felonies.

The patterns of crime in India indicate that the laws that were in force prior to 2016 did not work to prevent crime. Youngsters who are exposed to violence on a regular basis and who do not fully understand the consequences of engaging in criminal activity are more likely to exhibit delinquent tendencies. The problem gets worse when there aren't enough responsible people to guard kids and help sift through the information they learn from various sources. Because of how quickly industrialization and globalization are happening, parental supervision and self-control are no longer as effective at keeping people from committing crimes.

In Indian society, the primary socialization process which takes place within groups including family, peer groups, traditional neighborhood linkages, and intimate kin circles—is becoming less and less effective^[24].

All of this has led to the patterns of juvenile delinquency that exist today.

It's critical to keep in mind that the legal system is part of the larger societal structure. Any change to the larger system, which is society, necessitates changes to the smaller subsystems or component parts. Consequently, the legal system needs to adapt to the quick changes in society. These changes are in effect as of 2015, thanks to the Juvenile Justice (Care and Protection) Act.

Recommendation

Several recommendations can be proposed to tackle the problem of juvenile delinquency in India. Despite the Indian government's commendable efforts and significant strides in tackling the issue, further measures are necessary to achieve more impactful results.

Regarding the execution or implementation of a certain task or plan, it has been observed that, despite the existence of some provisions for juvenile justice, they are not consistently adhered to. It is essential that the members of the Juvenile Justice Board have expertise in matters concerning children and have received training in child psychology. Unfortunately, they often lack proficiency in this particular domain. Each police station allocates dedicated space for a specialist police unit that handles matters pertaining to juveniles. These specialized units are non-operational.

The police department lacks the capacity to effectively address cases involving juvenile delinquency or neglected children, despite being notified of such incidents. The police staff display a lack of sensitivity for the difficulties that arise.

It is recommended to promptly take action to ensure the efficient enforcement of legislation regarding juvenile delinquency in order to address the issue comprehensively. It is imperative to closely monitor the operations of shelter homes and observation houses. These specifically tailored juvenile correctional institutes frequently serve as incubators for emerging criminal behavior. Instead of efficiently resolving the issue and providing convicts with treatment, these facilities foster an environment that promotes the reintegration of young individuals into the

criminal justice system. Observation homes have recorded numerous instances of inmates engaging in severe criminal activities. It is crucial that the issue be addressed with the utmost caution and sensitivity in order to use reformatory and rehabilitative methods.

Active participation and awareness-raising among community members about juvenile delinquency concerns are of utmost importance. Preventative interventions are crucial in the administration of juvenile justice. By being aware of the difficulties faced by neglected children and those living in difficult circumstances, people from all walks of life can significantly contribute to the rehabilitation process.

Informal groups could be recruited to report cases involving adolescents who misbehave or exhibit excessively unpredictable conduct that their parents cannot handle. Instances of these groupings include officially recognized residential societies located in various areas. As previously stated in this book, families play a significant role in facilitating social control and socialization. Utilizing more effective solutions is crucial for enhancing the involvement of families and other fundamental social units in preventive care.

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