



Juvenile Delinquency in India: Minor Criminals Major Crimes

Dr. Arvindeka Chaudhary
Assist. Professor,
Guru Nanak Dev University,
Amritsar, Punjab (India)

If he who breaks the law is not punished, he who obeys it is cheated. This and this alone, is why lawbreakers ought to be punished: to authenticate as good, and to encourage as useful, law abiding behavior.

Thomas Szasz

I. INTRODUCTION

Ever since the dawn of human civilization, crime has always been one of the major prevailing problems. Very hardly any society can be thought about without besetting the problem. Human beings inherently by nature are fighting animals; to think about a crimeless society thus is nothing but a mere myth. Adolphe Quetelet, the eminent Belgian social statistician observed someone and a half century ago that adolescents, especially the young males are more prone to crime, disorder and delinquency due to their childish impulsiveness and adolescent conflict. In his own words, “the propensity to crime is at its maximum at the age when strength and passions have reached their height, yet when reason has not acquired sufficient control to master their combined influence”. A child is born innocent and if nurtured with tender care and attention, will blossom with faculties; physical, mental, moral and spiritual; into a person of excellent stature. On the contrary, unhealthy surroundings, negligence of basic needs, wrong company and other abuses may turn a child to a delinquent¹. With the rise in crimes committed by juveniles in India, there has also been rise in shrill debates around it especially post the Delhi gang-rape case where one of the six accused is a juvenile who was most the brutal attacker of all. From stealing jewellery to stabbing other minors, molesting and raping young girls to killing women as old as their grandmothers, there seems to have no let up in juvenile crime in India in the last one year². Newspapers are full of juvenile cases these days. Some, in such a scenario, argue for more strict laws for juveniles and some are of opinion that there is lack in implementation of laws. In the present article, researcher has made an attempt to look for reasons that make young minds turn to crime and what methods are required to curtail juvenile crimes along with the study of juvenile law.

II. JUVENILE: MEANING AND DEFINITION

In India the juvenile justice system is broadly administered under the Juvenile Justice (Care and Protection of Children) Act, 2003. This Act is intended to protect the juvenile from the rigors of a trial by a criminal court. It prohibits sentencing of a juvenile and committing him to prison. As its preamble suggests it seeks to adopt a child-friendly approach in the adjudication and disposition of matters in the best interest of children and their ultimate rehabilitation⁴. According to Juvenile Justice Act, juvenile is a person who has not completed eighteenth year of age⁵. A juvenile who is in conflict with law has to be below eighteen years on the date of commission of offence by him⁶. Whether a person is a juvenile or not is determined by proper inquiry conducted by competent authority⁷ and competent authority is a board in relation to juveniles in conflict with law⁸. Rule 12 of Juvenile Justice (Care and Protection of Children) Rules, 2007 lay down the procedure to be followed in determination of age as follows:

- i. First of all, matric or equivalent certificate should be produced before the Court, if available.
- ii. In the absence of above, Date of Birth Certificate from the school, other than play pen, should be produced.
- iii. In the absence of above, Birth Certificate given by a corporation or a municipal authority or panchayat should be produced.
- iv. In the absence of all above, the medical opinion may be sought which will declare the age of accused.

¹ Retrieved from <http://www.crimspace.com/profiles/blogs/juvenile-delinquency-and-india>, visited on 17th February, 2013.

² Srishti Jha, “Inside the Juvenile Mind”, *Hindustan Times*, 17th February 2013, p 10.

³ Manish Kumar, “Determination of Age under the Juvenile Justice Act: A Contentious Issue”, *Criminal Law Journal*, February 2011, p 56.

⁴ *Kallu@ Amit v. State of Haryana*, AIR 2012 SC 3212.

⁵ Section 2 (k) of Juvenile Justice Act, 2000.

⁶ *Harpreet Singh v. State of Haryana*, 2010 (2) RCR(Cri) 362.

⁷ *Balbir Singh v. State of Rajasthan* 1990 CriLJ 481.

⁸ Section 2 (g) of Juvenile Justice Act, 2000.



If even after inquiry court is not able to assess exact age of the accused, in such a case, court may give benefit to juvenile by considering his age on lower side within a margin of one year⁹. However, there is no hard and fast rule of determining juvenility each case depends upon its own facts¹⁰.

III. PRIME REASONS OF JUVENILE DELINQUENCY

In the age of lost innocence, the term 'criminal children' is not any oxymoron. If numbers are a fair indication juvenile crime saw a disturbing increase according to police reports¹¹. Causes for juvenile delinquency have been pointed out by different criminologists in different ways. Cohen in his major work "Delinquent Boys" has claimed that crime committed by the young could be explained by the sub-cultural values of the peer grouping and particularly he has emphasised on the problem arising from the middle class values. On the other hand, Cloward and Ohlin attached more importance to the criminality of the lower-class juvenile, because it illustrates the existence of gangs or subcultures which support and approve of the actions of the delinquent. Additionally, psychological researches on teen-age violence brought into light that reason for violence may be birth complications, poverty, anti-social parents, poor parenting, aggression, academic failure, psychological problems, alienation from home, school etc.. However, so far the Indian society is concerned; the chief causes for this unprecedented increase in juvenile delinquency may be as:

- i. Although increasing industrial and economic growth in India has resulted into urbanization, it has invited various novel problems like housing, slum dwelling, overcrowding, lack of parental control and family disintegration and so on. Moreover temptation for modern luxuries of life lures young people to resort to wrongful means in order to satisfy their wants. Such factors cumulatively lead to an enormous increase in juvenile delinquency in urban areas of the country.
- ii. Disintegrated family system and laxity in parental control over children is also another reason for it. The natural consequences of broken homes, lack of parental control, absence of security and want of love and affection towards children are contributing factors.
- iii. Another very crucial cause of the said problem is unprecedented increase in divorce cases and matrimonial disputes. Undue discrimination amongst children or step-motherly treatment also makes adverse psychological effect on youngsters. Feeling of being neglected may make a child to go astray and this furnishes a soothing ground for juvenile delinquency. Hence children need affection, protection and also guidance at home where they must be handled carefully. Indeed, greater attention should be given on preventing them from indulging into criminality rather than curing them after committing the offence. The parents and other elderly members of the family must keep an eye on the proper development of the personality of their children and should try to provide adequate and equal opportunities to them. Proper education and training and childcare can make it possible.
- iv. Certain biological factors are also responsible for creating delinquent behaviour amongst juveniles. Early psychological maturity and low intelligence carry a major problem; especially to the young Indian girls. Though Indian girls attain puberty mostly at the age of twelve or thirteen, they still remain incapable of conceiving about the realities of life. Consequently they fall a very easy prey to sex involvements for momentary pleasure without, however, realizing the seriousness of the result of the act. So, it is necessary for the parents to unhesitatingly explain to their children, especially the girls, the probable consequences of prohibited sex indulgences which might serve a timely warning to them. Special care should also be taken in order to ensure effective protection to girls and child pornography.
- v. The rapidly changing patterns of modern lifestyle have created difficulty among young people regarding adjustment to new ways of life. They are seriously confronted with the problem of culture conflict and usually fail to differentiate between what is right and what is wrong that may so easily drive them to commit crime.
- vi. Migration of deserted and destitute boys to slums brings them closely in contact with anti-social elements caring on prostitution, smuggling of liquor or narcotic drugs and bootlegging. Hence in this way they jump into the world of crime without even knowing what they are doing is prohibited by law.
- vii. In a country like India poverty is one of the potential causes behind juvenile delinquency. Parent's failure in providing basic necessities of life such as food and clothing drive to their children to earn money by easier means, no matter what the way is that they will have to choose.
- viii. Apart from these all illiteracy, child labour, squalor etc. are other contributing factors aggravating juvenile delinquency.

It must be stated here that the nature of delinquency among male juveniles and those of girls are not, however, of same kind. Boys are found to be more prone to offences such as theft, pick-pocketing, gambling, eye-teasing, obscenity, cruelty, mischief etc. while girls more commonly are discovered in sex-involvements, running away from home, truancy and shop lifting. Furthermore, as researches have shown delinquency rate in respect of boys is much higher than those of girls, as boys by nature are more adventurous and easily get aggressive as compared to girls¹².

⁹ Ashwani Kumar Saxena v. State of Madhya Pradesh, 2012(4) Recent Apex Judgments 523.

¹⁰ Ram Suresh Singh v. Prabhat Singh 2009(6) SCC 681.

¹¹ Retrieved from www.articles.timesofindia.com visited on 8-1-2013

¹² Retrieved from <http://www.crimspace.com/profiles/blogs/juvenile-delinquency-and-india>, visited on 17th February, 2013.



IV. MINOR CRIMINALS - MAJOR CRIMES

Recently on July 17, 2013 Supreme Court dismissed the seven public interest litigations and refused to bring down the age of juvenile from 18 to 16 in view of recent spurt in crimes by those in this particular age group¹³. Is treatment of heinous crimes especially rape, murder, acid attacks, as 'spurt' a rational view? In a recent case¹⁴, accused who was a juvenile kidnapped a minor girl at gunpoint in the midst of a marriage procession and raped her. Wouldn't release of such an offender defeat the ends of justice?

When a juvenile commits monstrous crimes particularly when he is 16 or above or when he is on the verge of attaining majority, how far it is just to give him benefits under Juvenile Justice Act? If age is the sole decisive factor to determine the quantum of punishment then what is the requirement of having Section 83¹⁵ under the Indian Penal Code in which sensibility of the child is seen. In India, the age of criminal responsibility is fixed at 7 years by the Indian Penal Code, 1860 as "Nothing is an offence which is done by a child under seven years of age."¹⁶ For the age group of 8 to 12 years, Therefore, to avail this immunity, the accused child will have to prove that he has not attained the maturity to judge what he was doing was wrong. For children between 12 to 18 years, Section 83 is there under which no such immunity is available if the child knows the consequences of what he is doing. But however, even if they are found to be responsible for criminal acts, they cannot be treated or sentenced in the same manner as adults¹⁷.

A juvenile who is committing robbery or murder is it equitable to assume that he is not having knowledge or awareness of what is right and what is wrong. When a juvenile is committing rape or dacoity, don't these acts fall under the category of offences? Do victim undergo a lesser pain when the offence is committed by a juvenile? When a juvenile throws acid doesn't that acid corrodes victim's body? Or do bullets fired by a juvenile never cause injury? Are suffering, trauma, pain and misery of victim is of a smaller amount when the offence is committed by a juvenile? Probably, answers to these questions are not affirmative. When the act committed by a juvenile is an offence and that too grave then why he should be given compassionate treatment?

With the advancement of technology and science the age of understanding, reasoning and appreciating has decreased¹⁸. A juvenile of the age 15 in modern times is mature enough and has same understanding that an adult of age 20-25 years used to have some 25 years ago. Today, age and mental growth are not going hand in hand¹⁹. If courts stick with keeping soft, easygoing and merciful attitude towards juveniles no doubt, juveniles after spending 3 years maximum in the correctional homes will continue with their lives but what about victim. Victims' scars will remain forever.

V. CONCLUSION

When the law of punishment is kept in abeyance, it gives rise to the law of the fishes. The strong will swallow the weak. By not punishing the guilty, by not arresting who ought to be arrested and by failure to protect the subjects from crimes- decline and disaffection is produced among the subjects. Also, punishment when ill-awarded excites fury even among hermits and ascetics dwelling in forests, not to speak about house-holders²⁰. Today a juvenile is mature enough to understand various factors which perpetuate the commission of crime. Undue sympathy to impose inadequate sentence would do more harm to the justice. The Punjab and Haryana High Court rightly observed in *Shamsher Singh v. State of Haryana*²¹, that with the enhancement of mental maturity at a comparatively lower age, the provisions of the Juvenile Justice Act deserve to be reassessed and re-examined by the legislators. A provision of 'Judicial Waiver' should be made in the Act giving a jurisdiction to the Juvenile Court, appropriate forum or High Court to use its discretionary authority to decide to waive jurisdiction basing the decision on the individualized review of the circumstances (adjudicative competence) of juvenile between 15-18 years of age charged with serious crimes of murder, rape, robbery and drugs and to refer him to ordinary criminal court for trial and punishment. The punishment should be at least directly proportional to the crime committed.

¹³ R. Sedhuraman, "SC refuses to bring down the juvenile age from 18 to 16", *The Tribune*, p 1.

¹⁴ *Monu@Moni@Rahul@Rohit v. State of U.P.* 2011 (7) RCR (Criminal) 2256.

¹⁵ Section 83 of Indian Penal Code 1860 says, "Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion".

¹⁶ Section 82 of Indian Penal Code, 1860.

¹⁷ Adhideb Bhattacharya, "Indian Juvenile Justice System-Analysis" available on <http://www.nationalbarindia.org/articles/32/indian-juvenile-justice-system-analysis/>

¹⁸ *Shamsher Singh v. State of Haryana* 2012(4) RCR(Cri) 626.

¹⁹ Srishti Jha, "Inside the Juvenile Mind", *The Hindustan Times*, 17th February 2013, p 10.

²⁰ V. K. Gupta, "Kautilyan Jurisprudence", V. K. Gupta Publishers: Delhi, 1987, p 8.

²¹ 2012(4) RCR(Cri) 626.