CHAPTER II

JUVENILE DELINQUENCY: AN OVERVIEW

2.1 Juvenile Delinquency: An Overview

2.2 Historical Development of Juvenile Justice

2.3 The Juvenile Justice Act-1986

2.4 The Juvenile Justice Act-2000

2.5 Global Overview
JUVENILE DELINQUENCY: AN OVERVIEW

2.1 Juvenile Delinquency: An Overview

Juvenile delinquency is a 20th Century problem, but this doesn’t mean that there was no juvenile delinquency in 19th century. In the last century it was not considered as an important problem. The juvenile delinquents were less in number and they were to be found only in the cities where both the parents were forced to go out to earn their livelihood, leaving their children unprotected. The structure of the Indian society was such that it did not give much scope for the juvenile delinquents. The joint family system and economic dependence of the wife up on her husband provided security and affection for the children. As such, whatever the drawback of the man, the children were well protected and taken care off. This was especially so in the villages. The problem was only in the cities. As such, in the first half of the 19th century the authorities, the government as well as the sentencing courts were completely indifferent towards the delinquents and their treatment. The child offenders were also given the same punishment given to adults. It was only in the later half of the 19th century that the attention of the authorities was drawn to this sad state of affairs as well as to the need for the segregation of the juveniles and the establishment of Reformatories. This, however, was applicable not only to India but all over the world.
In England also it was only in the later half of the 17th century that as a result of the activities of the persons like Sir Thomas Duxton, William Wilberferce and the efforts of Charles Dickens resulted in the passing of Reformatory School Act 1854. Thus in England juvenile legislation courts and probation were slowly carried on only in the later half of the 19th century.

In India the first attempt to save children under 16 years of age from imprisonment was made in 1850, when the Apprentices, Act 1850 was passed. According to this Act, courts were given the power to bind the children between the ages of 10 and 18, when found guilty of petty offences, or when otherwise in destitute circumstances as apprentices.

In 1867, the question of Reformatories and juvenile treatment came up for discussion for the first time. In that year Miss. Mary Carpenter, the British social reformer, who visited India and started the ‘Ragged schools’ here, draw attention of the Govt. of India to the condition of the juveniles as well as to the need for the establishment of central juvenile Reformatories. In 1897, the Reformatory Schools Act (VIII of 1897) was passed modifying the earlier Act. This Act prescribed provisions for dealing with juveniles under sixteen years of age in the Bombay presidency. It provided for the establishment of Reformatory schools, where juvenile delinquents were detained for a term extending from two to seven years instead of being sent to jail.
Characteristics of Delinquents

It is very difficult to list the characteristics of delinquents because children indulge in all types of delinquent acts. But Sheldon and Gluecks (1977) conducted studies on delinquents and listed the following characteristics.

1. Physical : Mostly delinquents are mesomorphic in constitution. They are muscular and bold.

2. Temperament : Delinquents are aggressive, destructive, energetic, impulsive and extroverted.

3. Attitude : They are hostile, defiant, resentful, suspicious, unconventional, non-submissive to authority.

4. Psychological : Their behaviour mostly operates on concrete level rather than on symbolic intellectual level. They are less methodical in their approach to the problem.

5. Socio-cultural : Lack of affection, instability and violation of social norms.

Types of Delinquent Acts.

The types of acts, which come under delinquent acts, are difficult to list down because of cultural variations and socio-economic conditions of the country. Some common types of act which may be termed as delinquent acts in our country, are listed below.
1. **Acquisitive tendency**: - The major percentage of delinquent acts of children have the immediate aim of satisfying acquisitive tendency. Stealing, releases tension and particularly sexual tension in adolescents. They steal some objects of sentimental value of their beloved as handkerchief, pen, ring etc. Sometimes stealing may be due to jealously, hatred or aggression.

2. **Forgery**: - Another delinquent act is forgery. Adolescent commit forgery of several types. They may forge the signatures of their parents on cheques and can draw money from the banks.

3. **Aggressive tendencies**: - Many juvenile offences are due to aggressive tendencies in adolescents. The aggression gives relief to the offender. Aggression may be against inanimate or animate objects of the environment. They are like

   (1) Damaging school property

   (2) Bullying and mockery

   (3) Torturing of dumb animals

   (4) Committing suicide

4. **The sex delinquency**: - Sex delinquency is at its peak in adolescence period. Adolescents indulge in all types of sex delinquencies.

   (i) Homo- Sexuality

   (ii) Hetro-sexuality
(iii) Corrupting by talks
(iv) Obscene drawings and writings
(v) Prostitution
(vi) Abducting and raping
(vii) Exhibitionism
(viii) Making sexual suggestions
(ix) Masturbation

5) **Tendency to escape**: This tendency indicates the inability of the individual to face reality. He runs from the situation.
   1) Truancy from school
   2) Running from home.

**Causes of delinquency**

There are two different views with regard to the causes of delinquency, i.e., heredity and environment.

**(1) Heredity:-**

Studies of family trees of Kalikaks, Jukes, & Edward families prove that intelligence and crimes are inherited from generation to generation, and established that criminals are the products of hereditary social forces.

**(2) Environmental causes:-**

Environmental causes which are responsible for delinquent acts are: (1) Ecological factor (2) Home (3) School (4) Society.

(1) Ecological factor:- Ecology means the effect of the physical surroundings and climate on the growth and development of the
organism. The surroundings such as densely populated areas, industrialized areas, slum areas of the city breed highest percentage of delinquents.

(2) Home:- The environment is important in developing the personality of the child. Some types of family relationship which contribute to delinquency in children are: broken home, marital adjustment of parents, employed parents, poverty, disability of parents, defective discipline, lack of affection, partiality of parents, unvocationalized tension, lack of recreation in home, lack of moral code, crowded home, and the company of servants.

(3) School:- Location, lack of discipline, emotional climate, partiality, defective curriculum and examination system are the main causes for delinquency in schools.

(4) Society: Social environment such as favouritism, class conflict, tension in time of war, partition and other natural calamities also play an important role in delinquency.

2.2 Historical Development of Juvenile Justice

Ancient India did not have a unified organized justice system, but the child offenders were treated separately from the adult offenders. Differential treatment for the delinquent children as against adult criminals has also been mentioned in the “Dharmashastras”. However, the present set up of justice and reformation in India has been borrowed and based on the justice and reformation systems of Western Countries, particularly England.
The Children Acts

The children Acts are the backbone of the juvenile justice system.

It was in 1847, that an Act was passed in England to ensure the speedy trial of juvenile offenders and to avoid the evils of their long imprisonment prior to trial. Prior to this Act, the legal system was common for the adult as well as juvenile offenders. When a child was charged with a specific offence, all that the jury had to do was to decide whether he was guilty or innocent of the specific crime for which he was charged.

In 1851, the Reformatory School was given “parliamentary recognition”. In 1908 – separate children Act was passed. It was the first legal enactment that recognized the need of care, protection, and reformation of juvenile delinquents. In 1933, The Children And Young Person Act was passed. It prescribed change of social environment as the chief panacea for all moral maladjustment. The Act of 1933 was amended in 1938 in which the scope of the said Act was further broadened.

In India, the movement of child welfare started quite late. Special legal provisions were made for the treatment, care and protection of young offenders. To attain this purpose, several children Acts were enacted.

The Apprentice Act, (1850), marks the beginning of the juvenile justice machinery in India. The main purpose was to regulate the
relations between employers and employees, and also to dealt with the children between the ages of 10-18 who had committed petty offences or were destitutes. The Indian Penal Code, 1860 also recognized the separate status of children. The Reformatory School Act, 1897 was enacted at an all India level. The Indian jail committee was appointed in April, 1919 to investigate the whole subject of penal administration. It submitted its report in May 1920. As a result of the recommendations of Indian jail committee some of the states enacted Borstal Acts, Children Acts and Probation Acts.

Madras Children Acts (1920) was the earliest provincial legislation which made provisions for the custody, trial, and punishment of youthful offenders and the protection of children and the young persons.

Bengal Children Act (1922) was the second children Act passed in India. Bombay children Act was enacted in 1924 and later in 1948.

Almost all the states except Meghalaya thus enacted children Acts before 1986. Juvenile justice Act, 1986 was enacted by the Central Government, which replaced all the Children Acts of the different states.

“Children Acts” were enacted for the treatment and probation of young offenders in different state. But now these acts were replaced by the Juvenile Justice Act 1996 and the whole country has now been brought under it.

2.3 The Juvenile Justice Act, 1986

The Juvenile Justice Act (1986) was passed on 1st December 1986. The Act provides for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters relating to and disposition of delinquent juveniles.

According to JJ Act (1986) a Juvenile Delinquent under no circumstances are to be lodged in jails with other prisoners. The neglected children have to be kept in children’s home or Juvenile Home. Boys upto 16 years of age and girls upto 18 years of age will be dealt with under juvenile law, in the case of the omission of crimes while the neglected juveniles are to be produced before Juvenile Welfare Board and are dealt by juvenile court.
Juvenile Justice (Care and Protection of Children) Act 2000 is an Act to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection by providing for proper care, protection and treatment by catering to their developmental needs and matters in the best interest of children for their ultimate rehabilitation through various institutions established under this Act.

The Act provides for a uniform juvenile justice system throughout the country which should make adequate provision for dealing with all aspects of this problem within the framework of changing social, cultural and economic situations in the country.

Objectives

1. To lay down a uniform legal framework for juvenile justice in the country so as to ensure that no child under any circumstances is lodged in jail or police lock-up. This is being ensured by establishing Juvenile Welfare Boards and Juvenile Courts.

2. To provide for a specialized approach towards the prevention and treatment of juvenile delinquency.

3. To spell out the machinery and infrastructure required for the care, protection, treatment, development and rehabilitation of various categories of children coming with the purview of the
juvenile justice system. This is proposed to be achieved by establishing observation homes for the children who commit theft, juvenile homes for neglected juveniles and special homes for delinquent juveniles.

4. To establish norms and standards for the administration of juvenile justice in terms of investigation and prosecution, adjudication and disposition, and care, treatment and rehabilitation.

5. To bring out a uniform justice system throughout the country.

The Act defines ‘Juvenile’ as a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years. It defines ‘delinquent’ as a juvenile who has been found to have committed an offence. The Act also deals with neglected juvenile, victimized children and uncontrollable children. Separate provisions have been made in the Act for all the categories of children.

The state government may constitute for any area specified in the notification, one or more juvenile courts for exercising the powers and discharging the duties conferred or imposed on such court in relation to delinquent juveniles under this Act. The juvenile court after holding the enquiry about the juvenile delinquent may pass either of the following orders.

a) allow the juvenile to go home after advice or admonition.
b) Direct the juvenile to be released on probation of good conduct and placed under the care of any parents, guardian or other fit person, executing a bond, with or without surety as the court may require, for good behaviour and well being of the juvenile for any period not exceeding three years.

c) Direct the juvenile to be released on probation of good conduct and placed under the care of any fit institution for the good behaviour or well being of the juvenile for many period not exceeding three years.

d) Make an order directing the juvenile to be sent to a special home. 1) in the case of a boy over fourteen years of age or of a girl over sixteen years of age, for a period of not less than three years (II) in the case of any other juvenile, for the period until he ceases to be a juvenile.

No juvenile delinquent shall be sentenced to death or imprisonment or committed to prison in default of payment of fine or in default of furnishing security. No juvenile shall be charged with or tried for any offence together with a person who is not a juvenile.

Under this Act (1986), there are mainly three institutions i.e. **Juvenile Home, Observation Home and Juvenile Court.**

**1. Juvenile home:-**

Juvenile home is meant for neglected children, waifs and strays, and undisciplined children. Usually children kept in juvenile home:-
1. If a child is found to be neglected or waifs and strays, the police should report to the juvenile board, and the board should enquire their problems and necessary steps should be taken for his rehabilitation.

2. If any child is beyond the control of the parents, it would have been informed to the juvenile welfare board, the board will take necessary steps in accordance with the Juvenile Justice Act of 5, 6, 7, 8, 10, 18, 24 and 29.

a. After Care Home

However, the child will not able to stay in institution beyond 18 years of age. This is so because when the child has crossed the age of 18 years neither he is released or being transferred to observation home. If the child has no parents or the relatives to look after him after the release, he can stay in the after care home, which is set up nearby the institution. Here, the child can stay up to 22 years, and he can earn his livelihood.

2. Observation home

An observation home is one meant to keep children who commit theft. If a child is caught by the police he is taken to the observation home. The child is kept in the home for certain days and is being observed by an officer who is in charge of the observation home. The officer sends the report to the Magistrate of the Juvenile Court. The magistrate studies the report and recommendation given
by officer in charge, the child may be released if he has parents or otherwise the child is transferred to the after care home.

3. Juvenile Court

In addition to the juvenile home and observation home, there is a Juvenile Court also here. It consists of three first class magistrate and two social workers. They should know the psychology of delinquent children. Homely atmosphere exists in the court. Every Saturday there will be a trial in the court.

Aims of the Institution

The main aims of the institution are to make him a normal child, to provide education, and give aid to future, to rehabilitate the child.

2.4 Juvenile Justice Act 2000


Objectives

1. To lay down the basic principles for administering justice to a juvenile or child.

2. To make the juvenile justice system for a juvenile or child more appreciative of the developmental need in comparison to criminal justice system as applicable to adults.

3. To bring the juvenile law in conformity with United Nations convention on the rights of the child.

4. To prescribe a uniform age of 18 years for both boys and girls.
5. To ensure speedy disposal of cases by the authorities regarding a juvenile or a child with in a time limit of 4 months.

6. To spell out the role of the state as a facilitator rather by involving voluntary organizations and local bodies in the implementation of the legislation.

7. To create special juvenile police units with a humane approach through sensitisation and training of police personnel.

8. To enable increased accessibility to a juvenile or child establishing Juvenile Justice Boards (JJBs) and Child Welfare Committees (CWCs) and homes in each district or groups of districts.

9. To minimise the stigma and in keeping with the developmental needs of the juvenile or the child, to separate the Act into two parts – one for juveniles in conflict with law and the other for juveniles or children in need of care and protection.

10. To provide for effective provisions and various alternatives for rehabilitation and social reintegration such as adoption, foster care, sponsorship and aftercare of abandoned, destitute, neglected, and delinquent juvenile or child.

**Definition**

A juvenile or child has been defined as one who had not completed 18 years (Section 2 (K)). This is keeping in conformity with Article 1 of the UN Convention of Rights of Child.
Children covered under the Juvenile Justice Act 2000 (JJ Act)

The JJ Act, 2000 applies to juveniles found to have committed an offence (conflict of with law) and the children found to be living in the specified circumstances of neglect (in need of care and protection)

Children in Need of care and Protection

1. Child who is found without any home
2. Child beggars
3. Destitute children
4. Children whose parents or guardians are unfit or in incapacitated to exercise control over them
5. Sex worker’s child
6. Child who is abused or is likely to be abused or exploited or immoral or illegal purposes.
7. Mentally or physically challenged children
8. Children with terminal illness
9. Children in difficult circumstances
10. Working children

Juvenile in Conflict with Law

A juvenile who has been found to have committed an offence is defined as a juvenile in conflict with law. The term “juvenile in conflict with law” has been used for removing the stigma attached with the word ‘delinquent’ and make the law more child-friendly. This has to be read in the context of sections 82 and 8 of the Indian Penal Code that states that nothing is an offence that is done by a child.
below 7 years and by a child between 7-12 years who has not attained sufficient maturity of understanding to judge the nature and consequences of his/her action on that occasion.

**Competent authorities and Institutions for Juveniles**

**1. Child Welfare Committee**

The state govt. establishes Child Welfare Committee to handle the child in need of care and protection, which was earlier known as the Juvenile Welfare Board. A committee shall consist of a chair and four other members, of whom not less than one shall be a woman and another, an expert on matters concerning children. A member shall be vested with the powers of a magistrate under the code of criminal procedure, 1973. The committee shall function as a Bench of Magistrates. The Committee should complete the enquiry with in a time limit of four months. A child in need of care and protection may be placed under the care of his/her parent or guardian or in addition under the supervision of a probation officer; or with a fit person or may be sent to children’s home or shelter home. The committee shall have the powers to restore any child in need of care and protection of his/her parents, adopted parents and foster parents.

**2. Juvenile Justice Board (JJB)**

The State Govt. will constitute JJB’s to handle juveniles in conflict with law. A JJB consist of a magistrate and the two social workers of whom at least one should be a woman (Section 4 (2). The magistrate should have special knowledge or training in child
psychology or child welfare (Section 4 (3). The social workers should have been involved in health, education or welfare activities pertaining to children for at least seven years. (Section 4 (3). The Board is empowered to obtain the Social investigation report on juvenile even though a recognised voluntary organisation (Section 15 (2)

(3) Observation homes

The Act provides for establishment of observation homes by the state Govt. for temporary reception of the juveniles in conflict with law during the tendency of an enquiry. The JJ Act, 1986, there was no clear demarcation between the observation homes to be provided for delinquents and neglected juveniles.

(4) Special homes

The state government will establish and maintain special homes for the reception and rehabilitation of juveniles in conflict with law. The special home will provide accommodation, maintenance and facilities for education, vocational training and rehabilitation. It will also provide him/her with facilities for the development of his/her character and abilities and give him/her necessary training for protecting himself/herself against moral danger or exploitation. It shall also perform other functions to ensure an all round growth and development of his/her personality.
(5) After- Care Organization

The state Govt. will establish or recognise After-care organisations for the purpose of enabling them to lead an honest industrious and useful life.

The JJ Act, 2000, is ‘child friendly and ensures the best interests of the child’ will go a long way in lifting the neglected and juvenile delinquent children as voiceless citizens. They are not able to enforce those safeguards that any legislation may provide them. Hence while considering legislation for juvenile justice, it is extremely important to ensure that children do get adequate legal protection. Legal provisions are made for children’s welfare, i.e their nutrition, health and education and there is suitable machinery provided by law for the enforcement or implementation of these provisions.

In the absence of such a machinery for implementation, care, protection, rehabilitation and social integration, however well designed may prove ineffective. Ultimately, it is the state that can ensure justice for children.

2.5 Juvenile Delinquency – A Global Overview

In all countries patterns of delinquency are influenced by national, ethnic, or religious subgroups or other minority groups, by migration, urbanization, industrialization and other factors leading to rapid social change.
In Australia, the use of knives in fights, which has been
traditional among some immigrants, and it leads to delinquency.
Among the aborigines crime is significant.

Belgium, one of the most densely populated areas of the world,
which has been heavily urbanized and industrialized for many
decades. There has been a considerable increase in juvenile ganges,
usually of boys of 17 or 18. The institutions for delinquents are over
crowded, with waiting lists, some times the young persons were
accommodated temporarily in jail. (Menon, 2000)

In Canada, there is an increase in the number of middle-class
boys, who are involved in habitual delinquency. A number of
profitable rackets are of often found to be connected with those who
have been to high school or college.

In Colombia the situation has been dominated by the concept
of violence. Besides, five hundred children a year disappear-if they
are crippled, it is assumed that they have been taken to the cities to
help with begging. There is widespread begging, aggression and
stealing.

Israel is unique from a demographic point of view. The flow of
immigrants into Palestine, and the later state of Israel. Over 80% of
juvenile delinquents are of Eastern origin.

In Italy juvenile delinquency has been decreasing for some
years, following an increase soon after the war. There is considerable
internal migration from the rural south to the industrial centres of Turin, Milan, and Genoa, but this has not been accompanied by a very noticeable increase in delinquency in those centres.

According to the Japanese governments’ white paper on “crime” (Ministry of Justice, 1963), seven characteristics of juvenile crime have been observed. There are:-

(1) Commission of more serious types of offences.

(2) Increase in the incidence of crime committed by groups

(3) Increase in juvenile recidivism

(4) Increase in the incidence of crime committed by the low-teenage group

(5) Increase in crime committed by students

(6) Increase in the numbers of juvenile offenders from middle-class families.

(7) Concentration of juvenile crime in the big city

Nigeria, there are more delinquents from monogamous than polygamous homes, relative to their distribution in the community. Only 22% of delinquents commit their offences in company with others.

Poland, delinquency rate is high. The districts with the highest rates of juvenile delinquency have been those with the largest proportion of their population “employed out side agriculture” (i.e. 
industrialized), they are also districts where the majority live in cities and where the speed of urban growth has been highest.

In Puerto Rico, conditions of nutrition and childbirth are slow to improve in spite of new medical and social services. In such areas, subnormal or birth-injured children may swell the ranks of delinquents. Organic factors may play a relatively large part in the causation of delinquency.

It is interesting that, in the field of delinquency in Taiwan, two fairly distinct types of young offender can be recognized—the Liu-mang and the Tai-pau, who respectively, represent the traditionalists and the modernists. (‘Trads’ & ‘Mods’) and follow either ‘Eastern or Western’ oriented patterns of behaviour.

In United Kingdom, there is a steady increase in juvenile crime, especially marked in the last five to ten years, during which period the almost universal post war increase in delinquency has been subsiding in some other European countries. Damage to property, breaking street lamps, and slashing the seats and breaking the windows of railway coaches are a relatively new phenomenon.

In the USA, the cultural determinants led high level of delinquency. The existence of heterogeneous norms of behaviour which are frequently in conflict must inevitably influence delinquency. The pressure of minority groups and the lack of a general consensus may have produced the phenomenon of hastily
passed legislation which some times cannot be enforced, and which can be exploited by criminal groups.

In USSR the delinquent in the lowest social class is less of a problem than the white-collar criminal, the racketeer, and possibly the middle class delinquent. Those found guilty for large-scale frauds and rackets have been subject to death penalty.

In West Africa, a higher incidence of delinquency has almost invariably accompanied the break-up of traditional (tribal and family ties.) When this fundamental social disruption is combined with changes in the law-which are in process of adaptation to the cultural norms of the peoples concerned-a substantial and progressive increase in delinquency can be expected.

In West Germany, violent offences and fraud have increased tremendously. Sexual offences by adolescents and juveniles have also increased, (14-18), this age groups commits rapes and illegal abortions.

Thus in all countries the migration, urbanization, industrialization, etc. are the factors responsible for the causes of juvenile delinquency.