CHAPTER ONE
INTRODUCTION

I. The Problem of Crime and Delinquency

The problem of crime and delinquency as a social phenomenon continues to challenge mankind, as it has for so long. It is, next to the economy, our major social problem and perhaps the most potent source of fear. The complexity of the problem becomes more intense because of the involvement of multi-disciplinary approach in the identification of its causation factors and control strategies.

Crime and delinquency problem is not something new; it is an inevitable consequence of community living. There is no human society on the earth which is not confronted with the problem of criminality and juvenile delinquency. Its form and magnitude change and so is the case with social reaction to crime and delinquency and their control strategies. The acts thus characterized are not the same everywhere and for all times. But, however, everywhere and always, there have been people young as well as adult, who have behaved in such a way as to draw upon themselves penal repression of the society. Delinquency - free society is a wishful thinking and beyond the human reach. But keeping the delinquency-situations within the tolerance-level of the society at any given time is worth attempting at, rather it is necessary to save the society from complete chaos and lawlessness.

Since no two individuals are always the same in their physical appearance, intellectual perception and emotional setting, as well as their outlook towards life and human relationship, so conflict of interest is bound to occur in their...

1. The expression 'delinquency and delinquent', has been used interchangingly to convey not only 'juvenile offenders' but also neglected and destitute juveniles within its meaning unless the context otherwise conveys.

interactions. When this conflict crosses the accepted social norms it becomes
anti-social, or in the penal terminology, a 'crime' or a 'delinquent act'.
Besides, there are certain inherent human instincts, varying in degree of
course, which are present among all human beings, young and not so young; like
selfishness, possessory instinct, self perservance, procreation, etc. These
instincts prompt a person to behave in a particular manner in a given situation,
which is sometimes not in consonance with the accepted social responses and thus
branded as a culpable act and calls for a social action. In other words there
is a little animal within a man that sometimes overpowers his rationality and
makes him act in an objectionable manner. Since it is not absolutely possible
to channelize these instincts in a uniform manner, so conflicts are bound to
arise and will continue to perplex the society. Thus deviance is just as much
a human characteristic as is conformity.\(^3\) It is a common feature of society and
is implicit in all social organizations.\(^4\)

Although crime is ubiquitous, youth crime and delinquency are regarded
generally as worthy of special attention. Youth misbehaviour has always remained
a major concern of the society as and when it crossed the tolerable limits of
any given society at any given point of time. This litany, that young are a
major pain to a decent and sober society is almost as old as recorded history.\(^5\)
It is one of the most intractable, costly and complex problems faced by all
societies - developed, developing and under-developed. Examples of societal
reactions from the most violent to the milder can be found in the histories of
criminal justice systems of almost all the countries. Violation of social and
legal regulations at sometime and in some way is a common feature of youthhood,
although a few out of them become involved in serious violation of legal norms

\(^3\) Trojannowicz, Robert, C. Juvenile Delinquency: Concepts and Controls, Prentice-
Hall Inc. N.J. (1973) p.5.


\(^5\) Dinitz, Simon, Foreward to Juvenile Delinquency by Bartolles Clemens,
to invite repulsive reaction of the community, which in organized form is broadly termed 'criminal justice system', or as is presently known 'juvenile justice' in cases of delinquents.

Be that as it may, juvenile delinquency and juvenile justice are topics of contemporary significance, especially in the context of declaration of the year 1985 as International Youth Year by the General Assembly of the United Nations. Thus International community has committed itself to focusing their special attention on concentrating and co-ordinating their efforts with respect to the particular situations, needs and problems of youth in the contemporary social set-up. One of the most important of which is to ensure "protection and relief in all circumstances", including those when a youth comes into conflict with law.

With the coming into force of the Constitution there was a dawn of a new era of social justice - an era of hope and fulfilment. But in the field of criminal justice, specially to young offenders, no serious effort was immediately made either by the legislature or by the courts to read out, identify and apply the ring of protection invisibly enshrined in the spirited provisions of Chapter III and Chapter IV of the Constitution, providing for a guarantee to uphold the human dignity even in the adverse circumstances. Thus the government sponsored agencies of the criminal justice system continued to be indifferent towards this most vulnerable section of the society. It was only in wake of the judgement in the case Maneka Gandhi v. Union of India, that "constitutional domestication" of the age old "criminal justice system" and outdated

"prison jurisprudence" started. The judgements that followed subsequent to this case discovered the so far insulated human values for the persons behind the iron bars. Thus came an end to the single-track legalistic approach of "indiscriminately getting tough with the criminals" and "hands off" doctrine in the field of correctional management. Social justice and welfare approach started having roots in the field of administration of criminal justice, both to the adult and the young offenders.

In the broadest formulation, the fair treatment of juveniles is the recognition that young delinquents constitute special category of individuals requiring special treatment and handling, distinct from ordinary processes of criminal justice invoked for adults. As a young person cannot be blamed in totality for the violation of social norms because socio-economic conditions, in the creation of which the young person has a very little role to play, if at all he has any, are the dominant factors in his delinquent conduct. When young people come into conflict with the law, the issue is not simply the crime itself but the conditions and situations that may have influenced the young individual to behave in a certain way. In the juvenile justice, young offenders are considered to be the ongoing 'product' of a process of social education. Understanding the problem of delinquency in correct perspective there has to be ensured fair balancing between the specific needs of the young on the one hand and those of the society on the other, with a least adverse impact of criminal justice intervention upon the young delinquent - largely a by-product of socio-economic marginality and disadvantage.

13. Ibid.
II. Juvenile Crime Trends

(a) At National Level

Crime and delinquency constitute a shadow of civilization. Its size, shape, intensity and variety depends upon the form and shape of society. It, therefore, is not a new problem but certainly it has new features. Juvenile delinquency in its present form and propensity is one of such by-products of fastly changing socio-economic life-style of the modern society.

With the passing of Juvenile Justice Act, 1986 which has come into force with effect from Oct. 2, 1987 on all India basis, some major changes in the administration of juvenile justice have been brought about. Besides, introducing uniformity at national level, the Act has laid down one single age criterion for delinquent and neglected juveniles. Now there are two clear categories of juveniles falling within the scope of the new Act for which separate processing/correctional agencies have been established. Thus neglected juveniles are no more within the jurisdictional scope of juvenile court as they were under many Children Acts in different states. A provision for the establishment of Juvenile Welfare Boards to deal with cases of neglected juveniles have been made under the Act. However, notwithstanding this new Act, there is not likely to be any significant change in the trends of juvenile delinquency cases, because their root causes embeded in socio-economic problems have remained virtually untouched. Since the major change brought about by the new Act pertains only to processing and treatment of the two categories of socially maladjusted juveniles, the juvenile delinquency trends in general are likely to continue to be as they were there under the different Children Acts of various States. As at present the statistics available pertaining to juvenile delinquency relate to a period when Juvenile Justice Act, 1986 had not been passed so juvenile delinquency trends have been determined in reference to juvenile cases reported under different Children Act.
Hitherto reliable statistics as to the rate and volumes of juvenile delinquency in its traditional sense are difficult to obtain because of different parameters under different jurisdictions. This makes statistical reporting confused and uncomparable from place to place. Even if one adheres to strictly legal definition of a juvenile delinquent as "one who commits an act defined as delinquent by law and who is adjudicated as a delinquent by a court", there were difficulties of conceptual vagueness under the various Children Acts. In addition to acts which would be considered a crime if committed by an adult, different Children Acts define special delinquent acts of children falling within the scope of juvenile justice system: destitute, exposed to moral danger, incorrigibility, found wandering. These terms were somewhat vague and subjective, and would be variably interpreted. Also until the arrival of the new Act, there have been variation in statutes with regard to age of juvenile delinquents resulting into wide jurisdictional gaps between juvenile courts of different states.


15. Interestingly in Punjab, of the 1372 juvenile delinquents arrested in the year 1981, and in 1613 in 1982 none was a Sikh where 2957 in 1981 and 1743 in 1982 sikh juvenile delinquents were arrested in the other States in the corresponding period. This appears apparently incorrect in view of the fact that around 65% of the State's population is sikh.

An other striking feature that increases the suspicions about the accuracy of official statistics is the fact that the State (U.P.) with the highest population has been reported as having negligible rate of delinquency. It is 0.4 per cent of the total juvenile delinquency in India in the year 1981, and has come down to 0.1% in 1982. See Crime in India 1981, p.101,86; Crime in India 1982, p.112,89.

16. Till the coming into force Juvenile Justice Act, 1986 i.e. Oct.2,1987, every state had its own Children Act and for Union Territories there was Children Act,1960. There were some states which had no Children Act and similarly Children Act,1960, had also not been extended to all Union Territories. Here were 11 States and 5 Union Territories without Juvenile Courts. See Barve, Sheela, "Towards a Uniform Juvenile Justice System" Indian Express (Sept.8,1985), p.6.

States.\textsuperscript{18} Adding to statistical confusion is the fact of disposition of juvenile cases in an informal manner by various legal & Non-legal agencies like police, village elders or community respectables. Thus, the assessment of delinquency trends and intensity can never be accurate in absolute terms.

Moreover, there are several other factors owing to which the official records of delinquency cannot be taken as accurate indicator of the actual amount of delinquent activity among the juveniles. Firstly, many such acts go undetected by law enforcement agencies, because many persons including victims or witnesses, frequently fail to notify authorities. Then, the reports filed by individual police agencies are not always accurate as there is a natural tendency in several police departments to down play certain delinquent activities in which possibility of detection is quite little or where magnitude of the act is of very insignificant consequence. The author in the course of his empirical survey has found that the police authorities record reports only in cases of serious nature or where the detection is, otherwise easily possible. In most of the cases, specially involving theft of property, a person is told to give in writing regarding the offence and the same is recorded only if it is traceable or of a serious magnitude. Furthermore, in rural areas where comparatively community living is still homogeneous, many small delinquent acts, specially involving children, are disposed of at the community level with or without police intervention and no formal reporting is made in such cases. Most victims of small offences do not even prefer to report because they feel that nothing worthwhile would be achieved by notifying the police.

Inconvenience of appearing in court and a desire to "not get involved" are other factors that discourage notification to authorities.

Allowing for these difficulties, the only available statistical evidence
\textsuperscript{18} The age difference from State to State ranged between 16 to 20 years. Some States had separate age criterion for male and female juveniles. See, Towards Delinquency Control, National Institute of Social Defence Publication, (1979) pp.26-27.
comes from the well established report published by Bureau of Police Research and Development (Ministry of Home Affairs, Govt. of India). This report is under the title *Crime in India*. Based primarily upon this report the current trends of juvenile delinquency (offenders) may be summarized as follows:

I. The total population of those above the age of seven years, upon which juvenile delinquency statistics are based, has registered an increase of 84.3 per cent in year 1981 over 1971 (in one decade) statistics of which are available and is expected to increase additionally by over 100 per cent by 1991 over the year 1981, assuming that the current rate of increase remains static which may not be true, if past juvenile crime statistics are any indication. Careful analysis of the data available suggests that these increases are not artifacts of better reporting or more efficient law enforcement, but are real. Thus, the magnitude of the problem has increased.

In 1981 alone 190567 juveniles were dealt with by the police for culpable misbehaviour under the Indian Penal Code (for cognizable offences alone) and under local and special laws. This figure, however, came down to 1,68,337 and 1,71,614 in the years 1982 and 1983 respectively. These figures, however, do not include non-offender delinquents like, destitutes ungovernable and victimised juveniles as no statistics are maintained regarding these categories of delinquents, in a systematic manner.

21. There is an increase of 10.7 per cent in 1981 over 1980 of juvenile delinquency cases reported for cognizable offences under Indian Penal Code alone. See, Id., p.81.
22. In 1971 there were 4.9 cases of juvenile delinquency per one lakh of population of under I.P.C. for cognizable offence: This volume of juvenile crime has increased to 8.8 per one lakh of population in the year 1981. Id., p.79.
23. 1982 and 1983 are the only years in the last one decade in which juvenile (conted..)
II. There has been a steady, though slow, increase in the juvenile crime except the years 1982 and 1983. There is 31.3 per cent increase in juvenile crime in 1982 over the year 1972 and 34.3 per cent increase in the year 1983 over the year 1973. This increase is 85.6 per cent if we compare the year 1981 with 1971. (See Table 1.1.)

Table 1.1

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Year</th>
<th>Population in millions</th>
<th>Total cognizable crime cases under I.P.C.</th>
<th>Total Juvenile crime to total cognizable crime</th>
<th>Percentage of juvenile crime to total cognizable crime</th>
<th>Volume of juvenile crime per lakh of population</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1971</td>
<td>551.2</td>
<td>9,52,581</td>
<td>26,846</td>
<td>2.8</td>
<td>4.9</td>
</tr>
<tr>
<td>2</td>
<td>1972</td>
<td>561.7</td>
<td>9,84,773</td>
<td>31,199</td>
<td>3.2</td>
<td>5.6</td>
</tr>
<tr>
<td>3</td>
<td>1975</td>
<td>600.8</td>
<td>11,60,520</td>
<td>39,388</td>
<td>3.4</td>
<td>6.6</td>
</tr>
<tr>
<td>4</td>
<td>1976</td>
<td>613.3</td>
<td>10,93,897</td>
<td>37,015</td>
<td>3.4</td>
<td>6.0</td>
</tr>
<tr>
<td>5</td>
<td>1977</td>
<td>625.8</td>
<td>12,67,004</td>
<td>44,008</td>
<td>3.5</td>
<td>7.0</td>
</tr>
<tr>
<td>6</td>
<td>1978</td>
<td>638.4</td>
<td>13,44,968</td>
<td>44,284</td>
<td>3.3</td>
<td>6.9</td>
</tr>
<tr>
<td>7</td>
<td>1979</td>
<td>651.0</td>
<td>13,36,168</td>
<td>46,351</td>
<td>3.5</td>
<td>7.4</td>
</tr>
<tr>
<td>8</td>
<td>1980</td>
<td>663.6</td>
<td>13,68,529</td>
<td>55,129</td>
<td>4.0</td>
<td>8.3</td>
</tr>
<tr>
<td>9</td>
<td>1981</td>
<td>694.0</td>
<td>13,85,757</td>
<td>61,019</td>
<td>4.4</td>
<td>8.9</td>
</tr>
<tr>
<td>10</td>
<td>1982</td>
<td>705.2</td>
<td>13,53,904</td>
<td>59,345</td>
<td>4.4</td>
<td>8.4</td>
</tr>
<tr>
<td>11</td>
<td>1983</td>
<td>720.4</td>
<td>13,49,866</td>
<td>55,473</td>
<td>4.1</td>
<td>7.7</td>
</tr>
</tbody>
</table>

This fact of increase is reflected in almost all age groups of juveniles though this increase is more tangible in the 16-21 years age groups. The arrests delinquency cases have registered a decline over the preceding year (1981). Volume of juvenile crime per one lakh of population too has come down to 8.4 and 7.7 per cent respectively. See Crimes in India-1982, p. 84; Crime in India-1983, p. 84.

of juvenile offenders in this age group registered an increase of 70 per cent in the past eight years except the year 1976 when its percentage was 67.3 i.e. less than 70 per cent. However, the arrests of juvenile offenders under this age group was 86.0 per cent in the year 1982 which was the maximum. One fact which is clear from the Table I-2 is that two age groups i.e. 16-18 years and 18-21 years are most vulnerable age groups in the juvenile crimes.

Table I-2

<table>
<thead>
<tr>
<th>Sr. Year No.</th>
<th>7-12 years</th>
<th>Per-centage to Total</th>
<th>12-16 years</th>
<th>Per-centage to Total</th>
<th>16-18 years</th>
<th>Per-centage to Total</th>
<th>18-21 years</th>
<th>Per-centage to Total</th>
<th>Total of all Age Groups</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. 1973</td>
<td>9,963</td>
<td>7.8</td>
<td>16,470</td>
<td>12.9</td>
<td>23,951</td>
<td>18.7</td>
<td>77,358</td>
<td>60.6</td>
<td>1,27,472</td>
</tr>
<tr>
<td>2. 1974</td>
<td>8,872</td>
<td>6.3</td>
<td>19,644</td>
<td>14.0</td>
<td>22,077</td>
<td>15.7</td>
<td>90,046</td>
<td>64.0</td>
<td>1,40,639</td>
</tr>
<tr>
<td>3. 1975</td>
<td>14,781</td>
<td>10.6</td>
<td>23,118</td>
<td>16.3</td>
<td>20,866</td>
<td>14.7</td>
<td>83,134</td>
<td>58.6</td>
<td>1,41,899</td>
</tr>
<tr>
<td>4. 1976</td>
<td>19,706</td>
<td>14.7</td>
<td>24,073</td>
<td>18.0</td>
<td>19,960</td>
<td>14.9</td>
<td>70,234</td>
<td>52.4</td>
<td>1,33,973</td>
</tr>
<tr>
<td>5. 1977</td>
<td>15,113</td>
<td>10.1</td>
<td>21,391</td>
<td>14.4</td>
<td>24,011</td>
<td>16.1</td>
<td>88,407</td>
<td>59.4</td>
<td>1,48,922</td>
</tr>
<tr>
<td>6. 1978</td>
<td>11,955</td>
<td>7.4</td>
<td>18,954</td>
<td>11.8</td>
<td>25,488</td>
<td>15.8</td>
<td>104,522</td>
<td>65.0</td>
<td>1,60,919</td>
</tr>
<tr>
<td>7. 1979</td>
<td>10,539</td>
<td>6.2</td>
<td>18,315</td>
<td>10.8</td>
<td>26,226</td>
<td>14.1</td>
<td>114,963</td>
<td>67.6</td>
<td>1,70,043</td>
</tr>
<tr>
<td>8. 1980</td>
<td>10,457</td>
<td>5.6</td>
<td>20,048</td>
<td>10.7</td>
<td>36,899</td>
<td>19.7</td>
<td>120,181</td>
<td>64.6</td>
<td>1,87,585</td>
</tr>
<tr>
<td>9. 1981</td>
<td>9,485</td>
<td>5.0</td>
<td>17,649</td>
<td>9.3</td>
<td>33,969</td>
<td>17.8</td>
<td>129,464</td>
<td>67.9</td>
<td>1,90,567</td>
</tr>
<tr>
<td>10. 1982</td>
<td>8,272</td>
<td>4.9</td>
<td>15,218</td>
<td>9.1</td>
<td>25,618</td>
<td>15.2</td>
<td>119,229</td>
<td>70.8</td>
<td>1,68,337</td>
</tr>
<tr>
<td>11. 1983</td>
<td>8,290</td>
<td>4.8</td>
<td>16,949</td>
<td>9.9</td>
<td>26,153</td>
<td>15.2</td>
<td>120,222</td>
<td>70.1</td>
<td>1,71,614</td>
</tr>
</tbody>
</table>

III. Most of the juvenile apprehended do not indulge in serious offences. It is a very small proportion of the juvenile delinquents which commit serious offences. In 1982, about 6.8 per cent (out of cognizable offences under IPC only) cases of juvenile delinquency were relating to serious offences like murder and culpable homicide not amounting to murder (2.2 & 0.1 per cent), robbery (1.7 per cent); rape 0.7 per cent, dacoity (1.1 per cent), kidnapping and abduction (1.0 per cent). About 28.9 per cent cases related to rioting and burglary (18.4 and 10.5 respectively). In the year 1983 the break-up of juvenile crime under IPC for important heads of crime revealed that theft, riots and burglary alone accounted for 50.7 per cent of the total juvenile crimes. The increase in culpable homicide not amounting to murder and kidnapping and abduction registered an increase of 16.7 and 5.7 per cent respectively over the year 1982. Riots, dacoity and cheating recorded a decline of 19.4, 15.8 and 14.8 per cent respectively over the 1982. These proportions have remained relatively constant in recent years keeping in view the corresponding increase in the youth population.

IV. There are more males than females arrested as juvenile delinquents, the proportions of females being 6.3 per cent of the total delinquents arrested. The overall proportion of female offenders is on the increase in the past though there are indications of downward trends sometimes. In the year 1982 the proportion of female juveniles apprehended for delinquent conduct has registered an increase of 2 per cent over the year 1973 of the total juveniles apprehended. Though the year 1982 has shown an overall decrease in delinquency over the

---

26. Supra note 25, p.87.
year 1981 but in case of female delinquents it has registered an increase of 23.0 per cent over the year 1981 and 4 per cent in the year 1983 over the year 1982. Thus female indulgence in delinquent conduct is on the increase (See Table I.3). 27

Table I.3
Juvenile Apprehended by Sex Both under I.P.C. and other Local and Special Laws

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Year</th>
<th>Boys</th>
<th>Girls</th>
<th>Total</th>
<th>Percentage of Girls</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>1973</td>
<td>1,22,192</td>
<td>5,550</td>
<td>1,27,742</td>
<td>4.3</td>
</tr>
<tr>
<td>2.</td>
<td>1975</td>
<td>1,32,527</td>
<td>9,312</td>
<td>1,41,899</td>
<td>6.6</td>
</tr>
<tr>
<td>3.</td>
<td>1977</td>
<td>1,38,532</td>
<td>10,390</td>
<td>1,48,922</td>
<td>7.0</td>
</tr>
<tr>
<td>4.</td>
<td>1979</td>
<td>1,60,310</td>
<td>9,733</td>
<td>1,70,043</td>
<td>5.7</td>
</tr>
<tr>
<td>5.</td>
<td>1981</td>
<td>1,81,888</td>
<td>8,679</td>
<td>1,90,567</td>
<td>4.6</td>
</tr>
<tr>
<td>6.</td>
<td>1982</td>
<td>1,57,664</td>
<td>10,673</td>
<td>1,68,337</td>
<td>6.3</td>
</tr>
<tr>
<td>7.</td>
<td>1983</td>
<td>1,60,513</td>
<td>11,101</td>
<td>1,71,614</td>
<td>6.5</td>
</tr>
</tbody>
</table>

-Percentage change in 1982 over 1981

-Percentage change in 1983 over 1982
Boys +1.8, Girls +4.0.

-Percentage change in 1982 over 1972 and 1983 over 1973 is 47.7 and 100 per cent respectively in case of girls

V. Most of the juveniles are arrested for the offences against the property under the Indian Penal Code. Theft and burglary alone constitute 34.1 per cent of the cases reported in the year 1982. While the cases reported under the head miscellaneous constitute 39.7 per cent.

of the total delinquency cases. Since the head miscellaneous excludes almost all the serious offences under the Indian Penal Code (like murder culpable homicide not amounting to murder, rape, kidnaping and abduction, dacoity, robbery, theft, burglary, rioting, criminal breach of trust, cheating counterfeiting) so juvenile crime is confined to offences of very small magnitude. Generally increase in property crime is linked with "economic growth & development". Statistically speaking this position remained constant in the year 1983 also.

VI. In the year 1982 about 18.5 per cent of the total juveniles whose cases were sent to the courts were acquitted or otherwise disposed of. This figure was 27.0 per cent in the year 1983. This percentage will be almost double if we take into account the percentage of cases actually disposed by the courts out of the total cases referred to the courts. As 47.1 and 46 per cent of the cases remained pending in the courts at the end of the year 1982 and 1983 respectively. So the figure 18.5 per cent and 27 per cent must be calculated on the basis of 52.9 per cent and 54 per cent of the cases actually disposed of by the courts in these years. Similar is true to other dispositional alternatives used by the courts in deciding juvenile cases in the years 1982 and 1983 which is 5.6 per cent and 8.6 per cent restored to guardians; 2.8 per cent and 1.8 per cent were placed on probation; 1.9 per cent and 1.1 per cent were sent to Reformatories and Borstals; 1.0 per cent and 1.1 per cent were sent to Adult Institutions and 22.3 per cent and 14.1 per cent were imprisoned respectively.

28. Id., p. 86.
29A. Crime in India-1983, p. 84.
institutionalization is the normal practice of our juvenile justice to deal with the cases of juvenile delinquency. Non-institutional dispositional alternatives, inspite of their distinct advantages, has been very rarely used.

VII. Urban area seems to contribute more juvenile delinquency than do rural areas. Rates of delinquency become progressively high as the size of the population area becomes larger. More than 24 per cent of the total juveniles apprehended(under I.P.C. and Local & Special Laws) are from 12 big cities of India, 2 cities of India and 2 cities(Madras & Ahmedabad) alone accounted for more than 8 per cent of the total juveniles apprehended.\textsuperscript{31} States with largely rural based societies has the minimum volume of juvenile crime in India.\textsuperscript{32}

VIII. It is generally agreed that juvenile delinquency appears more often in the lower socio-economic structure of, especially, urban society than in other social levels. Although the peak ages, of delinquent behaviour are 16 to 18 years and 18 to 21 years, accounting for 86 per cent of the total juvenile crime(15.2 and 70.8 per cent respectively) But it appears most probable that recruitment from the younger age group may have begun before the juvenile in fact comes into contact with juvenile justice system. Whether or not this general finding can be substantiated, it appears most convincing that delinquent conduct with a notable propensity cannot be sudden in majority of the cases.

IX. Most of the juveniles apprehended are illiterate or possess very negligible educational qualifications. Out of the total juveniles apprehended

\textsuperscript{31} Id.,pp.102,103.
\textsuperscript{32} States like U.P.(0.1) per cent Punjab (0.9 per cent) Rajasthan(4.9 percent) Bihar (2.5 per cent) have a low volume of juvenile crime in comparison to volume of population. See Id.,p.89.
\textsuperscript{33} Supra note 26,p.97.
in the year 1982 only 7.5 per cent were matriculate or above. 43.4 per cent were illiterate and 30 per cent were having below primary level education.\textsuperscript{34} Since education has a direct link with intellect so there is a possibility that some portion of the educated delinquents might have escaped the juvenile justice net. But that number cannot be very large and thus will not substantially effect the conclusion that lowly educated juveniles are mostly attracted towards a life of crime - may be because of low employment opportunities as well as lack of shrewdness to escape from apprehension.

X. It is also seen that a much larger number of juveniles come to notice in offences under local and special laws as compared to offences under the Indian Penal Code. This trend of increasing involvement of juvenile offenders in crimes of 'vice' is a matter of serious concern. For example, in 1982 for which all India crime statistics are available in complete shape, 45.8 per cent and of the total juveniles apprehended were under Indian Penal Code while under Special and Local Laws head, two Acts, viz., The Prohibition Act and The Gambling Act together accounted for 48.1 per cent of the total arrests (43,154 out of 91,210). Three States viz., Maharashtra, Gujarat and Tamil Nadu accounted for 83.1 per cent of the total offences under local and special laws recorded in the country.

In big cities this problem is becoming more serious. For instance, in twelve big cities alone juveniles arrested for offences under I.P.C. numbered 6,173 while in the same cities juveniles arrested under Special & Local Laws numbered 28,310. Gambling Act and Prohibition Act accounted for 10,078 juveniles arrested under these two Acts alone.\textsuperscript{36} The position in the year 1983 remained almost the same in this regard.\textsuperscript{36A}

\textsuperscript{34} Id., pp.110–111.
\textsuperscript{35} Id., p.88.
\textsuperscript{36} Id., pp.90–93.
\textsuperscript{36A} Crime in India–1983, p.95.
XI. It also emerges from the all Indian Statistics that in the years 1982, 1983 about 86.4 per cent and 87.7 per cent respectively of the juveniles arrested every year are new offenders, which means that every successive year more and more new youngsters are brought within the coercive processes of our present juvenile justice system with all its attendant adverse impacts on their over all personality development.

XII. Since out of 1,65,337 juveniles regarding whom the information was available, (excluding figures from Delhi, U.T., which were not available) 73.2 per cent of juveniles arrested were living with their parents, 17.7 per cent with their guardians and 9.1 per cent were homeless. In the year 1983 these figures were 74.8 per cent with their parents, 17.0 per cent with their guardians and 8.2 per cent were homeless out of the total of 1,67,896 juveniles arrested about whom information is available. There was no information in this regard from U.T. of Delhi and Nagaland. That shows that all those juveniles who lived with their parents or guardians before arrest suffered from total absence or low control and guidance from the primarily and most important social control agencies like parents, teachers and guardians. It also reflects that their delinquent tendency at home and in school went untouched and uncorrected that they later turned out to be regular.

A close scrutiny of the statistical and historical evidence suggests that juvenile crime situation today is neither unique nor so alarming as commonly supposed.
development; but it does not mean that there is no necessity of being serious about the problem, specially in the context of its steady increase every year. Certainly the statistics of officially known offences are not wholly true and can never do more than scratch the surface. It is good in one way as most of the juvenile criminality dies with the juvenile's entry into adulthood, so a deeper and more determined official scratching is likely to make the situation appear more alarming.

While the exact state of delinquency situation is anyone's guess, experts are mostly agreed on two points. First, the ever-increasing number of delinquent behaviour and the increasing proportion of the youth population with a criminal record suggest that some genuine increase has taken place atleast in certain kinds of delinquent activity. Although the true extent of the increase is open to dispute, since obvious reasons, the official statistics may be interpreted reflecting an exaggerated trend that may be due to better police set-up, increasing youth population, more reporting by public, increasing criminalization. On the other hand, there is a wide speculation about unrecorded delinquency that "vary between a minimum of twice and maximum of four times the number shown in crime statistics." Secondly, involvement of young in delinquent conduct is increasing at a fast rate specially in the age group of 16-18 years and 18-20 years in respect of crimes of drunkenness, use of drug, assaults, vandalism, gambling etc.

Although national statistics do not project an alarming picture of juvenile delinquency, the problem may not be so simple. If we look at the State

wise distribution of juvenile delinquency cases with care, it will be difficult to escape the impression that a distorted perspective is created by the enforcement agencies to some extent.

Still in comparison to the developed countries like U.S.A., Japan, U.K. it is a scant comfort that our society is still among the most peaceful on earth, at least in case of youth crime. Much of our anxiety about crime and delinquency is escalated through constant jolts by the sensationalism of the media, while in fact the steady and sometimes dramatic escalation of the delinquency problem is considerably associated with the growth of youth population and fast pace of economic development and slow progress of social development. The need is not to get panic but to make constant effort to keep it within the tolerance level of the society. And this is something within the human reach.

(b) At International Level

While one obtains the general impression that crime rates in most countries show striking and interesting parallels, international comparison of juvenile delinquency statistics are very difficult because of the lack of standardized definitions, difference in quality of enforcement agencies, unequal social reaction to youth misbehaviour, etc. Despite these difficulties we may, with reservations, offer some tentative general observations:

Since the last world war, as revealed by statistics, the out break of delinquency have occurred in many, if not all, of the countries which have felt

42. Only three states Gujarat(21,230), Maharashtra(29,257) and Tamil Nadu (19,925) constitute around 85 per cent of the juvenile crime under Local & Special Laws(70,412 out of 84,777). Under the Indian Penal Code also four states Gujarat, Maharashtra, Tamil Nadu & Madhya Pradesh register 70.1 per cent of juvenile crime. While the States with larger population reflect minimum juvenile crime(U.P.,0.1 per cent; Bihar, 2.5 per cent; Andhra Pradesh, 1.6 per cent. See, Crime in India-1982,pp.98-101.
the impact of rapid social change. In Germany and Japan delinquency is on the
increase and in almost all the countries delinquency seems to be associated
with a rapid transformation in the kind and conditions of family and
community life.\(^43\)

While crime trend around the world has gone up with the economic and
social progress but there is a considerable difference between the crime trends
rates of the developing and those of the developed countries, as these have
been categorised by the United Nations. Over twice as much crime was reported
by developed countries(1835.3 per one lakh of population)than by developing
countries(787 per one lakh of population).Over all offence rates in the de­
veloped world are markedly higher. Of particular interest is the fact that certain
types of criminality appears to predominate in each population group. Thus the
incidence of offence against the person is significantly higher among develop­
ing countries, as indicated by the rates of assault. 253.1 per lakh of popula­
tion, homicide 5.1, robbery 58.8 per lakh of population as against the figure
of 115.3, 2.7, 33.3 per lakh of population respectively of developed countries.
The incidence of offences against property is higher in developed countries as
indicated by the rates of theft 1370.5, fraud 136.4 per one lakh of population
against the 354.3 and 30.1 per lakh of population respectively of the develop­
ing countries. The same reflection is there in the trends pertaining to juvenile
crime.\(^44\)

A.D.Viccica\(^45\) has come to the following conclusions about the interna­
tional crime trends and crime control strategies, that includes offences com­
mitted by the young persons:

I. Crime appears to be an international phenomenon. Crime affects
not or ly advanced industrialized nations but also is an

\(^43\) III U.N.Congress on Prevention of Crime & Treatment of Offenders,Stock­holm,
(August 9-18,1965),p.12,para 97.
\(^44\) U.N.Report of Secretary-General on Crime:Prevention and Control,L/32/119
increasingly heavy burden for developing countries.

II. Crime is manifest around the world in many new forms and dimensions. Reliance solely on traditional measures of crime prevention and control appears no longer adequate, and socio-economic planning against criminality appears indicated.

III. Historically, insufficient attention has been paid to combating crime, specially to preventing crime, on both national and international level.

IV. Criminality is not an isolated phenomenon. Various conditions including urbanization, industrialization increasing social and economic inequality, and specially decreasing indigenous social control contribute to the growth of crime in society.

V. The rate of offences against the persons increases significantly in proportion to the property offences rate as a nation is developing economically.

VI. In terms of preventing and controlling criminality at the early stages of national development, criminal justice planning should be incorporated in overall national planning efforts, thus neutralizing many of the adverse side-effects of economic growth and rapid social changes in consequence thereof.

III. Some Facts & Fiction about Juvenile Delinquency

Juvenile delinquency, its trends, magnitude, and realities about juvenile crime causation factors and appropriate crime control strategies do not reach the public in correct form, as there is no crime information feedback agency establishing a link between facts about youth crime and what the public under-

stands about it. The only general information disseminating agency is media.
Because of lack of interest with the public most of the crime statistics remain
confined only to official desks of concerned agencies or at random explored by
some researchers. Unfortunately the media, the only crime information feedback
agency for general public interest, tends to focus on sensational cases. Misin-
formation and emotional rhetoric often substitutes for fact in the public debate
over crime and delinquency. The inherently ambivalent attitude of public based
on the sensationalism of the media often blocks innovation and improvement in
the administration of justice specially to young offenders. Political will, the
most essential force for change for the better, is determined by public attitude
and pressures. And if public co-operation is not adequately listed, no welfare
legislation can be enacted or if enacted, is likely to operate much below the
desired output level. Some basic facts about juvenile delinquency, which are
largely over-shadowed by twisted facts and interesting fiction, of the selective
feedback approach of information disseminating agencies, are somewhat different,
not commonly understood in correct perspective. Based on crime statistics discus-
sed earlier, and even at the cost of repetition to some extent, the truth about
juvenile crime can be summarized as follows:

I. Most young persons violate the law at some point during adolescence, relatively few young persons are repetitive, serious criminals. The teen years are a period of experiment, risk-taking, and bravado. So some kind of delinquent activity, however, small it may be, is part of the pattern of almost all youth sub-cultures.

47. Randzinowicz, L. and Wolfgang, M.E. (Ed.), Crime and Justice, Vol. II, Basic Books Inc., (1977) p.17. (The authors of this book conducted their research in the careers of 1000 boys in Philadelphia and found that only 6 per cent of the total proved really persistent committing five or more offences); See, Crime in India-1982, p.110 (only 13.6 per cent are recidivist).
II. Mostly youth crime is not violent; offences involving property outnumber violent crimes by more than ten to one; yet violent crime by the young is on the increase and is a substantial social and public health problem.

III. Most violent crime by the young is committed against young victims; as substantial amount of violence also spills over to other age groups, and about 10 per cent of all robbery by young offenders involve elderly victims.

IV. Most young persons who commit serious offences will out grow the propensity to commit crime in the transition to adulthood; a significant minority of serious offenders will persist in criminal careers. For the majority of juveniles offenders, delinquency is but a passing phase, if recent research is any indication.

V. Most young offenders, who commit acts of extreme violence and pursue criminal careers come from minority ghettos and poverty back-grounds; so do their victims.

VI. Youth crime is on the increase over the past few decades, in fact because of the growth of the youth population in large urban areas that have been incubators of crime; in the next few years, youth crime rates will probably not continue to grow at the pace of recent years because the total youth population will decline and the minority youth population in most major cities will remain relatively stable.

48A. Supra note 43.
50. See, supra note 43,p.110.
Besides this the increase in youth crime as reflected by official statistics is partly because of effective and more sophisticated police set-up, alert and conscious reporting attitude of public and increase in penal statutes.\(^{51}\)

These misconceptions overtook the great progress which the society has made in the past fifty years in dealing with delinquent children. For it is just recently that children of tender years who violate the accepted social norms are locked up in the same jails, are tried by the same prosecutors and judges, and in many cases receive the same punishment as hardened adult criminals.\(^{52}\) Often the punishment consisted of many years imprisonment and some times confinement in correctional homes, which are neither correctional in nature and contents nor homes by any civilized standards.\(^{53}\) Inspite of that it is very rare that any public debate follows inside or outside the Parliament on such incidents of culpable nature done in the name of law.

IV. Public Attitude and Policy Planning towards Delinquency

(a) Public Attitude

It is perhaps indifferent attitude of the public, based upon ignorance of certain basic factors relating to delinquency that juvenile justice system has a slow progress.\(^{54}\) The general public approach supports "get tough on crime"


52. As per the official information given at the Social Welfare Minister's Conference held in New Delhi on Jan.22,1987, about 900 young children are currently lodged in adult jails in contravention of the children Acts. See Times of India(Jan.23,1987)p.5. It was resolved at this conference that all of these children shall be rehabilitated within one month. But to one great surprise, again on a writ issued by Pb.&Hry.High Court it was found that 21 children are still in Nabha(Pb.) Jail alone against whom no charge is there, See Indian Express(March 7,1987)p.7

53. Recently on an inspection of Reformatory in Himachal Pradesh the Session Judge described it as a "School for Crime",Indian Express(Nov.20,1986)p.6

54. "Justice and the Child is a distinct jurisprudential criminological (contd.)
philosophy in dealing with crime and criminals without much distinction between adults and juvenile delinquents. This aspect of the public approach is reflected more seriously when it comes to dealing with violent crimes involving young persons. Thus the realities and correct perspectives about juvenile delinquency and its control strategies are lost in the den of sentimentalism. In addition to the lack of active public support of juvenile justice suffers from many inbuilt inadequacies of the system in dealing with the problem of juvenile delinquency. Its philosophies are directed towards two conflicting goals—rehabilitation and treatment of the juvenile delinquents on one side, protection of the society from the dangers of ever-increasing youth misbehaviour on the other. The system has no control over delinquency generating factors and there are acute financial constraints in its working which too is fragmented and coordinated in its operation. Thus the working of the system fails to meet the expectations of even a generalist but to talk of a specialist. When people are having a feeling that the measures taken by the government in the field of welfare of the society are not giving desired results and that this is a waste of national resources, it is not possible to enlist public support and cooperation for any welfare activity, specially when it pertains to crime and delinquency. Many factors have contributed to this type of feeling among the public. Inadequate feedback system, mismanagement and corruption in the working of the system, and inadequate funding for the proper management of the system are just a few. So people are not to be blamed for their indifferent attitude only because of their ignorance about juvenile delinquency but also for their knowledge about the working of the system and its real output.

The children Acts, like any other piece of welfare legislation could achieve almost nothing. Juvenile Justice Act, 1986 will meet the same fate unless

suitable mechanism is developed which ensures its effective implementation for the benefit of those for whom it is enacted. The only basis upon which effective juvenile justice system can be built up and operated is an enlightened and concerned society which cares for its children, particularly the most vulnerable ones -neglected, abused and delinquent. Postive public attitude is necessary for the creation and development of social organisations on voluntary basis in order to reach out to the needs of underprivileged section of our society.

So it is the duty of the government to lead the public relation to social defence and provide it with accurate information on which to base its views. The mass media must be used to inform the community to help it form proper attitude towards the juvenile offenders and their reformation and rehabilitation.

(b) Policy-Planning

All political systems need some support for their governmental processes if they are to function at all, and active support and co-operation if they are to function effectively. This is more true of policy-planning in the field of criminal justice in general and juvenile justice in particular.

"In the Netherland, Sweden and the United Kingdom, campaigns to enlist public opinion by means of exhibitions, articles in the press, films and television and radio broadcasts are being conducted with success."56

The individual citizen and organized groups have important roles in defining the social priorities. Community groupings not specially related to the criminal justice system often provide major sources of support for that system. But lack of social consciousness about crime and delinquency in an organized manner, and on all India basis, has provided an opportunity to the

55. Social defence means programmes directed towards control and prevention of crime and rehabilitation of prisoners.
government to place social defence in the lowest priority in social welfare sector.57

Keeping in line with the general public responses towards crime and criminal justice, the political bosses and policy planners too have adopted an attitude just close to public thinking towards social defence. Hardly any political party in its election manifesto mentions about its policy towards rehabilitation and treatment of delinquents both adults and juveniles. This is perhaps because of a very low political premium, or rather a negative return, such policy is likely to have from the public in the form of negative voting pattern. The same political shyness in responding to a sensible social defence policy-planning can be seen in the Five Year Plan allocations, for the social defence in the social welfare sector. Due to political indifference, ignorance or, may be, poor feedback system regarding delinquency and its control strategies, our Five Year Plan allocations are subjective, arbitrary and grossly insufficient. A look at the plan allocations will substantiate this fact.

Table I.458

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Plan Period</th>
<th>Allocation for Social Welfare (Rupees)</th>
<th>Allocation for Social Defence (Rupees)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1st Five Year Plan 1955-1960</td>
<td>4 crores</td>
<td>Nil</td>
</tr>
<tr>
<td>2</td>
<td>IIInd Five Year Plan 1960-1965</td>
<td>19 crores</td>
<td>0.04 per cent of social welfare (conted)</td>
</tr>
</tbody>
</table>

57. Social Welfare is a wider concept and includes many welfare programmes like, welfare of women, children, handicapped, grant to voluntary organisations, social educational courses and welfare of weaker sections of the society. See, VII Five Year Plan (1985-90) Planning Commission, New Delhi, p.317

3. IIIrd Five Year Plan 1965-1970 31 crores 0.02 per cent of social welfare
4. IVth Five Year Plan 1970-1975 41 crores 0.03 per cent
5. Vth Five Year Plan 1975-1980 63.53 crores Nil (It was left for the States to plan)
6. VIth Five Year Plan 1980-1985 150 crores 3.75 crores
7. VIIth Five Year Plan 1985-1990 799.97 crores 5 crores

Similarly the allocation for National Institute of Social Defence, the only Institute at national level specifically for research in social defence strategies, was so meagre (as a look at the table indicates) that comprehensive research programmes cannot be conducted. The building, staff strength and library facilities of the institute provide for an additional proof regarding the national neglect towards policy-planning and research in the field of crime control planning.

Table I.59

<table>
<thead>
<tr>
<th>Plan Allocation for National Institute of Social Defence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vth Plan 1975-80(Rs)</td>
</tr>
<tr>
<td>-----------------------</td>
</tr>
<tr>
<td>0.25 crores</td>
</tr>
</tbody>
</table>

* However, allocation for allied sectors connected with juvenile welfare were made as under short stay Homes, Rs 2.75 crores, National Institute of Social Defence, 0.25 crores.

** In addition to Rs 5 crores (which was specifically for the prevention of juvenile maladjustment and prison welfare, Rs 2.5 crores each) Rs 3 crores were allocated, out of which one crore was for short stay Homes Rs 1 crore for Education work for prevention of atrocities on woman and Rs 1 crore for National Institute of Social Defence.

59. Ibid.
Social defence outlays and policies, as it appears, suffer from both low priority and ill-equipped spokesmen who cannot or do not explain the programmes and their importance in national development with professional competence. As a result, in the final stages, when competing claims of other sectors are considered along with social defence, the latter's claim for greater attention suffers from lack of forceful and convincing sponsorship or is brushed aside because of purely political considerations. In the Five Year Plan allocations, the limited resources made available are mainly confined to the area of juvenile maladjustment, welfare of women, control of begging etc. However, unlike the general priority given to child welfare in the social welfare sector, juvenile delinquency prevention and control enjoys low priority in the social defence and thus faces major operational problems in the management of juvenile justice system. Further acute scarcity of feedback information pertaining to juvenile delinquency control because of lack of research facilities makes the innovation and experimentation in the system difficult, if not impossible, resulting into general public suspicion in its effectiveness.

While on the other hand crores of rupees are being spent in national image-building through organizing 'Indian Fairs' in foreign countries and holding international conferences without any tangible beneficial results. This sycophancy in our approach and escapism from the real issues of social importance is most unfortunate. The state of affairs of our correctional institutions, the half-hearted introduction and inefficient working of our juvenile justice systems and the shabby treatment we provide to most of the unfortunate youngsters (both delinquents and non-delinquents) who are caught in the web of

juvenile process, betrays the tall promises our constitutional makers have recorded in the constitution and later on reiterated in the "National Policy on Children". Can this poor country where many schools, the primary social control and guidance agencies, are without teachers and even without buildings afford this extravange? There is an immediate need to reassess our priorities and make them subserviant to the basic constitutional spirit of "social welfare", "social justice" and "just order".

Proper thought has not been given to the far reaching consequences, the juvenile delinquency is likely to have in the future years of rapid national development. If examples and experiences of economically developed countries are any indication, we too are running fast towards crime generating situations which are the most probable result of economic development, like urbanization, industrialization and weakening of the traditional social control agencies (family, community, school). Keeping in view the impact the juvenile delinquency is likely to have on our future society, it is a time, while comparatively still we are in a comfortable position, to plan of social defence with care and caution.

(V) Delinquency Impact

In India, like many other developing countries, under the pressure of population explosion and social, economic and political changes, old patterns

---


62. According to the 4th All India Educational Survey there are 41,287 schools without buildings, 3000 schools do not have any teacher and 1.5 lakh schools are having only teacher. Editorial, "Schools on Paper" The Indian Express, Chandigarh (April 26, 1982) p. 6. See also Editorial "Spreading Illiteracy", The Tribune (Jan. 15, 1984), p. 4.
of responsibility for the rearing and social education of children have been dissolving even more sharply. The present generation is not inclined to accept the traditional concepts regarding family, community relationship, and pattern of life-style without questioning. This change has resulted into considerable increase in delinquent behaviour because of the fact that traditional social control agencies are losing their grip over the modern day youth.

In addition to this common trait among the young, shared by all rungs of the society, most adversely affected section of society is the poor and middle class families. In many parts of the country we can see hordes of youngsters, abandoned and drift, with social evil of begging as their only way to keep alive. How is it possible in a situation like this, that delinquency should not increase? As we have seen that most of the juveniles apprehended by the police are new enterants in the delinquency circle without and previous record. This shows that population of young delinquents is on the increase.

This increase in juvenile crime has its impact on juvenile justice philosophy and the operation and attitudes of the managers of its many variables. The impact may not be uniform on all the agencies, but certainly if has significant though less tangible, influence in shaping their attitudes and options concerning how to deal with juvenile delinquency problem. For example, the impact of delinquency on police may differ from its impact on the juvenile court and correctional management or quality of probation service. Increased pressure of delinquency may result into hardened approach towards delinquents and similarly persistent delinquent behaviour or seriously violent behaviour of few delinquents has its likely consequential effect on the working of whole of

system and its philosophical contents. "Get tough on violent and persistent delinquents" is the most tangible example of change in the juvenile justice philosophy and its working. Demand for the exclusion of non-offenders from the scope of the system because of increased pressure of juvenile delinquency is yet another example.

One of the few tangible impacts of delinquency is the monetary cost which is by no means the most significant aspect of the problem. Besides this the human stress, the personal tragedies, family disorder and emotional upheaval outweigh monetary cost though financial costs are far easier to measure and duly reflected by figures.

Another serious impact of unchecked delinquency has been the "training school" for adult criminality. This is true to even half-heartedly and inefficiently managed juvenile correctional institutions which are more likely to produce "trained criminals" unless properly managed. In both the cases it will turn to be a "gateway" to adult criminality.

One more, and most commonly under-estimated impact of juvenile delinquency is on the society in terms of human resources. In stead of cultivating vitality of young people for common good, treatment, control and prevention of youth crime consumes heavily in terms of human resources.

Keeping in view the impact delinquency problem has and is likely to have in the future, specially in the wake of fast economic and technological developments, preferential attention must be focussed at the national level in its control and prevention. Otherwise it will neutralize the progress we have already made so far.

(VI) Complexity of the Problem

The problem of juvenile delinquency is not a unitary problem either in its
causation factors or control strategies. So no single, rigid and uncoordinated system will help in effectively dealing with it. Although it is possible to provide general explanations of delinquency with known margins of error, it is only with greatest uncertainty that we may explain an individual delinquent's behaviours that ultimately pushed him into deviant conduct. It is basically a human problem and thus requires diverse approaches to reach at the root of the problem. Each individual delinquent is a distinct and compact personality having its own characteristics, attitudes, problems and options. This is, probably why all juveniles under the similar socio-economic situations do not behave in a delinquent way. In the era of individualized justice it may not be possible to handle juveniles strictly under classified groups and at the same time meet the ends of juvenile justice in its true sense. D.J.West, while commenting upon the complexity of the problem and its system observes:

Delinquency, like health, consists of a vast conglomeration of different phenomena, and no single explanation or cure will be found to fit more than a small segment of the whole. The problems are so many sided, so changeable, and so complex in all their social and psychological ramifications that we have hardly got the stage of starting the issue coherently let alone resolving it.64

Limitations of human knowledge, paucity of adequate feedback information about delinquent and delinquency, inadequate financial support, public apathy and qualitatively low graded manpower dealing with the problem further complicate the possibility of devising any foolproof and effective system to deal with this serious social problem. But we cannot afford to isolate ourselves from the problem merely because of its complexity and demand for a variety of solutions. The search for, and imposition of, order is so fundamental that no form of social

existence without it can be envisaged. Alternative to order is chaos, anarchy and continuous war for hegemony. The process which enforces values and maintains order is termed "social control", and it operates through many variables of the system. And to deal with the problem of delinquency the system formulated is in its broad sense, termed "juvenile justice system". Presumed by the public, on one side, and the reformers, on the other, the juvenile justice is in shambles. In order to make this system work at an optimum level there is a need for its constant periodical evaluation and improvement.

(VII) Implications for Reform

In view of the changed traditional responses regarding delinquency causation and new socio-economic and technological developments taking place having an indirect but deep bearing on youth crime causation, its magnitude and variety, the complexity of the juvenile justice system is becoming more and more visible and serious. Classical crime control strategies cannot meet the challenge of delinquency in its present form. The volume and variety of youth criminality argues against any single and rigid dispositional policy towards the young delinquents. High volume and hard choices will confront any set of social institution that respond to juvenile delinquency and young delinquents. There is little doubt that law and policy need to be reformed, both in its contents and execution. But intelligent reform proposals and strategies must be grounded in the real facts about juvenile delinquency and societal reactions to the problems. As no social welfare legislation can operate in vacuum, it needs intelligent public cooperation for its success up to the desired level. The fate of the Child Marriage Restraint Act, Dowry Prohibition Act and Suppression of Immoral Traffic in Women and Girls

Act are a living examples of this fact. These Acts are acknowledged more by violation than observance.

The observations of Masud Hoghughi in this context depict the reasons for the failure of juvenile justice and its policies:

One reason for the persistent failure of most policies aimed at control of delinquents is the conceptual and operational gap between delinquency and delinquents which cannot be bridged of other than by a complex act of translation and application in individual instances, and we lack adequate ground rules for such translation. In some ways, the gap is as wide as its existence is inevitable; law-makers cannot pass laws on the basis of personal knowledge of individuals, and must rely on abstract political advocacy and relevant evidence about whole population to which each youngster's characteristics are at best an approximation. But it is not impossible to incorporate much more of what we know about delinquents in policy so that the gap is not as glaring as it often turns out to be.66

Deviant behaviour has existed and will continue to exist as long as man is dependent on his peers for success.67 Absolute success in the context of the problem as complex as juvenile delinquency may not be possible even with the best of intentions and efforts. But even to keep the problem within the bounds of our social control agencies there is a necessity of keeping our normative and regulatory system close to the realities of the problem and enlist public support through intelligent feedback system. Success is possible only if the policy planning agency is kept abreast of the latest findings about the problem of delinquency - its causes, compulsions, consequences and control. Experience, experimentations and trial and error based system can be more effective and result oriented than the static and single-track-minded thinking. Experience is the biggest teacher, ignoring it will create an unbridgeable gap between what we do and what the realities of the problem demand. In fact the


lowest priority given to social defence at the policy planning, and financial constraints resultant thereof are the basic reasons for the so low level operation of the juvenile system, contributing to frustration, both among the public and the social conscious reformists. As a result most of our delinquency control programmes are based, by and large, on guess work and borrowed strategies.

Criminalology is no more a pure work of legal articulation, based on theoretical philosophies. An improved methodology and even greater current of empirical research have taught us that criminological results are as time-bound and as place-bound as most other sources of knowledge. In view of the complicated interplay of social factors, basic value-system, and the crime controlling institutions under the pressure of rapid economic and technological progress, a constantly progressive approach has to be adopted towards juvenile justice delivery system in all its variables and operations. Otherwise the difficulties, which are bound to accumulate in the wake of allround progress, will turn the whole system into a catastrophe. The need is of careful evaluation of the system and its processes in the light of its output, in order to legitimise its often costly and demanding measures.

In this context a thought provoking observation of a Japanese crimino­logist Seiichiro Ono, appears to be quite relevant in Indian Social-setting:

Criminality and the corresponding criminal policy should be dynamically perceived as a part of the continuum of changing circumstances in the historical development of human society. It requires a moral­scientific understanding and description of the total social evolution process. It is, indeed, this evolutionary point of view that makes a realistic policy possible.69

68. Horst Schular-Springorum, General Report of the International Association of Penal Law, prepared for the Sixth Joint Colloquium on, Youth, Crime and Justice, held at Bellagio, Italy in April, 1984.
Thus conventional approach to criminological understanding should be reconsidered and inbuilt flexibility in the juvenile justice system, suitable to "individualized" justice, must be incorporated. So that efficiency and durability of the system in the fast changing social set-up can be secured and maintained.

There is almost consensus for having a protective criminal justice system for the young offenders. It is a prudent social policy to assign a high priority to providing young delinquents with the opportunity to pass through the delinquency-prone stage of development with their life changes intact. For that end it is imperative to develop a juvenile justice system which uses procedures and substantive norms conducive to almost normal personality development that minimize stigma, custodial confinement and exile from society. This, of course, does not mean omnibus approach to all the young delinquents irrespective of their age, nature of act, conduct, and social consequences of their delinquent behaviour. How can a persistent delinquent or violent young offender be treated on the same footing as a first offender or a child guilty of minor misconduct? So group classification though not in consonance with the concept of "individualized justice" to some extent, is inevitable for any justice system. The basic requirement of juvenile justice is that it must serve an educational function - that criminal behaviour does not pay in the long run - that society has a real and sincere concern in their well-being. The whole of the system, should be directed towards that end. Such policy certainly involves risks and costs; as considerable minority of young delinquents may not out-grow their propensity to crime and delinquency. But there is no evidence that harsh treatment and secure measures are more effective than lesser measures in dissuading young delinquents from pursuing delinquent career. To substantiate this, I would like to record the observation of Justice Krishna
Iyer:

If you treat a man like an animal, then you must expect him to act like one. For every action, there is a reaction. This is human nature - We must re-evaluate our concept of rehabilitation and consider it in its purest sense, as simply a return to normality.70

But the humanism of the criminal justice system, more so of the juvenile justice system, does not require that unequal should be treated as equal in offering treatment alternatives to reinduct the offenders into society. Precisely, it means that should the sentencing policy, in case of young delinquents be proportional to the seriousness of the offence? The answer is not as straight as it appears to be and there is a considerable scope for debate over the matter. One thing, of course, is certain that no coherent theory of criminal justice that acknowledges punishment as an appropriate response to crime can treat bank robbers and bicycle thieves as equal for the purpose of punishment. The point seems obvious, but proportionality is not an integral part of the present jurisprudence of juvenile justice.71 Experience teaches that it should be.

In view of the experiences of many countries like U.S.A., U.K., Japan, and similar situations developing in our own country (like rise in terrorism, drug traffic and use, rioting, to mention a few) we can conclude that mere sentimentalism is not enough to serve as a guiding principle for the possible changes in the prevailing system engaged in the handling of delinquency problem.

Sufficient time has already elapsed to justify a closer and more critical look at the working of our juvenile justice system - what it is, what it does, and what it has accomplished. Solutions to all the difficulties which have emerged and are likely to emerge in future cannot be pulled out of hat. Nor are there any readymade and patent remedies.

Wide gap in the practice and theory of juvenile justice system and its failure to respond adequately to the new challenges (organised crime, violent crime, drug use and other vices) has made the public and in turn the government indifferent, critical and suspicious of the relevance and effectiveness of the system. Justice Blackman has very eloquently summarised the various reasons for the failure of the system and the necessity of reforms in its operation.

The devastating commentary upon the system's failure as a whole reveals the depth of disappointment in what has been accomplished... The community's unwillingness to provide people and facilities and to be concerned, the insufficiency of time devoted, the scarcity of professional help, the inadequacy of dispositional alternatives, and our general lack of knowledge, all contribute to dissatisfaction with the experiment.72

Quoting from the Crime Commission's Task Force Report,72-A Justice Blackman further argues..."What emerges, then, is this: In theory the juvenile court was to be helpful and rehabilitative rather than punitive. In fact the distinction often disappears, not only because of the absence of facilities and personnel but also because of the limit of knowledge and technique. In theory the court's action was to affix no stigmatizing label. In fact a delinquent is generally viewed by employers, schools, and armed services and by society general - as a criminal. In theory the court was to treat children guilty of criminal acts in non-criminal ways. In fact it labels traunts and run away as junior criminals. In theory the court's operation could justifiably be informal, its findings and decisions made without observing procedural safeguards, because it would act only in the best interest of the child. In fact it frequently does nothing more nor less than to deprive a child of liberty without due process of law - knowing not what else to do and needing, whether admittedly or not, to act in the community's interest even more imperatively than the child's. In theory

72A. Reference here is to Task Force Report on Delinquency and Youth Crime; President's (USA) Commission on Law Enforcement & Administration & Justice (1967).
it was to exercise its protective powers to bring an errant child back into the fold. In fact there is increasing reason to believe that its intervention reinforces the juvenile's unlawful impulses. In theory it was to concentrate on each case the best current social science learning. In fact it has often become a vested interest in its turn, loathe to cooperate with innovative programmes or to avail itself of forward-looking methods. 73

This gap between philosophical and function approaches of juvenile justice system outlined by Justice Blackman in the context of American Juvenile system is relevant to the working of juvenile justice system in India also. 74 In order to close the gap between aspirations and achievements and to reinforce public confidence in the effectiveness of the juvenile system, there is an emergent need to evaluate the working of our juvenile justice system in the light of past experiences.

It is time to act and act seriously if we want to keep the delinquency problem within the range of our social control. If crime and delinquency continued unabated into the future as they have grown in the recent past and components of a multiplicity of justice system continue to operate autonomously and in an unco-ordinated fashion, a disaster of major proportion may lie ahead. 75 Although, we in India, are in a comfortable position (if statistics are to be believed) so far the problem of juvenile delinquency is concerned, 76 in comparison to developed countries. But the steady increase in the juvenile crime specially in its violent form makes it necessary to plan our future strategies to meet this challenge. Any delay in this direction is most likely to neutralize whatever little progress we as a nation, have made.

73. Ibid.
74. See the working of many variables of Juvenile Justice System, Chapters V, VI, VII, VIII, IX.
76. "India has one of the lowest crime rates in the world inspite of the (conted.)
VIII. Identification of the Problem and Plan of Evaluation

(a) Identification of the Problem

The problem of juvenile delinquency involves two basic aspects: pre-delinquent conduct and post-delinquent conduct. Besides these two basic aspects, one more category directly related to the problem of juvenile delinquency has been described as "the period contemporaneous with delinquency."\(^{77}\) This category relates to those juveniles who are in such a state of situation where in all probability the juvenile will indulge in delinquent conduct unless the process of juvenile justice intervenes in the life of such a juvenile. This category for the purpose of juvenile justice system falls in the post-delinquent conduct and is accordingly treated through the juvenile justice process. In case of the first category the juvenile is in the delinquency prone situation and may indulge in delinquent conduct unless appropriate preventive measures are taken to save him from criminologenic effects of the situation. In the second case the conduct of the juvenile has already crossed the first stage and he has come into conflict with the law.

Similarly the strategies to deal with the problem of delinquency too can be divided into two categories; those related to punishment and other measures of repression of crimes and other acts harmful to society, including the most emphasised educational and correction measures preferred in cases of such juveniles. Secondly, those measures which are directed to the delimitation or at least limitation of social and economic factors that are essentially conducive to high incidence of juvenile crime and demoralization. For the later category, planned socio-economic development can go a long way in controlling these juvenile crime-generative situations and in turn juvenile delinquency as a result thereof.

Planned socio-economic efforts, in their essence, are a calculated shaping and influencing of the socio-economic structures and processes. Thus prevention of delinquency from that angle lay outside the scope of the juvenile justice system. To provide equality of opportunity to poverty-areas youth, the needed reforms are a responsibility of the institution other than juvenile justice system - the political, education, financial and economic institutions of the society. Delinquency prevention refers to activities designated to reduce the incidence of delinquent acts, and directed to youth who are not being dealt with as a result of contact with the juvenile justice system. Thus it excludes activities that are very clearly reactions to trouble.  

On the connotation of this broad categorization of delinquent conduct we can classify the juvenile justice into two main compartments:

I. Pre-Delinquency Juvenile Justice;

II. Post-Delinquency Juvenile Justice.

The first category, though covered within the general scope of social justice, but falls outside the juvenile justice system in its legal sense. We can say that social justice is a generic term and juvenile justice is a species of that and it is confined to post-delinquency conduct in its scope, and implications. It is essentially the "notion of social and ethical justice" within legal framework involving the devolution and, even, imposition of social responsibilities of the children while at the same time demonstrating to him societal concern for his welfare. Pre-delinquency juvenile justice consists of primarily preventive strategies through long-term planned socio-economic policy and its effective execution. This is possible only if the preventive actions are directed towards the specific needs of the youth in order to divert them from the life of


79. Supra note 1, para 141.
crime and delinquency. Additionally, the strengthening of informal social control agencies like family, school, community and other organised social groups can work as an effective shield in preventing youth from slipping into life of delinquency and crime.

However, the preventive strategies, which constitute the essential feature of pre-delinquency juvenile justice, in its broad sense, have their own importance by indirectly reducing juvenile delinquency through control of juvenile delinquency causation situations. Its importance in the field of social defence cannot be undermined by excluding it from the scope of juvenile justice in its legal sense. The importance of prevention is best expressed in the words of Secretary General of International Criminal Police Organization (INTERPOL). He observed, "Prevent a crime, and first of all you have protected the intended victim's property - and perhaps his life. Prevent a crime and you have spared a possible offender the horrors of hunt and imprisonment. Prevent a crime and you have helped a family preserve its dignity and economic stability."

In that way preventive efforts, which include activities designated to reduce delinquent action before official contact of the delinquent with the juvenile justice system, have their own significance in the treatment of delinquency problem. Hence, prevention theories and programmes must not be confused with control and rehabilitation theories and programmes which occur after juvenile's entanglement with the system. While there is a wide-spread confusion over the scope and limitation of preventive and control-cum-rehabilitative programmes, the problem of juvenile delinquency and administration of justice set out for the purpose of this study is limited to the second - control and rehabilitation through the intervention of juvenile justice system. More specifically speaking control and rehabilitation means a planned and systematized

legal intervention that is intended to reduce the possibility of juvenile's delinquent activity leading to a life of crime ultimately. Thus preventive programmes are proactive efforts to reduce delinquent acts prior to their commission; rehabilitation and control programmes are reactive delinquency reduction endeavours conducted after initial misbehaviour. This study is limited in its scope and treatment to the later part. Precisely the study is dealing with the processing, treatment and rehabilitation of neglected and delinquent juveniles through the many variables of juvenile justice system.

The post-delinquency juvenile justice is legalistic in nature and contents. It includes the involvement of various formal agencies of juvenile justice within its scope, through which it operates and intervenes in the adolescent's life. It is backed by the coercive force of law where need be. The concept of juvenile justice at this stage is largely interventionist. It, of course, involves elements of protective intervention more in the sense of the child and less in the sense of the society.

The orientation, programmes are procedures utilized by our juvenile justice system as they were envisaged by various children Act and are presently reflected in the newly enacted Juvenile Justice Act, 1986, however comprehensive they may be, cannot be effective and up to date for all times to come, even if implemented with the best of efforts.

The jurisdictional area for the purpose of ascertaining theoretical assertions and statistical data by way of empirical study has been confined to the State of Punjab, though references to all India statistics and working of juvenile justice variables in other states has also been made, wherever and whenever necessary.

Precisely, the objectives for confining the study to the State of Punjab, as the basis, are many. Firstly, apart from the statistical complexities of cross-cultural comparisons it is probably best to study delinquency in a particular area, since the delinquent conduct and its causation factors are very closely tied to the social and cultural setting of that area. It would not be functionally useful setting of that area. It would not be functionally useful to compare juvenile law breakers in Punjab with those in any other state who may be culturally or geographically a distinct entity.

Secondly, for a deeper analysis of the problem it is always better to confine to a relatively smaller area as a basis. Larger, the area more generalized become the conclusions of study. Moreover, a researcher is evently placed when he has to conduct a study among his own people, with whom he has affinity and can take liberty of talking in a very informal manner. This becomes more imperative in view of the general suspicion towards researchers from the departments as sensitive as police administration, courts and correctional institutions which are used to operate in a regimented set-up because of the fear of likely exposure.

Thirdly, juvenile justice system as it has existed up to now has been a unilateral effect of each state, presumably due to different needs of the people in different states and may be due to constitutional implications. For

82. The Parliament has now passed Juvenile Justice Act, 1986 which has come into force with effect from Oct.2, 1987. This Act is an all India enactment and replaces all the existing Children Acts.

83. Under the Constitution infants and minors, administration of justice, social policy and social security fall in the concurrent list. Thus both the States and the Centre can legislate upon these subjects. But the administration of prisons fall exclusively in the State List. So there was an impression that centre cannot legislate on the subject of juvenile justice. See, Barse, Sheela, "Towards Uniform Juvenile Justice System", Indian Express, (Sept.8, 1985) p.6. But this impression has now been overcome and Juvenile Justice Act, 1986 has already been passed by the Parliament which is applicable to all the States and Union Territories except the State of Jammu & Kashmir.
intensive and extensive examination of any system, it is advisable to confine the study to an area which falls within the jurisdiction of one juvenile justice system.

(b) Plan of Evaluation

Thus confining the jurisdictional area to the state of Punjab for the purpose of empirical survey this research work has been divided into nine chapters including introduction. The first three chapters are general in nature and thus cannot be confined to any particular geographical area as the discussion on theoretical assertions and statistical data has to be always broad based for better insight.

In the introductory chapter discussion has been limited to the problem of delinquency, its trends and public attitude and public policy towards the delinquency problem. After the examination of this aspect, implications for reforms have been stressed. The second part of the introduction includes the identification of the problem for the purpose of this research study with highlights of the main problem areas of the working of juvenile justice system.

The second chapter can be considered as an explanatory to the first, because it elaborates the historical background of this complex problem and examines the need for a differential treatment in case of juvenile misconduct. Since juvenile delinquency is a multidisciplinary concept, so the area falling within the scope of legal framework has been delimited for the purpose of this research and the whole study is built upon that identified area.

The phenomenon of juvenile delinquency is analysed in the third chapter, in the light of various causation factors conducive to delinquent conduct. The theory as well as the actual position and its frequency in relation to delinquency
are briefly presented in this chapter in order to have an understanding of the behavioural and social science perspective on juvenile delinquency. With this background knowledge it has become more profitable to explore the working of juvenile justice system. Since the ties between the juvenile justice and the community are direct ones, so it is very important to understand the origin of the delinquent conduct as well as legal response to it for a balanced evaluation of the working of juvenile justice system. The legal framework which has been envisaged in response to this complex social problem by various states constitutes the subject matter of the fourth chapter. Now Juvenile Justice Act, 1986, which is an all India measure, has been passed by the Parliament. It is a bold step and has desired to introduce the desired uniformity in the working of the juvenile justice system at the national level. So reference to the legal framework of this Act along with that of the East Punjab Children Act, 1949 has been made in detail.

Chapters fifth, sixth, seventh, eighth and ninth deal with the many variables through which juvenile justice system operates. As the first four chapters deal with jurisprudential aspect and the legal framework envisaged on the guidelines of conceptual formulations for the administration of juvenile justice, the following five chapters are an attempt to determine the output level of the system through functional study of the many agencies operating within the legal framework. These chapters deal with primary agencies of the juvenile justice system i.e. juvenile court and Juvenile Welfare Board, police set-up for juveniles, probation service system and juvenile corrections respectively. However, in order to have a closer look into the working of the various agencies, a study of extensive data has been undertaken. Conclusions have accordingly been drawn regarding the adequacies and inadequacies of their functioning. Given the enormity of the subject, some degree of simplification
and distortion by selectivity is inevitable; and again, given the complexity of the topic, some inconsistencies of detailed implications are also likely to creep in.

Fifth chapter also includes one of the most important aspects of the juvenile justice system, namely, treatment alternatives as provided by various children Acts specially the East Punjab Children Act, 1949 and Juvenile Justice Act, 1986. In view of their effectiveness, additional alternatives for disposition of delinquency cases by the juvenile courts and other allied agencies of the system like Child Welfare Board, have also been considered.

A summary of the findings as well as emerging suggestions for making the juvenile delinquency control and juvenile justice system operation more efficacious have been dealt within the respective chapters. This obviates the necessity for adding a conventional chapter on Conclusion. This has been done with two added advantages: one, the scheme of this work is diversified, and therefore, each substantive chapter has to be self-sufficient; two, rolling all the suggestions or recommendations into one single chapter is likely to take them out of their context. While doing so, of course, recommendations made in this connection by some important committees and study-groups have been kept in mind. Moreover, endeavour has been made only to make such suggestions as are practicable, specific and moderate, keeping in view the contemporary socio-economic realities of the country.

IX • Main Thrust of the Research Work

Juvenile delinquency is essentially a deeprooted social phenomenon. Since it is not possible to divorce its legal analysis from its sociological considerations resort to social context of the working of juvenile justice system has thus become inevitable. Roscoe Pound, perhaps more than any other
man, had turned the attention of jurists towards this aspect when he said that "law can no longer be regarded as a self-centred, self-sufficient science, isolated from other social sciences...the new concept of law points towards social justice which takes into account social causes, social effects in relation to prevailing social conditions". Accordingly, our main focus of attention throughout the work has been to study:

(a) the working of Juvenile Courts, Juveniles Welfare Board, specially in the backdrop of utilization of probational services, correctional institutions, the use of other alternative measures in the disposition of juvenile cases.

(b) the normative and procedural framework of the juvenile justice system in the context of its adequacy in dealing with the juvenile delinquency through the juvenile court and Juvenile Welfare Board and other related agencies;

(c) the working of correctional facilities for juveniles in treating and reabilitating the delinquent and neglected juveniles;

(d) the role of the Probation Officers in discharging the multifarious duties assigned to the institution of probation service;

(e) inquiry and post-inquiry contacts of juveniles with the law enforcement agency, namely the police; and

(f) the relevance of treatment and rehabilitating alternatives in meeting the desired ends of juvenile justice system and societal demands.