CHAPTER - I

CONCEPTUALIZING JUVENILE DELINQUENCY

Since the beginning of civilization, crime has remained a matter of concern for all societies. Even in the distant past, when the human beings started forming groups among themselves, infighting was a common feature of their daily life. Indeed, this was the unconscious beginning of continuous conflict between haves and have-nots that eventually threatened society from within. In order to counter this threat society soon developed certain norms of crime and punishment which was viewed as complete social function. In fact punishment was nothing but a political device by the ruler to serve the purpose firstly to appease public opinion and secondly to check the mal-behaviour of the ruled. The general belief was that punishment ought to be severe in order to control and prevent crime. The objective of punishment was vengeance, expiation and satisfaction of the public conscience and most commonly prevention of new crime. With the passage of time this notion underwent change and it was realized that society could best be protected by offering humane treatment to the offenders and also by ameliorating their conditions rather than inflicting retributive punishment. Henceforth, reformation of offenders became the concern of society which redesigned the objectives of punishment. For the first time Plato made a distinction between “offenders who were capable of reformation and those who were not”. Further, Plato also held that offenders deserved compassion as did the sick and that they should be treated with care. Although adult criminals were the prime concern of society, the issue of crime by children and child mal-behaviour was also significantly approached. E. H. Stullken wrote on the walls of a tomb:

“Our earth is degenerated in these later days. There are signs that the world is coming to an end because children no longer obey their parents. Children now love luxury, they have bad manners, contempt for authority, they show disrespect for elders, and love to chatter in place of exercise, children no longer rise when elders enter the room. They contradict their parents, chatter before company, gobble up dainties at the table, cross their legs and tyrannise over their teacher” (p. 25).
Mal-behaviour of children which initially looked like simple ‘disobedience’ with the passage of time there was the likelihood that if this simple disobedience was left unchecked it could develop into contempt for society. This challenge compelled society to continue to concentrate on this scene as it was convinced that this mal-behaviour contained seeds of adult criminality. Scholars trace the history of juvenile offending back to the seventh century; however, till the early 18\textsuperscript{th} century; young people were treated as if they were small versions of adults. The notion that children should be treated differently than adults is only a couple of hundred years old. In the older days the word \textit{child} brought to mind picture of a miniature human being and that was the only recognised difference between a child and an adult. Criminal law made no distinctions between a child and an adult offender. With experience and knowledge, it has been accepted that children are different from adults not only in size but in other respects too. A child’s mind is not mature enough to understand the nature of all its acts (Chatterjee, 1995).

Juvenis in Latin means \textit{young}. Juvenile delinquency refers to the failure of children to meet certain obligations expected of them by the society in which they live. Broadly viewed, the term \textit{juvenile delinquency} covers a multitude of different violations of legal and social norms from minor offences to serious crimes committed by ‘juveniles’. Included under the umbrella of juvenile delinquency are \textit{status offences}, which refer to the conditions of the person’s age at the time the offence was committed. A particular action or behaviour is considered a violation of the law only if it is committed by a juvenile. Examples of such offences include running away from home, truancy from school and disobeying the lawful commands of parents or legal guardians. Usually the maximum age for juveniles’ justice jurisdiction is eighteen. This upper age limit is usually referred to as the age of ‘majority’, the age at which a person is considered an adult. Accordingly, anyone under the age of majority (whatever that age may be in a given place) is legally considered a minor or child and technically can be charged with a status offence. In the past few years the trend has been towards a decrease in the age for transfer of cases to the adult criminal justice jurisdiction, which is reflective of a “\textit{get tough}” attitude on juvenile offenders. In addition to the age of the offender, the type of offence is also a consideration in the decision to waive a case from juvenile to adult court. In general, the offence must be a serious felony, such as murder or forcible rape (World Youth Report, 2003).
Here, it is pertinent to mention that the provisions of the Indian Juvenile Justice (Care and Protection of Children) Act, 2000 (India is a signatory to the United Nations Conventions on the Rights of the Child) (UNCRC) are not consistent with the legal scenario in other jurisdictions in the world. The Act does not take into account the nature and severity of the crime and grants absolute immunity against criminal liability to persons below eighteen years. Worldwide, a juvenile’s culpability and sentence is determined according to the nature and severity of the offence and the level of his maturity and the discretion in this regard is left to the courts. Besides, upper age definitions and parameters, the definitions of delinquency are framed by lower age parameters. Only persons up to the age of doli-incapax, i.e. the age below which no child can be found guilty of a criminal offences (7 years in India, 10 years in England, Wales and Northern Ireland, 8 years in Scotland, 13 years in France, 14 years in Germany, Austria, Italy and many European countries) enjoy immunity against criminal liability. It is significant that the United States has not ratified the convention on the rights of the child adopted by the United Nations on November 20, 1989, and juvenile offenders below the age of 18 years were being awarded even death sentences till 2005 (Kishore, 2013).

When all of these conditions and parameters are considered, the definitions of delinquency involves (i) any offence that is considered a crime in the legal codes of a community or state and that is committed by a juvenile under the age of majority (usually under 18 years); and (ii) any offence that is in the juvenile codes and is committed by one under the age of majority. Besides these two important criteria for defining delinquency, juvenile justice also frequently handle cases of juveniles that fall outside illegal behaviour cases such as child abuse or child abandonment and these cases were included in the original juvenile court law passed in Illinois in 1899. In these situations, children may be given to foster-home care, or they may be ordered into treatment. Thus, while youths in these kinds of situations may not be technically delinquent, their cases are found within the areas of juvenile courts. The child victim is now a part of the juvenile justice system and may be under court’s supervision even though he or she has not committed any offence (Shoemaker, 2009).

Scholars are of the view that the concept of juvenile delinquency is a product of a great many social, political, economic and religious changes. These changes
began in the Renaissance period but were most pronounced during the Enlightenment and the Industrial Revolution. The transformation of thought and practice regarding offending by children eventually led to a series of legal changes at the end of the nineteenth century that created the legal status of juvenile delinquents and a separate legal system that included juvenile courts and reformatories. The use of a separate legal status and legal system for juveniles spread rapidly throughout the United States in the early twentieth century. Taken together, these historical developments led to the social construction of juvenile delinquency; the ‘discovery’ of childhood and adolescence, the doctrine of Parens Patriae and the rise of positivist criminology. As a result of these developments, the concept of juvenile delinquency came to signify a separate and distinct status for young people, both socially and legally.

The ‘discovery’ of childhood: During the Middle Ages there was a lack of awareness of the special needs of childhood. Attitudes toward children were largely indifferent and treatment of children was often harsh and punitive. Renaissance and Enlightenment philosophers such as John Locke and Rousseau marked the departure from the traditional thinking. Rousseau pointed to the distinctive human plight confronted by adolescents during the transition from childhood to adulthood. He provided the first systematic consideration of these stages of development, emphasising how these stages differ and how these differences influence learning and necessitate appropriate educational methods. The awareness of developmental stages and differentiation based on age had important implications for the structure of family life, for child-rearing and for education. Ideas about the innocence, vulnerability and dependence of childhood as well as the moral and sexual tensions of adolescence, resulted in an increasing emphasis on the family and school as institutions of socialisation. Gradually, the views developed that young people require protection, nurture, supervision, discipline, training and education in order to grow and mature into healthy and productive adults. This point of view culminated in the late 1800s, when it was widely held that youngsters needed to be kept away from the normal participation in the larger society during their period of growth and development. This was a significant departure from the harsh lives of children in Medieval Europe and Colonial America and their often forced involvement in the labour force during most of the early Industrial Revolution.
The Parens Patriae Doctrine: The separate system of justice for juveniles has developed just over the past 100 years. This English legal doctrine emerged in the fourteenth and early fifteenth centuries in response to a series of cases heard before the English Chancery Courts. In practice, this duty was concerned primarily with the social welfare of certain dependent groups. Chancery Court cases centred on three dependent groups: children, those who were mentally incompetent, and those in need of charity. Under parens patriae, the king was established as protector and guardian of these dependent classes. Gradually, the Chancery Courts extended the doctrine of parens patriae to include the general welfare of children; the proper care, custody, and control of children was to the ‘crown’s interests’. This included the ability of the courts to assume and exercise parental duties-to act in loco parentis- when parents failed to provide for the child’s welfare. Implicit in this doctrine are the developmental concepts of childhood and adolescence in which it is the parents’ responsibility to protect, nurture, supervise, discipline, train, and educate children. Insuring the general welfare of children was a means to maintain the power of the monarchy and the feudal structure of English society. It is important to note that the chancery courts did not have jurisdiction over children charged with criminal offences. Juvenile offenders were handled within the framework of the regular court system. The Latin phrase parens patriae literally means “parent of the country”. As a result, the parens patriae doctrine of equity law “embraced the dependent and the delinquent child”. Following the tradition of English law, who broke the law in the 18th century America were, treated much the same as adult criminals. Parents were responsible for controlling their children, and parental discipline was very strict and punishments were harsh. The law made no distinction based on the age of the offender, and the legal term delinquent did not exist. It provided the fundamental legal authority for the idea of juvenile delinquency and the early juvenile court. A number of developments during the 19th century paved the way for a separate system of justice for juveniles. Institutions were required that would instruct delinquent youth in proper discipline and moral behaviour. The doctrine of parens patriae provided the basis for official intervention in the lives of wayward youth. Parents were expected to supervise and control their children, but when it became apparent that parents were not properly controlling and disciplining their children, the State was given the authority to take over this responsibility. The Society for the Reformation of Juvenile
Delinquents in New York advocated for the supervision of juvenile offenders. The doctrine of *parens patriae* was first tested in the Pennsylvania Supreme Court case of Ex-parte Crouse in 1838.

**Positivist Criminology**

Positivist criminology is an approach or school of thought that emerged in the last half of the nineteenth century and flourished to such a degree that it came to dominate the field of study for most of the twentieth century. The rise of sociology as a discipline in the late 1800s was associated with differentiation that emphasised social pathologies related to rapid urbanisation and industrialisation. Rapid social change was thought to dissolve the organisation of social life, resulting in lack of social control. Accordingly, young people who experienced social pathologies (such as divorce and family disruption, lack of parental supervision, poverty, cultural heterogeneity, and residential instability) were considered more likely to engage in delinquent acts and become adult criminals, destined for a life of crime. Armed with scientific methods to discover the causes of crime and delinquency, positivist criminologists seek to use this understanding to bring about change in individual criminals and their social environment. Using a medical analogy, criminologist in the early 1900s sought effective treatment and rehabilitation, directed at the individual and the social pathologies that caused crime. While the pathological emphasis of positivist criminology gives the impression that criminality is determined and therefore unchangeable, the use of the scientific method to uncover the causes of crime gave hope that these pathologies could be understood and treated. The *rehabilitative ideal* emerged and prospered, especially with regard to children and adolescents. Charles Cooley, a well-known sociologist, writing in 1896, declared: “when an individual actually enters upon a criminal career, let us try to catch him at a tender age, and subject him to rational social discipline, such as is already successful in enough cases to show that it might be greatly extended” (http://www.jblearning.com/samples/0763736287/Chapter_02.pdf).

**Pauperism**

Civic responsibility was a strong obligation in colonial America. It generated individual and social obligation to the poor, first informally, and then through formal provisions of law. Sharing similar philosophy and purpose with the *parens patriae*
doctrine, colonial communities (and later cities and states) developed a system for protecting poor children and, if necessary, separating them from their ‘undeserving parents’. This system grew to include laws, passed by local legislative bodies, regulating the poor; the creation of charitable organizations and relief societies; and, especially in urban places, government-sponsored institutions. Poor laws provided legal authority for governmental entities and authorized private philanthropic agencies to separate poor children from their parents and to apprentice these children to local residents. However, the overall quality of the care and training was questionable, and in many cases, apprenticeship was merely a “business proposition” in which the child provided slave labour for a term. Gradually, the view developed that poverty, if left unchecked, will lead children to “a future of crime and degradation,” a process known throughout much of the nineteenth century as pauperism. This point of view contrasted sharply from the doctrine of original sin, widely accepted in earlier times. Instead of focusing on the sinful nature of individuals, pauperism emphasized a breakdown in social order.

**Houses of Refuge and Moral Reform**

In the first quarter of the nineteenth century, the state’s parental authority derived from poor laws, and institutional efforts to respond to pauperism became increasingly focused on the plight of urban poor children. Because of the fear of pauperism, reformers were most concerned about the placement of poor children into pauper institutions, such as the municipal almshouses, “where they are liable to acquire bad habits and principles, and lay the foundations for the career of worthlessness and improvidence.” In fact, these reformers were more concerned about the placement of children into pauper institutions than about the mixing of delinquent children with adult criminals in jails and prisons. It was believed that children placed in adult penal facilities were already beyond the potential for reform. As an expression of this perspective, the New York House of Refuge was established in 1824 by the Society for the Reformation of Juvenile Delinquents, the successor to the Society for the prevention of Pauperism. The House of Refuge grant, but in practice almost all of its children were vagrants from pauper families. State legislation gave the Society authority to manage the institution and the children under its custody. *House of Refuge* followed soon in Boston (1825) and Philadelphia (1828), and “for a quarter of a century the activities of these three institutions defined institutional treatment of
juvenile delinquents.” The house of refuge reformers desired to prevent pauperism and to protect and reform children, thereby sustaining order and stability in society. Through legislation they widened the scope of permissible state intercession and their emphasis on prevention, reform and protection proved to be the seeds of juvenile court. Not every vagrant or delinquent child was committed to a house of refuge, however; only those that could still be “rescued” and were not too far down the road of crime were admitted. The focus of houses of refuge was to protect the “predelinquent.” Little distinction was made between “pauper, vagrant, or criminal children” all required protection and reform. Reformers were convinced that these children were victims rather than offenders and that they needed to be removed from evil influences of urban poverty: “pauperism then was the enemy; juvenile delinquency, intemperance, ignorance, and gambling, was the symptom.” Reformers intended the house of refuge to be a sanctuary or haven, where children could be isolated from the wickedness of the world and where moral reform could take place. The enthusiasm of house of refuge reformers was contagious, and numerous institutions of similar design opened across the United States during the 1840s and 1850s.

**Placing-out:** Even though houses of refuge continued to open during the 1850s, critics began to argue that “not only the discipline, but every detail of the routine made the houses of refuge indistinguishable from prisons.” Rather than becoming models of care, houses of refuge had become juvenile prisons, unable to nurture and reform children through an institutional approach. Beginning in the 1850s, reformers returned to the traditional belief that finally homes, not institutions were the best places for reform. It was argued that urban poverty created a danger class which was prone to crime and violence. As such the New York Children’s Aid Society sought to clean the city by removing delinquent and poor children. This practice was termed as *placing-out*. This involved taking vagrant children out of a city and placing them with farming families. This program was apparently well received either because of the prospect of free farm labour for a sense of civic obligation. Placing out programs was soon implemented by other organisations but they were not without critics. Critics argued that this is next to impossible to take a poor vagrant child from the urban area and expect him or her to adjust to rural family life. The
solution according to them was to loosen the institutional setting for discipline and reform.

**Reform Schools:** The development of reform schools in the mid 19th century represents another way in which institutions were used to respond to the problem of dependency and juvenile crime. These schools used a family system in which children were divided into small ‘families’ of 40 or less. Each family had its own cottage, matron and/or patron and schedule. Cottages were used to make the facility more like a family and less like a prison. Cottage reform schools spread widely across the United States in the latter half of 1800, but the degree of emphasis on the family ideal and the roles of schooling and work varied greatly. Contract labour of children to manufacturers was a part of most reform schools but after the Civil War, child labour became more exploitative in some schools. In response to this, some reform schools began to emphasize vocational education and de-emphasize the family environment. (http://www.jblearning.com/samples/0763736287/Chapter_02.pdf).

**Child Saving Movement:** By the late nineteenth century, little enthusiasm and hope remained for the Reform Schools which were once heralded as places of protection and reform for vagrant and delinquent children. During this period the problems of urban poverty and delinquency persisted and in fact, grew worse. The period between 1880 and 1920 is known as the Progressive Era in U.S. history. The government’s role in reform was reassessed, especially in terms of program and policy delivery, administration and government structure. In the late 1800s, these progressive principles were applied to the problem of juvenile delinquency by the child saving movement. The child saving movement was a loose collection of women across the United States from middle and upper-class backgrounds who exercised considerable influence in mobilising change in how government dealt with dependent, neglected and delinquent children. (Lawrence and Hesse, 2009).

**Creation of the juvenile court** (1899): The child savers realized that child welfare reform could only be accomplished with the support of political and professional organisations. At the 1898 annual meeting of the Chicago Bar Association, a resolution was introduced calling for the appointment of a committee to investigate existing conditions relative to delinquent and dependent children and to develop legislation for reform. One month later, the Illinois Conference of Charities devoted
most of its program to child saving issues. A collaborative effort between the Chicago Women’s Club, the Chicago Bar Association and Illinois Conference of Charities resulted in the draft of a juvenile court bill which was passed in February 1899. The creation of the juvenile court culminated a century-long evolution of thought and practice by which juveniles were differentiated from adults both in terms of development and control. The Illinois Juvenile Court Act was the first legislation to specifically provide for a separate system of juvenile justice. In advocating for the juvenile court, the child savers sought not only a separate legal system for juveniles but also a legal philosophy and process that distinguished juvenile courts from adult criminal courts. This distinctive legal philosophy of the original juvenile court has been called the rehabilitative ideal because of its emphasis on assessment and reform rather than the determination of guilt and punishment as in criminal courts. Rehabilitation became the focus of the new juvenile court, and procedures were developed to reflect and facilitate this ideal. The Illinois Juvenile Court Act of 1899 was a prototype for legislation in other states and juvenile courts were quickly established in several other states of the United States. (Lawrence and Hesse, 2009; Shoemaker, 2009).

**The Second Revolution:** Although the new juvenile court system proved wildly popular and spread rapidly, it was not without critics. Shortly after World War II, juvenile court began to be criticized for its failure to provide due process of law. Under the guise of the rehabilitative ideal, the procedures of the original juvenile court were informal and family-like, making the rules of criminal procedure inapplicable. In the years following these challenges, the juvenile justice system was uttered dramatically. Prevailing views of juvenile delinquency and the proper approach of the juvenile justice system changed significantly. A number of criminologists have argued that these changes were so consequential as to constitute a revolution comparable to the one that first created the juvenile court. Three areas of change have been pronounced. (i) the due process revolution (ii) enactment of the Juvenile Justice and Delinquency Prevention Act of 1974 and (iii) contemporary initiatives for punishment and accountability.

**The Due Process Revolution:** Since its inception, the juvenile court has been described as civil, rather than criminal. The rehabilitative ideal of the juvenile court
made the due process protections afforded criminal defendants unnecessary. In the ten year period from 1966 to 1975, however, the United States Supreme Court took an activist stand in establishing due process requirements for the juvenile justice system. The rehabilitative ideal of the traditional juvenile court, together, with its *Parens Patriae* authority was diminished.

**The Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP Act, 1974):** The Juvenile Justice Delinquency Prevention Act of 1974 embodied a series of reforms to redefine juvenile delinquency and redirect the legal philosophy, authority and procedures of the juvenile justice system. Three groups namely the President’s Commission on Law Enforcement and Administration of Justice, The National Council on Crime and Delinquency, and the National Advisory Commission on Criminal Justice Standards and Goals directly influenced these reforms. The findings and recommendations of these three groups formed the basis for the JJDP Act, of 1974. This Act is the first major federal initiative to address juvenile delinquency. Primary responsibility for juvenile justice had historically existed at the state and local levels. The JJDP Act established a leadership room for the federal government through the creation of the Office of Juvenile Justice and Delinquency Prevention (OJJDP). The JJDP Act established juvenile justice courts and policies and committed ongoing financial assistance to aid their implementation at the state and local levels. In addition the JJDP Act called for a preventive approach to the problem of delinquency. OJJDP established a formula program for states and communities to develop policies, practices and programs directed at crime prevention in local areas. In addition communities were encouraged to develop alternatives to the juvenile justice system. Community-based programs, diversion and deinstitutionalisation became the banners of juvenile justice policies in the 1970s.

**Balanced and Restorative Justice:** The 1980s saw a dramatic shift in juvenile justice law and practice at both the state and federal levels. The rehabilitative ideal and *parens patriae* authority of the juvenile court was replaced by initiatives for punishment and accountability. The purpose of the juvenile court was to hold juveniles accountable to victims and communities, have juveniles accept responsibility for their criminal actions, promote public safety and deter potential offenders. Instead of a primary emphasis on rehabilitation, the purpose was now to
promote competency development so that delinquent youth can become responsible citizens. This new orientation of the juvenile court was referred to as balanced and restorative justice and it emphasized offender accountability, community safety and offender competency development. Drawing upon these philosophies regarding the treatment of dependent and delinquent children the contemporary legal definitions of juvenile delinquency continue to distinguish juvenile offenders from adult criminals and to provide for a separate system and process of justice, legal definitions continue to emphasize the dependency of children and adolescents and their need for protection and nurture. In addition, the family unit is affirmed as the key institution of socialisation, providing care, protection and wholesome mental and physical development of a youth. However, contemporary legal definitions of juvenile delinquency commonly specify at least four different legal classifications of juveniles over which the juvenile court maintains jurisdiction: (1) dependent and neglected children; (2) status offenders (3) delinquent youth who violate the criminal code; and (4) serious delinquent offenders who have committed felony offences (http://www.jblearning.comsamples0763736287chapter_02.pdf).

Juvenile delinquency is a growing problem throughout the world. According to the United Nations document, World Youth Report, 2003, it has been defined as

“Statistical data indicate that in virtually all parts of the world, with the exception of the United States, rates of youth crime rose in the 1990s. In Western Europe, one of the few regions for which data are available, arrests of juvenile delinquents and under-age offenders increased by an average of around 50 percent between the mid 1980s and the late 1990s. The countries in transition have also witnessed a dramatic rise in delinquency rates; since 1995, juvenile crime levels in many countries in Eastern Europe and the commonwealth of Independent States have increased by more than 30 percent. Many of the criminal offences are related to drug abuse and excessive alcohol use” (p.189).

The rise in serious delinquency has been especially noteworthy in Europe, where both Eastern and Western European countries noted sharp increases during the late 1990s and early parts of the second millennium, presumably due to social and economic upheaval and change that occurred throughout the continent. In Africa, various parts
of Asia and the Latin America, industrialisation is considered one of the key reasons for the rise in economic-based, non-violent offences that are observed among youth in these regions. Further still, prosperous countries in the Arab world are also reporting increases in delinquency. The World Youth Report (2003), a comprehensive document describing the Juvenile delinquency around the world, in decades that the number of children in especially different circumstances is estimated to have increased from 80 million to 150 million from 1992 to 2000. However, urbanisation tends to emerge as one single common variable among all countries that report serious increases in delinquency. Theoretical readings point out that as conditions become more congested and as family systems around the world become fragmented due to modern work demands and economic circumstances, similar symptoms of delinquency among youth begins to emerge, regardless of the cultural and / or national background they may have. Further, the demographics and factors that exacerbate delinquent activity around the world are also very similar though in some countries the social, political and economic circumstances may be much more dire and dangerous than in others. Delinquency could be seen as a natural part of the life cycle for youth who are westernized. Evidence that delinquency is becoming normalised throughout the world can be found in the statements of the United Nations Guidelines for the Prevention of Juvenile Delinquency (1990), which note that,

“youthful behaviour or conduct that does not conform to overall social norms and values is often part of the maturation and growth process and tends to disappear spontaneously in most individuals with the transition to adulthood.”(p.191).

It would then appear that a large majority of youth tend to commit some type of minor offence (either status or otherwise) during their formative years and yet they do not tend to become long term criminals in the majority of cases. Delinquency and crime are correlated with gender. International police data show that the delinquency rate of male juvenile offenders is more than double that of juvenile females. Indeed, the number of male juvenile suspects for every 100,000 members of the designated age group is more than six times the corresponding figure for females. There are many reasons why this is the case. Among others, it tends to be true that girls are subject to stronger family control than are boys. Cultural concepts are such that society at large
is less tolerant of deviant behaviour among young women than among young men. In addition, aggression and violence play an important role in the construction of masculinity and sexuality in patriarchal societies, the primary objective being to reinforce and maintain the status and authoritative position of men. While delinquency may be a typical characteristic at one time or another among youth, it does not tend to be a solitary activity. Rather, youth tend to engage in delinquent acts with other youth, which often leads to the development of delinquent groups of youth. Among those youth who tend to continue into adult criminal activities, many around the world tend to do so with the socialisation and assistance of sub-cultural groups of like-minded youth. Further, statistics around the world demonstrate that delinquency is typically a group activity, with approximately two-thirds of all acts of delinquency being committed by groups of youth. While this is true among nations around the world, it is particularly true among larger and more populous countries. The Report further points toward the similarities in basic characteristics of juvenile groups behaviour are found in almost every class and cultural context. According to the report,

“Juvenile peer group are noted for their high levels of social cohesiveness, hierarchical organisation, and a certain code of behaviour based on the rejection of adult values and experiences. The sub-cultural aspect of juvenile group activities is rarely given the attention it deserves. Different juvenile groups adopt what amounts to a heterogeneous mix, or synthesis, of predominant (class-based) values, which are spread by the entertainment industry, and intergenerational (group-based) values, which are native to the family or neighbourhood. Subcultures can be defined as particular lifestyle systems that are developed in Groups.” (World Youth Report, p.191)

These observations are important because this demonstrates that youthful behaviour, both delinquent and prosocial, develops within the context of the peer group. Just as is the case with traditional peer groups, delinquent subcultures reflect the attempts of youth to resolve challenges presented by society. In the process, these groups set up their own rules and mores, often counter to those that are traditional, involving alcohol, drugs, risk taking, and even violence. Indeed, some groups tend to use violence as a means of solving interpersonal conflicts. Thus, the atmosphere created is
an important mediating factor contributing to delinquent behaviour. In families where abuse, dysfunction, or neglect is encountered, youth around the world are more prone to engage in substance abuse, vandalism, or other forms of delinquency. Those from seriously abusive homes may be inclined to become runaways and/or may join street gangs as a form of support and survival away from their families. All of these types of circumstances are commonly found among youth worldwide. In many underdeveloped countries, youth may be abducted and trafficked to other more developed nations in Europe, the Americas, and Japan. The youth frequently suffer from Double Victimization. Double victimization occurs when youth experience abuse and, in reaction, engage in delinquent behaviours that later result in labelling and punishment from the state for their delinquent and/or criminal activity. In many of these cases, these youth may be forced into child prostitution and, though forced into such forms of victimisation, may be inappropriately labelled delinquent by juvenile officers who consider such youth as vagrant and/or willing participants. This is particularly true for teenage girls in countries where the sex trade flourishes. In many cases, law enforcement in these countries may simply turn a blind eye to such victimisation. It has been found that countries with more urbanised populations tend to have higher rates of official juvenile offences. Multiple theories can serve as explanatory mechanisms for this connection, but, for the most part, researchers have found that it is the breakup of the family caused by urbanization and employment shifts that has led to the correlation between youth crime and concentrated populations. According to the United Nations, the higher rates are attributable to differences in social control and cohesion. It seems that rural communities have more closely networked family systems that provide better forms of supervision and control over the behaviour of youth. In many cases, smaller communities where most members of the community know one another personally allow for informal means of addressing misbehaviour of youth. Areas, such as urban settings, where more people are in contact with one another allow for more criminal opportunities. Also, in these more populous regions where industrialisation leads to virtual strangers living next to one another, more formal forms of legal and judicial processing are implemented. The impersonal nature by which these urban areas address youth crime serves to magnify the problem. It is for these reasons that it is thought that the ongoing process of urbanization in developing countries contributes to juvenile involvement in criminal
behaviour. The basic features of the urban environment foster the development of new forms of social behaviour that emerge as informal forms of social control (family) which are weakened. These conditions are generated by the higher population density and degree of heterogeneity typically found in urban areas. In various industrialized countries, increased prosperity and the availability of a growing range of consumer goods have led to increased opportunities for juvenile crime, including theft, vandalism, and the destruction of property. With these social changes that have been seen during the past few years, it has been observed that the extended family has been replaced by the nuclear family as the primary kinship group and the informal traditional control exercised by adults (including parents, relatives and teachers) over young people has gradually declined. Throughout this process, effective substitutes have not been developed. Related to this is the fact that insufficiency of parental supervision has become common and has been found to be one of the strongest predictors of delinquency throughout the world. Lastly, urbanisation and modernisation have not translated to wealth and prosperity for everyone. Among many developing countries, there is also a growing population of ‘have nots’, which are people who are disadvantaged and experience deprivation in relation to the wealth that may exist around them in urban and modernized areas. These lower-income families may be immigrants or persons who have recently come from rural areas of a country to a more urban setting. Social and economic shifts have created a distinct gap between the rich and the poor, and some populations (i.e., minority groups and immigrants) have been excluded from success due to the emergence of social obstacles. Similar to what occurs in the United Nations, welfare systems in industrialized nations have provided relief but have not eliminated the meagre standards by which some groups subsist. This, together with the increased dependence of low-income families on different forms of social services, has led to the development of a new class of poverty-ridden persons in many industrialised areas of the world (Cox et al, 2011).

Both the rising incidence and increasing seriousness of juvenile delinquency have been concerns in many countries. It is of vital importance not only to prevent delinquency through judicial measures but also to ensure the protection of the well-being and rights of all juveniles who come into conflict with law. The approaches to the prevention of juvenile delinquency, administration of juvenile justice and
protection of the young have undergone a progressive evolution of thought and action under the aegis of the United Nations. In 1985, the United Nations produced a document titled *United Nations Standard Minimum Rules for the Administration of Juvenile Justice*. This document is often referred to as the *Beijing Rules of 1985* due to the fact that it was developed during a United Nations meeting held in Beijing. The rules were adopted by the General Assembly in its resolution of 29 November 1985, upon the recommendation of the Seventh Congress. The document set the initial stage and tone for how juvenile justice programs should be administrated. While this document is not legally binding, it has served as an official reference point since its inception. The primary impetus behind the document was to encourage the humanitarian treatment of juvenile offenders. The Rules take into account diverse national setting and legal structure, reflect the aims and spirit of juvenile justice and set out desirable principles and practice for the administration of justice for juveniles. They represent the minimum conditions internationally accepted for the treatment of juveniles who come into conflict with law. The Beijing Rules state that the aims of juvenile justice are to enhance the well-being of the juvenile and to ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offender and the offence. The Rules contain specific provisions covering various stages of juvenile justice. They stress that placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period, and call for the promotion of research, planning, policy formulation and evaluation (https://www.unodc.org/pdf/compendium/compendium_2006_part_01_02.pdf).

Four years after the Beijing Rules were created, the United Nations developed another legal instrument known as the *United Nations Convention on the Rights of the Child* (1989), often called the CRC as a shorter means of reference. The CRC was different from the Beijing Rules because it was legally binding upon member nations who signed this document. Further, it was considered ‘in bad taste’ for nations to not adopt these practices. Those nations signing the treaty agree to abide by its standards, associated national laws, policies, and procedures. The CRC has become one of the most universally accepted treaties around the world. Currently, only two countries have not ratified and signed this document- Somalia and the United States. (Cox et al, 2011).
The issue of juvenile delinquency continued to attract international attention. The Eighth Congress recommended to the General Assembly the adoption of the *United Nations Guidelines for the Prevention of Juvenile Delinquency* (The Riyadh Guidelines). The guidelines are broad and all-encompassing as a means of providing a multi-faceted approach to delinquency prevention. The Guidelines were first elaborated at a meeting held by the Arab Security Studies and Training Centre (ASSTC) in Riyadh and thus known as the *Riyadh Guidelines*. They set forth standards for the prevention of juvenile delinquency, including measures for the protection of young persons, who are abandoned, neglected, abused or in marginal circumstances, in other words, at “social risk”. The Guidelines cover the pre-conflict stage, i.e., before juveniles come into conflict with law. They have a “child-centred” orientation and are based on the premise that it is necessary to offset those conditions that adversely influence and impinge on the healthy development of the child. To this end, comprehensive, multi-disciplinary measures are suggested in order to ensure to the young a life free from crime, victimization and conflict with law. The Guidelines focus on early preventive and protective intervention modalities and aim at promoting in a concerned effort a positive role on the part of various social agencies, including the family, the educational system, the mass media and the community, as well as the young persons themselves (http://www.un.org/documents/ga/res/45/a45r112.htm).

Among other documents, conferences, and World Court rulings, it is the Convention on the Rights of the Child, the Standard Minimum Rules for the Administration of Juvenile Justice, and the Guidelines for the Prevention of Juvenile Delinquency that are most important in shaping the international juvenile justice response. The Beijing Rules encourage diversion mechanisms rather than formal court processes for all but the most serious of juvenile offenders. The Riyadh Guidelines consider most youth offending to be a part of the growing process; something routinely engaged in by youngsters that they eventually mature out of. This is, in actuality, consistent with criminological research that has found that many offenders “age out” of the criminal lifestyle. The key to understanding the long-term implications of juvenile delinquency around the world is to perhaps view delinquency as a dual taxonomy. According to this theoretical basis, most youth engage in delinquency that is short term, peer-group based, and part of the process of adolescent and maturation. For the majority of youth who commit delinquent acts, they will
likely age-out by early adulthood; this is an observation that is noted around the world. However, among those youth who commit violent crimes, become true members of a criminal gang, and/or have serious crimes perpetrated against them, there is a likelihood that they will persist in crime throughout the course of their life. This means that early intervention efforts are critical to curbing the likelihood that a youngster will reach a point where his or her aberrant behaviour becomes a lifelong trajectory rather than one that is limited to adolescent years of development. Thus, it is clear that the international community and the global culture should identify juvenile delinquency and juvenile welfare as problems that warrant corrective solutions rather than punitive reactions. It would appear that the world, for the most part, agrees that youth who offend are in need of assistance and guidance rather than harsh discipline (Cox et. al, 2011).

Many of the circumstances lending to conflict with the law are of a social nature. Children who offend often live in families facing difficulties such as poverty, substance abuse or separation; they may be excluded from school or be involved in risky behaviours such as drug use or prostitution. When these children enter into contact with the police, the main purpose of juvenile justice systems should be to enable them not to reoffend. As mentioned in Article 40 of the Convention on the Rights of the Child, every child in conflict with the law has the right to be treated in a manner that takes into account “the desirability of promoting [his/her] reintegration and [his/her] assuming a constructive role in society”. Tailored support for each child and his/her family should be provided throughout the process including after release if the intervention of justice is to be meaningful. However, justice systems are neither equipped nor mandated to fulfil this role alone and need to work hand in hand with the social section towards this end. In the absence of such intersectoral cooperation, juvenile justice interventions would miss the opportunity of contributing to a sustainable change in the child’s behaviour, circumstances and environment. Social services and the justice system are in many ways two distinct spheres and invariably separate portfolios. But the situations and ways in which they could and should interface and cooperate are numerous and important for the implementation of children’s rights. There are numerous activities and tasks that should be undertaken by social work professionals within the juvenile justice framework. Social Work and justice system can work together to optimize responses to children in conflict with the
Social Work profession has a chequered history in the Central and Eastern European/ Commonwealth of Independent States (CEE/CIS) region. The profession managed to retain official endorsement throughout the twentieth century in only a few countries in the region, among them notably the Federal Republic of Yugoslavia and Poland. In the pre-transition era, the authorities of most countries, in contrast, viewed social work as the reflection of a charity approach to engendered by and inherent to, capitalist regimes. Social Work was therefore considered unnecessary, irrelevant and/or unacceptable in a communist society. Thus, the profession was banned as of the 1930s in the Soviet Union, so “social work has little tradition as academic or professional path in most former Soviet Countries”. Several Central and Eastern European Countries followed suit, more or less gradually once Communist regimes were installed after World War II, i.e., Czechoslovakia, Hungary and Romania. The time taken to rehabilitate the Social Work profession has varied greatly in the region. Hungary reintroduced Social Work education in 1986 and the profession was reinstated in the Russian Federation in 1991, although it is currently claimed that “the status of social work as a profession is still weak and unclear even if there is more social work education being offered at universities and other signs of change”. In Romania Social Work training was re-established in 1990, with a full four year degree course and the first ‘new generation’ of social workers qualified by 1994, whereas Albania’s first batch of qualified Social Workers only completed their training in 2000. Elsewhere, it took even longer just to secure recognition of the profession. Thus, in Georgia many health workers, teachers and psychologists had been practising what qualifies as social work but lacked the official title. Social Work was finally recognised as an independent profession in 2003 but Georgian Social Work had no professional body or a code of standards until 2004 and few concrete opportunities to work in the field. When the profession as such was banned, certain of its many specific functions were sometimes in principle devolved to others, such as specialized ‘juvenile offences in the police’ or educational workers in schools. The term ‘social work’ often loosely referred to services whose nature did not necessarily correspond to the more generally accepted conception of the profession. Thus, in some cases, it was applied to an essentially administrative function involving more especially the determination and provision of social security payments and other material assistance to individuals and families in difficulty. Elsewhere, it was linked
mainly to the (physical) health sphere. Generally, these perceptions have now evolved considerably, but elements of the legacy can still affect how the actual and potential role of ‘social work’ is viewed.

Given these different experiences of and approaches to ‘social work’, it is all the more essential to realise the internationally agreed scope and form of its action and intervention when discussing its role in relation to juvenile justice. Its principal professional body, the International Federation of Social Workers (IFSW), sets out the key action areas which are: Promoting social change, on the basis of its findings regarding the needs and the avoidable causes of problems confronted by individuals and groups seeking or requiring assistance; Problem Solving in Human Relationships, whether interpersonal, interfamilial, within the wider community or vis-a-vis the authorities and their agents; Empowering people to enhance their own well-being, as opposed to creating ongoing dependency. The International Federation of Social Workers also stresses that the profession draws on theories of human development, social theory and social systems to facilitate individual, organizational, social and cultural changes and that social work is founded on the principles of human rights and social justice. Given such a range of potential areas of intervention, together with the bases and approaches that shape its action, it is clear that the social work profession can have positive direct and indirect impacts on the juvenile justice system. It impacts in their main ways that loosely correspond to the three levels of the preventive framework. Firstly, working alongside but independently from the juvenile justice system, relates to both the primary preventive role of social work and to the elements of secondary prevention. At the primary level, social services should be accessible on a self-referred basis to respond appropriately to any individual or family experiencing difficulties. In addition, at the secondary level, social workers help to identify proactively and respond to families where children are at risk whenever possible by enabling those families to address the root causes of problems such as intra-familial violence, neglect and delinquency. Secondly, interfacing with the justice system refers that other elements of secondary prevention may fall to the social work profession as a result of the child or a parent coming into contact with justice system. Thus, social workers should be involved when the police question or arrest a child who is under the minimum age for persecution or has not committed a criminal act but is clearly in danger. If a parent is arrested and detained, social worker should be able to check and
ensure the well-being of their children. Thirdly, *working within the justice system* refers to the wide range of tasks which may be allocated to the social work profession in the context of the justice system, from the moment of the child’s apprehension or arrest through to disposal and where appropriate follow up. Further, there is also advantage in inviting the social work profession to contribute to developing relevant policy, legislation and programmes on the basis of the needs and issues that it identifies in the course of it functioning at the mentioned levels. It is often said that the wide ranging international view of social work is essentially a western-based model. This is broadly true, but the pertinence of the wide scope discussed above lies in outlining the potential range of functions which social work profession as a whole can play. However, the functions need to be assessed in the context of the existing situations in the country with the goal of improving responses to children in conflict with law, in harmony with the justice system. Thus, social work should be seen as a sphere of action that is responsive to societal realities rather than as an immutable set of functions and strategies. It potentially incorporates a range of specialized professionals such as street workers, educators, family support workers and probation officers and operatives in the variety of settings from ‘the street’ to the courtroom. The aim must surely be that each country examines the extent to which each potential social work profession could contribute to the promotion and protection of children’s rights in the justice system and where the result of that examination is positive, progressive implementation of the role(s) concerned be planned and carried out. Finally, if the social work profession is to be able to play its role to its fullest potential with and within the justice system, it is clearly vital that there be mutual trust and respect among all actors involved. Even in countries where social work is a long-standing and well recognized profession; there are examples of lack of such trust and respect between social workers and the police, prosecutors and judges. Some essential preconditions from the social work side must be met if such problems are to be avoided, for example, the social work profession and its roles must be fully and officially recognized, social workers must receive adequate professional training to fulfil-and to be seen to fulfil those roles effectively, social work must be given adequate resources (human and material) that enable it to offer valid responses, roles and responsibilities of social work *vis-a-vis* other actors in the justice system must be clearly defined and agreed by all concerned and multi-professional interface must be
held at all levels where actors can discuss any difficulties encountered in their cooperation and propose solutions, strategies and targets to ameliorate their combined efforts (http://www.unicef.org/ceecis/UNICEF_report_on_the_role_of_social_work_in_juvenile_justice.pdf).