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JUVENILE DELINQUENCY: A COMPARATIVE STUDY BETWEEN INDIA, U.K. & U.S.A

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ABSTRACT:

Juvenile Delinquency or commonly known as “Juvenile Offending”, an unlawful act by a minor (minor is a person who has not attained the statutory age of majority). The problem of Juvenile Delinquency is not a new one it is an age old problem, it involves millions of youth. According to an estimate maximum number of the youth is either once or many times engaged in the Juvenile Delinquency behaviour. Many of the youth are never gone through the Juvenile Justice System, but it does not lower the value or importance of the problem of Juvenile Delinquency. To deal with the problem of Juvenile Delinquency not only at National but also at International Level many attempts were done to control the problem such as: rehabilitation programme and treatments etc. In the present paper an attempt is made to know about the problems of Juvenile. In this paper we’ll also study or examine that how the different nations were resolving this problem, by doing different efforts.

Keywords: *Juvenile, Law, Problem, Youth*

1. INTRODUCTION:

The concept of Juvenile Delinquency is a new one, but the behaviour of the younger’s to which it refers is not new it is an age old. As per the FBI the juvenile is one who is below the age of majority i.e., 18 or as per the statutory age of majority an individual State defines. Simply, it can be said, participation by a minor between the age of 10 to 18 years, in an illegal activity is a Juvenile Delinquency. The term Juvenile Delinquency was coined with the idea for treatment of Juvenile Offenders rather to describe their behaviour. The idea behind this is to make a distinction between the punishments prescribed for the children and punishments prescribed for the adults. It is to be noted that, each individual State has its own separate legal system to deal with the problem of Juvenile Delinquency.

Juvenile Delinquency occurs when there is a violation of a Statute by a juvenile. When a juvenile violates a statute the procedure to be followed is different as compared to the procedure of the adult offenders. It is common for each individual State's Statute to consider a person as a Juvenile or minor who is under the age of 18 years, but, however, the Judicial System can consider Juvenile as an adult in serious offences.

2. MEANING OF JUVENILE DELINQUENCY:

The term '*Delinquency*' is derived from a Latin word '*Delinquer*' means '*to omit*'. Romans also use the term to refer to that person who fails to perform their task or duty. In 1484, *William Coxson*¹ used the term "Delinquent" to describe those persons who found guilty for customary offence. The word delinquent can be found in the *Shakespearean* famous play '*Macbeth*' in 1605.² In simpler words it can be said that, delinquency is a form of behaviour which is against the norms of the conduct of society.

Different Penologists has differently interpreted the word "*Juvenile Delinquency*", the term refer to the behaviour of adolescents and children which the society does not approve and for which some kind of corrective measure or punishment there in the public interest. Therefore, it may be inferred that, juvenile is an person who is between childhood and manhood/womanhood as the case may be, who is involved in some anti-social behaviour, if not checked may turn him in to a potential offender.³

3. DEFINITION:

A behaviour or disobedience of law by a minor which his/her parents are not able to control; or Criminal Activity which is not punishable with death or Life Imprisonment. On December 30th, 2000 Juvenile Justice (Care and Protection of Children) Act, 2000 came into force, which defines Juvenile or Child is a person who has not completed the 18 years of age whether he is a boy or a girl. As per Section 2(e)⁴, "Juvenile Delinquency is referring to a Child who has been found committing an offence". Section 2(l)⁵ while defining the term, uses

¹ Paranjape N.V., "*Criminology and Penology*", Allahabad Central Law Publication, 14th Edn. 2009, p 529.

² Paranjape N.V., "*Criminology and Penology*", Allahabad Central Law Publication, 14th Edn. 2009, p 529.

³ Chaudhury Beena, "*Juvenile Delinquency in India: Problem and Possible Solution*", Vol. 29, Issue 3, Civil and Military Law Journal, p 228.

⁴ Children Act, 1960.

⁵ Juvenile Justice (Care and Protection of Children) Act, 2000.

the word 'juvenile in conflict with law'. As per Section 2(d)⁶ children who are uncontrollable or orphans, who needs extra support and care from the people who are termed as 'Neglected Children' have been called as 'children in need of care and protection'.

4. DELINQUENT ACT INCLUDES:

Delinquent activities may either be done alone or through a gang, which include:

1. Shop-lifting,
2. Running away from home,
3. Using vulgar language,
4. Visit Gambling centres,
5. Stealing etc.

5. JUVENILE DELINQUENTS:

It has been already discussed that, juvenile delinquents are those offenders who is below the age of majority and were indulged in a criminal activity. Mainly there are two main category of offenders; *Repeat Offenders* and *Age-Specific Offenders*.

a) REPEAT OFFENDER:

The category of repeat offenders includes, those Juvenile Delinquents who were showing the signs of an anti-social behaviour during the time of adolescence. These offenders are continuously engaged in the criminal activity and also after adulthood having an aggressive behaviour. They were also known as "life-course persistent offenders."

b) AGE-SPECIFIC OFFENDER:

This type of behaviour begins during the adolescence. Unlike the repeat offender the behaviour of the age-specific offender ends before the minor become adult. Age-specific offender leave their delinquent behaviour behind when they enter the adulthood, they have more mental health problem, and also have great financial problem than those adults who never had delinquent as juvenile.

⁶ Juvenile Justice (Care and Protection of Children) Act, 2000.

6. JUVENILE DELINQUENCY STATISTICS:

Many organizations studying juvenile delinquency and a report compiled by data in order to learn what contribute to the problem of juvenile delinquency. Some of the statistics includes;

- a. In 2012 Police arrested 182 juvenile offenders.
- b. Peak age for fall in offending is between 15 to 18 years of age.
- c. Out Of 100 around 52% to 57% of Juvenile Offenders continue offending to their 20s also.
- d. Till the age of 30 only 16% – 19% continue to offending.
- e. The average onset of drug use is 16 – 17 years of age.

7. CAUSES OF JUVENILE DELINQUENCY⁷:

The various factors contribute to Juvenile Delinquency some of them are listed below:

a) ADOLESCENCE INSTABILITY:

The psychological and sociological factors are important in adolescent behaviour. Physical maturity is also an important factor. The child in this age wants to maintain his own identity, fashion, dress, language, food and play are also attracted in this age. The problem become more when the adolescent are not kept in containment and their growth is not chasted.

b) UNCONGENIAL HOME:

The juvenile delinquency in some cases is the result of uncongenial home atmosphere. The parent's behaviour with their children and the behaviour of parents among themselves are of vital concern in moulding the child psychology from very beginning. The way the child is nursed is very important throughout his life and not only during the age of maturity.

⁷ Srivastav S.S., "*Criminology and Criminal Administration*", Allahabad Central Law Agency, 3rd Edn. 2007, pp 318 – 319.

c) POVERTY:

Poverty is one of the main causes of Juvenile Delinquency. When the children see other enjoying the life comfortably, the desire to have those things by hook or crook develops or gives birth to the delinquency. Theft and gambling are the starting point of it.

d) ASSOCIATIONAL IMPACT:

When the child moves outside his family, he comes in contact with various classes of persons of all ages and gender. He develops a definite circle of association outside the home and school. The associational impact on the child is very important. He adapts the habits of the group to which he is associated.

8. JUVENILE DELINQUENCY IN INDIA:

In India the definition of Juvenile Delinquency present no such problems as are faced by in the USA and also in some other countries. The concept confined to the violation of ordinary Penal Law of the country so far as the jurisdiction of the Juvenile Court is concerned. At present the law which govern Juveniles in conflict with law and children who are in need of care and protection is “*Juvenile Justice (Care and Protection of Children) Act, 2000*”, which replaces the earlier law known as *Juvenile Justice Act, 1986*.⁸

a) INDIAN PENAL CODE:

As per the Section 82⁹ up to the age of 7 years there is an absolute irrefutable presumption that the child is doli incapax. The immunity is granted to the children who are below the age of 7 years on the pragmatic approach of the State that they do not have the capacity to have the requisite *mens rea*. According to Section 83¹⁰ if the child does not attain the maturity of mind the burden of proof lies with the child. To make them liable they must attain the age of maturity of mind (mischievous discretion).

⁸ Siddique Ahmad, “*Criminology and Penology*”, Lucknow Eastern Book Company, 6th Edn. 2009, p 255.

⁹ Indian Penal Code.

¹⁰ Indian Penal Code.

In *R. v. Krishna*¹¹ where a child of 9 years of age stole a silver chain and sold it in 5 annas the lower courts convicted the buyer and acquitted the child.

In another case *Harilal Mallick v. State of Bihar*¹² it was held that not only a proof of child being under the age of 12 but also it has to be proved that the child did not have enough understanding at that point of time and was immature. If no sufficient proof is laid down in front of the court to prove the immaturity of the child then it will be presumed that the child-accused intended to do what he really did. Thus in this case were a child of 12 or so used a sharp sword in killing a person along with his two brothers and evidence either of age or immaturity or understanding was led on his behalf, thus held liable.

b) JUVENILE JUSTICE ACT:

According to Section 2(k)¹³, Juvenile means a person who has not completed the age of 18 years. The act provides uniform age for both boys as well as girls, where as in the older act i.e., Juvenile Justice Act, 1986 there was different age which is now replaced. This definition is wider than the definition provided under Section 82 and Section 83 of the Indian Penal Code. The Act of 2000 provide that no juvenile can be sentenced to death or imprisonment or committed to prison in default of payment of furnishing security.

c) AGE DETERMINATION ISSUE:

The determination of Age is always a tricky and controversial issue in Juvenile Justice. In number of cases court had decided in this regard.

In *Jaya Mala v. Home Secretary, Government of J&K*¹⁴ the apex court held that, the age as ascertained by medical examination is not conclusive proof of age. It is mere opinion of the doctor and a margin of 2 year could be on either side.

In another high profile case, *Bhoop Ram v. State of U.P.*¹⁵ the apex court held in conflict between documentary evidence and medical report, the documentary evidence will be considered to be correct.

¹¹ AIR 1965 Ker. 166.

¹² 1978 SCR (1) 301.

¹³ Juvenile Justice (Care and Protection of Children) Act, 2000.

¹⁴ AIR 1982 SC 1297.

9. JUVENILE JUSTICE IN U.S.A.:

The United States Supreme Court's involvement in the area of Juvenile Justice greatly altered both the process utilized and the protections offered to juveniles within the system. Procedure in judicial proceeding has traditionally been viewed as especially important in the US. Justice Frankfurter says, "The history of American freedom is, in no small measure, the history of procedure."¹⁶ The court's seminal opinion in *re Gault*¹⁷, the Juvenile in that case was found to be delinquent after two hearings. He was sent to reformatory period of six years.

a) AGE DETERMINATION:

In the US the age of majority is set by individual States, minor usually refers to someone who is below the age of 18, but in certain areas someone under the age of 21. The term like "infant", "child", "adolescent", "teen", "young person" are also used, although there are some jurisdiction having legal distinction between these terms. The child and Youth Welfare Code, Presidential Decree No. 603 defines youth offender as "*one who is over 9 years of age but less than 21 years of age at the time of the commission of the offence.*"

b) CAUSES OF JUVENILE DELINQUENCY:

There are some penologists who indicate that socio-economic conditions combined with peer influence can be an enormous factor in the development of delinquent behaviour. Some of the major causes of Juvenile Delinquency in USA are listed below:

- i) Peer Influence
- ii) Family Influence
- iii) Self-Esteem as a factor in delinquent behaviour
- iv) Race as a factor in delinquent behaviour
- v) Trauma and Delinquency.

10. JUVENILE DELINQUENCY IN U.K.:

¹⁵ AIR 1989 SC 1329.

¹⁶ Malinski Vs. New York, 324 U.S. 401, 414 (1945).

¹⁷ 387 U.S. 1 (1967).

The English Criminal Justice Administration while dealing with the problem of Juvenile Delinquency, preferred to deal with outside the framework of criminal law. The problem of Juvenile Delinquency attracted the nationwide attention, many reformists believe that delinquency among the adolescents is a transient phase and it will be disappeared as they grow older, hence they need not to be dealt differently.

a) AGE FACTOR:

According to Section 16¹⁸, “a child under the age of 10 years should not be arrested”, if a juvenile is arrested and later he turns out to be below the age of 10 years of age he should be released immediately.¹⁹ A child may be kept in the custody of Police only for 72 hours and as soon as possible the constable concerned should make arrangement for the investigations to take place. If a juvenile is charged and he is detained he must be brought in front of the magistrate’s court in accordance with the provisions of Section 46(1). If a Juvenile is arrested under the warrant should not be released to *Schedule 6, Para 19 (b) of the Police and Criminal Evidence Act.*

b) REASONS FOR JUVENIELE COMMITTING CRIMES:

Over the study of the years criminologists put forth a wide range of motives for what cause crime. People who deal with juvenile offenders have cited following conditions;

- i. Poverty
- ii. Family factor
- iii. Environment
- iv. Media Influence, and
- v. Decline Social Morality.

11. CONCLUSION:

At the end it can be concluded that, the problem of the Juvenile Delinquency is not a new one it is a century old problem, it is not only the problem in India but also it the problem in other nations. A juvenile is considered as a person who is below the age of 18 or as per the statute

¹⁸ The Children and Young Person Act.

¹⁹ Section 34(2), Police Criminal Evidence Act.

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age of majority. The age of majority is also differs from Individual State. In the recent years the well-established Juvenile Justice System has undergone tremendous changes. The main reasons for juvenile delinquency can be consider as Involvement in drugs, Peer Influence, Environment, and Harsh Behaviour and so on. To deal with the problem at National and International level different awareness camps and programs were organized under this, Different NGO's and agencies were working for the benefit of children.