

Increasing The Causes of Juvenile Delinquency in India

Abstract

In India there is a separate Law dealing with delinquent behavior of children, this Act does not define the word delinquent behavior but it defines the word juvenile in conflict with law as that juvenile who is alleged to have committed an offence and has not completed the age of 18 years of the age on the date of the commission of the offence. Juvenile is defined as a person who has not completed the age of 18 years of the age. The word offence is not defined in this Act so we have to take the help of the Cr.P.C. 1973. Cr.P.C. 1973 defines offence as any act or omission made punishable by any law for the time being in force. It is clear from the above analysis that in legal terms juvenile delinquency is given a very restricted meaning as those acts or omissions which are punishable under Law. Restricting the meaning of delinquency, the next question that arises is why a child gets involved in the illegal behavior? The answer to this question lies in finding the causes of delinquent behavior. Finding the causes is required so that preventive measures can be taken and deviant behavior can be corrected.

Keywords: Juvenile Delinquency, Criminality, Marxists Theory.

Introduction

Delinquency prevention has many dimensions...it is not only about tinkering with individual delinquents and their behavior"

Pink and White, Delinquency Prevention: The State of the Art

Juvenile delinquency is considered as the gateway of adult crime since a large percentage of criminal careers have their roots in childhood¹. Juvenile delinquency has become a cause of concern all over the world. It is not limited to under developed or developing countries only. This problem is more profound in developed countries where the resources are in abundance. A clear definition of juvenile delinquency has been in itself a cause of concern for sociologists; different people define delinquency differently, depending on the various factors such as their ideology, relationship with the child, their expectations from the child being few factors.

Legal Definition Juvenile Delinquency

The legal system world over has tried to delimit the definition of juvenile delinquency. Second UN Congress on the prevention of crime and treatment of offenders, London, 1960, passed a resolution that stated "the congress considers the scope of the problem of juvenile delinquency should not be unnecessarily inflated it recommends that the meaning of the term should be restricted to violations of criminal laws."

In India there is a separate law dealing with delinquent behavior of children, this Act² does not define the word delinquent behavior but it defines the word juvenile in conflict with law³ as that juvenile who is alleged to have committed an offence and has not completed the age of 18 years of the age on the date of the commission of the offence. Juvenile is defined as a person who has not completed the age of 18 years of the age⁴. The word offence is not defined in this Act so we have to take the help of the Cr.P.C. 1973. Cr.P.C.⁵. 1973 defines offence as any act or omission made punishable by any law for the time being in force⁶. It is clear from the above analysis that in legal terms juvenile delinquency is given a very restricted meaning as those acts or omissions which are punishable under law.

Restricting the meaning of delinquency, the next question that arises is why a child gets Involved in the illegal behavior? The answer to this question lies in finding the causes of delinquent behavior. Finding the causes is required so that preventive measures can be taken and deviant behavior can be corrected.

Lakhwinder Kaur

Student,
Dept. of Law,
Kurukshetra University,
Haryana, India

In the beginning era of criminology the offenders were not classified in any category such as sane-insane, men-women, adult and children etc. for a very long period of time children were considered as miniature human being for the purposes of criminal justice system⁷. This being the perception of the criminologist earlier, they have tried to explain the deviant behavior in general rather being specific to one category of persons. But later on specific development has started in the specific field of juvenile delinquency, and various theorists have tried to explain the cause's specific to children, but this does not mean that general theories are of no use because all the theorists are considered children of their age and they have influenced the development of criminology.

Review of Literature

In the early days, children were treated and viewed as "miniature" or "little adults" (Kadushin, 1980, Cunningham and Tomlinson, 2006) and had similar responsibilities and demands as that of an adult. 'Child' and 'childhood' were not recognized as independent social categories till the eighteenth century. Children were thought of as "fragile" and "innocent" and at the same time, capable of "wayward" behaviour. Children who broke the law were treated very much like adults who broke the law. They were often tried in the same courts, given the same punishment (on rare occasions, even the death penalty) and confinement in the same institutions, as adults. Legislation did not deal with childhood as a period of life that needed special measures of protection until the early 19th century (Bajpai, 2007: Kadushin, 1980; Sandhu, 1977; Empey, 1960).

In countries such as USA and UK, towards the end of the 19th century, the State began to recognize that children had distinct physical, social and psychological needs (Cunningham and Tomlinson, 2006) and the concept of "childhood" got attention. The legal status of the child changed, giving the child a more favourable position in society (Kadushin, 1980). Further, development of formal education, improvement in health care and changing ideologies had a positive impact on childrearing practices. It also resulted in the institutionalization of child welfare systems around the world. A distinct view started emerging that children have to be "prepared" to take on distinct adult roles; school became a place for moral and intellectual training (Empey, 1976). Over the years, this changing notion of children and youth has had a direct bearing on our understanding of delinquency too. Juvenile delinquency became a distinct category of children exhibiting certain behaviours. As people came to view children differently than adults, they were more inclined to view and treat juvenile offenders differently than adult offenders (Kadushin, 1980).

Objectives of the Study

1. To analyse the Real cause to increasing the Juvenile Delinquency in India.
2. To analyse the consequences and effects of Juvenile Delinquency on society

Causes of Delinquency

Classical School of Criminology

The theories of criminality started from the stand point of spiritualism, *St. Thomas Aquinas* said that the person who commits the crime also commits a sin and he not only does wrong to the community but to himself too. In this era criminality was explained in the terms of impact of the bad spirit on the individual and therefore remedy was provided in terms of purification of the soul. The process of purification of soul became torturous with the passage of time and lead to the emergence of the classical school of criminology. Beccaria is considered as the forerunner of this school. He explained criminality as a rational choice of the individual, or on the theory of freedom of will. His theory of criminality can be summarized as follows:

1. He said that it is the duty of the Legislature to define the offence as well as the punishment for the offence.
2. He said that judges should not be given the discretionary power to prescribe the punishment.
3. Seriousness of the crime has to be relative to the harm caused to the society, so motive intent etc. should not weigh in the mind of judges while deciding the seriousness and punishment.
4. Punishment must be proportionate to the crime and obstacles must be created to prevent the crime.
5. Additional severity of punishment increases the crime rather than deterring because one tries to commit much graver crime when he knows that punishment will be severest in any case.
6. Punishment must be very prompt and certain.
7. Law should work in preventive manner rather than curative.
8. Laws must be published.

On the basis of this theory French code was enacted and it defined not only the offences but punishment too. But this impersonal approach of the judges in deciding the criminality lead to injustice as repeaters and first offenders were treated in the same manner. Children and adults also faced the same punishment. This kind of treatment resulted in the reaction to this theory, which led to the improvement in the criminal justice system.

Individual Centric Theories of Criminality

Individual centric theories of criminality are further divided in various sub categories such as Phrenology, Atavism, Mental deficiency, Glandular Theories, theories based on Heredity etc. few of these theories are discussed below.

Phrenology

It is one of the most ambitious, systematic and influential attempt to measure the character from physical confirmation. This theory was propounded by the French anatomist *Dr. Frenzjosepf Gall*. He said that the character and the behavior of an individual can be determined by the balance among 35 faculties localized in brain. He argued that crime was a disease as well as a sin; in general he favored more humanitarian treatment to the criminals.

Atavism

This theory of criminality was firstly propounded by *Lombroso*, a physician who grew in the age of Darwinism and natural selection. He tried to explain criminality by explaining the relationship between vestigial organs and behavior on the one hand and atavism and criminality on the other hand. He claimed that there was a relationship between criminality and physical traits. He observed that criminals can be identified by certain physical traits such as long earlobes, slanting forehead etc. *Lombroso* asserted that there are certain criminals who have criminality by birth. He called them atavists and held that such criminals were incorrigibles.

Endocrine Glands and Criminality

The relationship between the glandular function and criminality has been tried to be established. *Louis Berman* attributes abnormal personalities to the malfunctioning or abnormal functioning of the Endocrine Glands. He asserts that a definite, detailed and systematic study of the condition of the different Endocrine Glands in juvenile and criminals had led to the conclusion that:

1. Crime is due to perversion of the instinctive drives dependent upon a deficiency and imbalance of the endocrine glands.
2. Certain types of crimes are associated with certain types of endocrine malfunctioning.

However, there is no medical evidence to show that the rate of endocrine and metabolic disturbances among criminals is significantly different from that of non-criminals. Another criticism of this theory is that endocrine disturbances may take place after the commission of crime once the offender realizes its consequences⁸.

Mental Disorder and criminality

According to *Siddique*⁹ Ahmad Siddique, Criminology & Penology (Sixth Edition, Eastern Book Company) in the terms of mental quality of offenders they may be either normal or abnormal. The abnormal offenders vary in the magnitude and degree of abnormality and they may be classified in several sub categories. These are Psychotics, Neurotics and Psychopaths, and Mental Deficients.

Sociological Theory of Criminality

Sociological theory of criminality emerged in response to the individual centric theories. These theories argue that it is not the individual factors alone but the socio-economic factors such as ecology, economy, association etc. also play a very important role in contributing to criminality. These theories are discussed in brief as follows:

Learning Theory of Delinquency

Gabriel De Trade, the French jurist and social psychologist, provides the starting point of the explanation of crimes in terms of social factors. He was the first criminologist who offered a social explanation of crime while others were banking upon the physical traits of offenders. He criticized the theory of *Lombroso*. He compared the detection of criminality on the basis of physical traits by *Lombroso* with the detection of divinity by Tibetan priests in a new born on the basis of appearance while choosing the future Lama.

Trade did not think that even psychological criminals were unique compared to non-criminals. According to him criminal behavior is the result of learning process. A person learns criminal behavior just like any other trade which he picks up in his childhood.

Trade's theory is considered as the precursor of the modern ecological and differential association theories¹⁰.

Differential Association Theory

The theory was given by Edwin H. Sutherland in Principles of Criminology, he argues that criminal behavior is learned and it is not inherited, so the person who is not already trained in crime does not invent criminal behavior, just as a person does not make mechanical inventions unless he has had training in mechanics.

This behavior is learned in interactions with other persons in a process of communication, which is verbal and it also includes communication by gestures.

The principle part of learning occurs within the immediate personal groups so newspapers, pictures shows play a relatively an unimportant part. When criminal behavior is learnt, the learning includes:

- a) Techniques of committing the crime.
- b) The specific direction of motives, drives, rationalization and attitudes

The specific direction of motives and drives of behavior is learned from definitions of the legal codes as favorable or unfavorable. In some societies an individual is surrounded by persons who invariably define the legal codes as rules to be observed, while in others he is surrounded by persons whose definitions are favorable to the violations of the legal codes.

A person becomes delinquent because of an excess of definitions favorable to violation of law over definitions unfavorable to violation of law, and this is the principle of Differential Association. It refers to both criminal and anti-criminal associations and has to do with contracting forces. When persons become criminal, they do so because of contacts with criminal patterns. This proposition means that associations which are neutral, so far as the crime is concerned, have little or no effect on the genesis of criminal behavior.

Social Disorganization Theory

Social disorganization has been defined as a decrease of the influence of the existing social rule upon the individual members of the group. This phenomenon is different from the violation of social rules by individuals, because that is something normally expected in even relatively stable societies where not much damage is possible due to effective social sanctions including criminal law.

Social disorganization may be due to cultural conflicts between different values of different sections of the society. The difference may be between the old and new values, local and imported values and traditional values and the values imposed on the community by Government or other agencies.

This process is also explained on the grounds of cultural lag. It means that sometimes the various components of culture in a society grow unequally, resulting in a gap between those components.

According to *W.L. Thomas*, social disorganization is not co extensive with individual morality nor does social disorganization correspond to individual demoralization. Disorganization can occur as a result of excessive rapid change, like an increase in the volume of population, or rapid changes in technology.

Conflict Theory of Crime

Sellin asserted that culture conflict emanates from conflict of conduct norms where separate culture sets out its norms to be instilled into its members. In a homogeneous society these are enacted into laws and followed by the members of that society because they consider them to be right. However, where the society is heterogeneous, this does not occur and culture conflict is bound to arise.

Vold argued that people are naturally group oriented and those who have same interests come together to form a group in order to carry forward their interests. The central theme of *Vold's* theory is that different groups have different and often incompatible interests which give rise to conflicts. Where groups have a similar strength, then they often resolve their conflict by compromise thus lending stability to the society. If the groups are of differing strength, the powerful one dominates which creates frustration and feeling of discontent among the members of weaker group which eventually results in crime. Therefore, crime according to *Vold* is not the result of abnormality, but it is rather a natural response to an attack on the way of life of the deprived or weaker group.

Social Institutions and Criminality

When we talk about social institutions, the first institution which comes to mind is the institution of family. According to psychologists, the formation of the basic personality of a child is complete in the first ten or twelve years of his life and it is obvious that the family's impact in this period is almost exclusive.

Lack of affection, either actual or perceived by the child, is regarded as an important contributing factor in anti-social attitude. The lack of affection may arise due to different reasons such as disharmonious relationship between the parents or a broken home.

A family may be normal family or a broken family. A normal family is one in which both parents are alive and live together with children while in a broken family children do not live with both the parents either because one of the parents is dead or a separation has occurred between them.

The problem of delinquency and its connection with working mothers was analyzed by *Sheldon* and *Eleanor Glueck*. They reached to the conclusion that:

1. A significantly greater proportion of the mothers of the non-delinquents who worked, than of those who did not, neglected to give or provide suitable supervision to their children. So there is a strong hint that working mothers at least of low income

groups are not as conscientious about arranging for the supervision of their children as are those who remain at home.

2. The supervision of those children who actually become delinquent was far less suitable on the part of the working mothers than on the part of the mothers who were housewives.
3. A boy who is carelessly supervised and who has a mother who is of the kind who works occasionally is far more likely to become a delinquent than is the rarely supervised son of a mother who does not go to work.

Marxists Theory

The Marxists believe that unfair division of labor and capital would eventually lead to a conflict between rich and the poor and finally to the overthrow of capitalist deals. In result, communism would replace capitalism. *Richard Quinney*, supporting the Marxists ideology alleged that capitalist State was creating a criminogenic society and there was need to replace it by socialist society in which people's socioeconomic rights would be much safe and secure and this would surely lead to reduction in crime. According to him, criminal law in a capitalist regime is an instrument of the State and ruling class to perpetuate the capitalist social and economic order and it is meant for the protection of the interests. Under these circumstances, the poorer sections of society remain oppressed through the coercion of legal system and their discontentment generates crimes. It is only with the collapse of capitalistic society that the problem of criminality can be solved¹¹.

Bonger's Economic Theory of Criminality

Commenting on the co-relationship between economic conditions and crime, *W.A. Bonger* concluded as follows:

1. He prepared a statistical data and demonstrated that almost 79 percent of the criminals belong to non-profitable class. Thus, he tried to establish a co-relationship between poverty and delinquency. In his doctoral thesis entitled *Criminality and Economic Conditions*, Dr. Bonger made a detailed study of the economic literature of whole Europe and concluded that crimes relating to property such as theft, stealing, robbery, dacoity, house-breaking etc. record an abnormal increase during the periods of depression when the prices are high.
2. Bonger further observed that the influence of economic conditions on delinquency is essentially due to the capitalistic economy which breeds disparity and leads to unequal distribution of wealth. The capitalistic resort to hoarding and monopolistic trends creates artificial scarcity and consequent rise in prices. This in turn stops production which ultimately leads to unemployment of labor, as a result of which offences such as alcoholism, vagrancy, beggary, assault, violence, etc. record an upward trend.
3. In an economic system based on capitalism, economic cycles of inflation and deflation are frequent. Inflation gives rise to bankruptcy and insolvency with the result the persons affected

Remarking An Analisation

thereby are forced to lead an anti-social life and some of them may even resort to criminality.

4. Another peculiar feature of capitalistic economy is the competitive tendency among entrepreneurs. Efficiency, low-production cost and better quality of products are some of the admirable results of competitive economy. But when these efforts fail to meet the competition, unlawful devices such as violation of laws relating to trade marks, copyright, patents etc., are committed by the manufacturers. This gives rise to increase in crime rate.
5. There is yet another danger of the capitalistic economic which contributes to enormous increase in crimes. The employment of children and women furnishes soothing ground for criminality despite effective legislative restriction banning their improper utilization in industrial establishments. It has been rightly observed that employment of children as labor is in itself a potential cause for crimes because a child who earns his wages does not know how to spend it usefully. Consequently, he is apt to spend his money on undesirable items such as smoking, gambling, drinking, staking, womanizing and so on, which ultimately drag him into the criminal world.

The employment of women also has a demoralizing effect on children. With the outdoor occupational activities of mothers, the children are not properly looked after. The lack of parental care and control over children in homes may detract them from righteous path and they are likely to fall into bad company of delinquents out of sheer frustration and want of proper attention towards them¹².

Conclusion

Delinquency in children cannot be equated with the delinquency in adults. There is no relation as such between juvenile delinquency and adult crime. It

is to be noted that children are not mature enough to understand the legal systems, they understand only good and bad behavior, that is too only when they are guided by their elders or guardians and through experimentation. In such a situation it cannot be presumed that children can foresee the consequences of their actions.

Children are more dependent on others than adults for their every kind of need. It is the duty and obligation of the guardians and the social structures to take care of their needs. It has been argued by that whenever a child commits a wrong, it is because of the self-preservation instinct. Children commit wrong only when the society fails to fulfill its duty. So finding the causes of delinquency in children is not going to improve the situation.

Endnotes

1. J.p.S.Sarohi, *criminology & Penology* 46 (Central law Publishing, Allahabad, 7th edn 2011).
2. *Juvenile Justice (Care and protection of Children) Act, 2000 (Act 56 of 2000)*.
3. *Juvenile Justice (Care and protection of Children) Act, 2000 section 2 (i) JJ*
4. *Juvenile Justice (Care and protection of Children) Act 2000 section 2 (k) jj*
5. *Juvenile Justice (Care and protection of Children) Act 2000 section 2 (y) jj*
6. *Section 2 (n) Code of Criminal Procedure, 1973*
7. *Ved Kumari, the Juvenile justice sytem in India from welfare to right 67 (oxford University Press, Bombay, 2nd edn 2015)*
8. *Sophia M Robison, Juvenile Delinquency 213 (holt, Rinhart and Winsome, 1960, new York)*.
9. *Ahmas Siddiqui, Criminology & penology 98 (Eastern Book Company, Lucknow 6th Edn, 2015)*
10. *Ibid.*
11. *Quinery Richard : The Social Reality of Crime (Botson 1970)*
12. *Child Labour (Prohibition & Regulation) Act 1986*