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# Juvenile delinquency and legal aspects: Indian scenario

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**Abstract**--The prime importance of law and society is protecting and caring for the children's wellbeing and growth. At the same time, Delinquency in juveniles is a complex social problem that significantly impacts all members and processes of a social structure. Juvenile Delinquency is recognized as an illegal act committed by a minor. Delinquent behavior is a violation of the laws established within the justice system. As a result, increased attention is given to the causes of juvenile crime over the years. The paper discusses the various theories of Juvenile Delinquency, the concept of child character determination, juvenile Delinquency, its causation, the significant factors responsible, and the way out through juvenile justice laws.

**Keywords**--Delinquency, Behaviour Aspects, Theories, Legal Aspects, Child Welfare.

## Introduction

John Locke described minors as those who lack a particular explanation and comprehension because they are neither free as adults nor equal. Delinquency refers to a collection of behavior inconsistent with the dominant social group's collective customs or ethics. These actions are essentially against societal norms, and they notably contravene existing criminal codes and laws. However, practitioners and scholars agree that adolescent Delinquency is a complex, multifaceted issue with multiple probable causes. As a result, investigators and professionals propose that treatment processes should concentrate on the immediate problem of the offender's aberrant conduct and every factor inside that behavior's environment, such as family relationships and social support services/networks.<sup>1</sup> The child being the country's future, should be given a suitable environment to nurture themselves. Nowadays, juveniles are engaging in various severe offenses like rape, murder, dacoity, theft, robbery. Early

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<sup>1</sup> <http://rajasthanjudicialacademy.nic.in/docs/studyMaterial06112020.pdf>

delinquency prevention has long been associated with positive delinquency reduction outcomes, according to conventional wisdom. To avoid future Delinquency, it is vital to recognize at-risk youngsters early and address poor or partially successful parenting approaches (Lundman, 1993). Numerous risk variables have been identified as indicators or predictors of adolescent Delinquency, and these risk factors imply dysfunction on multiple levels, particularly within the offender's family system.

Family conflict, a lack of proper supervision, a definite lack of parent-child bond, instability, poor home life quality, parental expectations, poverty, unemployment, and dropping out of school are just a few of these variables (Studymode.com, 2001). As a result of these reasons, more kids are involved in the juvenile justice system and referred to the community.

### **Juvenile: Meaning or Definitions**

For the Administration of Juvenile, the age of criminal responsibility for juveniles is the beginning of that age shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental, and intellectual maturity.<sup>2</sup> Similarly, the United Convention on the Rights of Child defines "child" as "every human being below the age of eighteen years unless, under the law applicable to the child, the majority is attained earlier." "Juvenile Justice (Care & Protection) Act, 1986 defines "a juvenile or child, who in case of a boy has not completed the age of 16 years and in case of a girl 18 years of age" and after that Juvenile Justice (Care and Protection of Children) Act, 2000 defines "juvenile" or "Child" as a person who has not completed the eighteenth year of age." Similarly, the Juvenile Justice Care and Protection Act, 2015 defined "child" as "means a person who has not completed 18 years of age."

### **Meaning of Juvenile Delinquency**

Juvenile Delinquency is recognized as an illegal act committed by minors. Delinquent behavior is a violation of the laws established within the justice system (Lectric Law Library), 2009. Juvenile Delinquency is a complicated social issue with far-reaching consequences for all individuals and processes of a social system. Delinquency is a term that describes a series of actions that are inconsistent with the dominant social group's collective practices and ideals. In essence, these actions are against societal norms, and they particularly break existing criminal codes and laws. Current research into this challenging and pressing issue reflects a vast range of theories about and predictors of Delinquency and many strategies to control and reduce overall Delinquency. However, practitioners and scholars agree that adolescent Delinquency is a complex, multifaceted issue with multiple probable causes. As a result, investigators and professionals propose that treatment processes should concentrate on the immediate problem of the offender's aberrant conduct and all elements inside that behavior's environment, such as family relationships and social support services/networks. Early delinquency prevention has long been

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<sup>2</sup> According to Rule 4 of United Nations Standard Minimum Rules.

associated with positive delinquency reduction outcomes, according to conventional wisdom.<sup>3</sup>

In particular, timely recognition of at-risk youth and correcting ineffective or minimally effective parenting techniques are critical to preventing future Delinquency (Lundman, 1993). Numerous risk variables have been identified as indicators or predictors of adolescent Delinquency, and these risk factors imply dysfunction on multiple levels, particularly within the offender's family system. Conflict in the family, a lack of proper supervision and norms, a definite lack of parent-child bond, instability, poor home life quality, parental expectations, poverty, unemployment, and dropping out of school are just a few of these variables. Because of these causes, more juveniles are entering the juvenile justice system and being directed to community and non-community treatment programs.<sup>4</sup>

### **Concept of Child Character Determination**

According to John Watson, credited as the father of American Behaviorist Theory, children are passive beings who can be molded by controlling stimulus-response associations. At the same time, the U.S. Department of Education believes that children can be taught to become responsible human beings. Mitton and Harris have defined "Responsibility" as the capacity to make choices and accept the consequences of those choices, so positive child development should teach children to take full responsibility for their actions.

To effectively acquire responsibility, students must first understand the values they are being taught and then implement these values in their daily lives. This emphasizes the importance of parental training, as youngsters rely on their parents to complete activities. According to Whitebread and Wingham, children who succeed at tasks regularly are more likely to succeed in life. Unsuitable living conditions and an unstable family, on the other hand, might result in bad attitudes and repeated failure in assignments, leading children to become delinquents.

### **Causes and parameters of Juvenile Delinquency**

Psychologists, sociologists, and criminologists debate the various reasons for this form of violence among young people worldwide. There are several hypotheses about criminal behavior. Classical, biological, psychobiological, psychological, sociological, social process, conflict viewpoint, and emergent views are the eight kinds of explanations. Interdisciplinary theories, which combine various theoretical perspectives to explain any illegal activity, could be the ninth category. (Schmallegger, 2009)

#### **1. Classical Theory**

Some of the first ideas of juvenile Delinquency were based on economic considerations. Classical economic ideas are those that have been around for a

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<sup>3</sup> <https://commons.nmu.edu/cgi/viewcontent.cgi?article=1010&context=theses>

<sup>4</sup> <https://graduateway.com/juvenile-delinquency-as-a-complex-social-problem/>

long time. Juveniles, they claim, are sensible, competent beings with free will who make decisions. Before acting, young people weigh the risks and advantages of their actions. For example, juveniles who believe that breaking the law will bring them more benefits than obeying it are more likely to engage in Delinquency.

Similarly, children and teenagers who skip school assess the risk of being detected against the potential enjoyment they would derive. Likewise, juveniles who commit serious crimes weigh the pleasure they imagine they will receive against potentially being arrested, prosecuted, convicted, and sent to prison. Since behavior is a conscious decision that youths make, they may be held responsible for their choices and consequences.<sup>5</sup>

## 2. Biological theory

Biological criminologists have long studied the role heredity has in delinquent and criminal behavior to relate criminality to genetics. Delinquency, prostitution, stupidity, feeble-mindedness, and adultery were all documented long histories of deviation in some families, according to early theories such as Dugdale (1877) and Goddard (1914). Behavioral patterns of twins, adoption and fostering studies, the XYY chromosome, criminality, and brain abnormalities have all been the subject of recent biological studies on Delinquency. Research efforts in numerous domains, including heredity, biochemistry, immunology, neuroscience, and endocrinology, focus on current biological investigations of adolescent Delinquency and criminal conduct. This multidisciplinary study of biology and deviance is vital in better understanding the overall forces that can increase or decrease biological influences on criminality. The most promising approaches have incorporated biological variables with psychological and sociological variables in explaining juvenile deviant behavior.<sup>6</sup> Biological criminologists have broadly categorized the ailments associated with juveniles under the following heads and various others:

1. Ocular Ailments- A retina disease can lead to visual loss. It causes anger and discomfort, making it even more difficult for them to live a moral life.
2. Hearing Problem- deafness or incapability of hearing leads to an inability to do any work properly, leading to antisocial behavior.
2. Excessive Strength- A child who is possessed with excessive strength and his mental trait being uncultured will lead to an imbalance in the body, which will further encourage a child to commit a crime.
3. Psychobiological theory

Delinquent conduct is viewed as the product of unresolved impulses and drives within the human psyche in psychoanalytic theories of Delinquency. When these are at odds, delinquent or other atypical conduct can result. Sigmund Freud believed that the personality is made up of three parts: the id, ego, and superego used psychoanalysis to probe deep into a person's past experiences to find and resolve unconscious problems.<sup>7</sup> Although Sigmund Freud is credited with establishing a link between criminal behavior and personality development, notably the unconscious sense of guilt generated throughout childhood, August Aichorn's (1935) work is credited with applying psychoanalytic concepts to criminality. Aichorn proposed a psychological

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<sup>5</sup> <http://criminal-justice.iresearchnet.com/crime/juvenile-delinquency/3/>

<sup>6</sup> <https://www.ojp.gov/ncjrs/virtual-library/abstracts/biological-perspectives-delinquent-behavior-kids-who-commit-adult>

<sup>7</sup> <https://www.ojp.gov/ncjrs/virtual-library/abstracts/psychological-perspectives-delinquency-kids-who-commit-adult-crimes>

tendency to criminal and delinquent behavior in his study of adolescent delinquents.

Schoenfeld (1975) hypothesized that most acts of Delinquency are caused not by criminal tendencies but rather by a weak or defective superego unable to sufficiently control the primitive and robust early childhood urges, resulting in deviant behavior. Personality disorder theories tend to explain adolescent Delinquency in terms of personality faults and emotional disorder rather than unconscious conflicts. The use of personality tests such as IQ and Rorschach inkblot tests are typical components of personality disorder hypotheses.<sup>8</sup>

Emotional disturbances, psychopathic theory, criminal-personality theory, and IQ theories are all related to personality-disorder ideas. Delinquency has been linked to mental disease in psychiatric views; nonetheless, most specialists on Delinquency and criminality feel that delinquents with mental illness are in the minority. The "superego lacunae" idea is one of the most well-known psychiatric explanations of Delinquency. According to this idea, delinquent children have holes or lacunae in their superego, making them scapegoats in households where parents project their problems onto them and derive vicarious pleasure from the child's delinquent behavior.

#### 4. Psychological theory

Issues related to personality-disorder theories are emotional disturbances, psychopathic theory, criminal-personality theory, and IQ theories. Psychiatric perspectives have often related Delinquency to mental illness; however, most experts in Delinquency and criminality believe that delinquents who have mental illness are in the minority. One of the most prominent psychiatric theories of Delinquency is the "superego lacunae" theory. This theory posits that delinquent children have gaps or lacunae in their superego and become scapegoats in families where parents project their difficulties onto them, receiving vicarious pleasure from the child's delinquent acts.

#### 5. Sociological theory

The sociological theory of juvenile Delinquency can be divided into the following subheadings:

##### Structural- functional theory

Structural-functional theories regard delinquent behavior as the consequence of strains or breakdowns in the social processes that produce conformity. The approaches focus on institutions like families and schools that socialize individuals to conform their behavior to the values of the surrounding society and how these institutions can fail in this task. Comprehensive agreement or consensus is assumed about which behaviors are valued and disvalued in the community. The question structural-functional theories try to answer is: Why do many individuals during their adolescence behave in ways that challenge this consensus? That is, why do many adolescents violate behavioral norms that nearly all of us are assumed to hold in common?

Anomie Theory. The roots of the functional theory are found in Durkheim's notion of anomie ([1897] 1951). To Durkheim, this term meant an absence of social regulation or normlessness. Merton (1938, 1957) revived the concept to describe the consequences of a faulty relationship between goals and the legitimate means of attaining them. Merton emphasized two social and cultural structure features: culturally defined plans (such as monetary success) and

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<sup>8</sup> <https://www.ojp.gov/ncjrs/virtual-library/abstracts/psychological-perspectives-delinquency-kids-who-commit-adult-crimes>

the acceptable means (such as education) to their achievement. Merton argued that success goals are widely shared in our society, while the means and opportunities for attaining them are not.

Merton's theory explains why individual adolescents become delinquents and why some classes are characterized by more Delinquency than others. Because the mismatch between goals and means of achieving success is thought to affect people of the lower or underclass the most, this group is likely to have a higher rate of delinquent conduct. When faced with insufficient means of attaining one's aims, Merton proposed many adaptations. Among these, innovation entails swapping illegitimate for legitimate means of achieving a goal; this adaptation accounts for much of the theft committed by adolescents from the underclass.<sup>9</sup>

Subcultural Theory- The delinquent subculture is involved in group-based adjustments to failure to achieve success goals. According to Cohen (1955), children from the lower socioeconomic strata and potential members of a delinquent subculture first experience failure to accomplish when they join the school. These students are frequently deemed wanting when measured against a "middle-class measuring rod." As a result, a growing sense of "status frustration" has emerged. Children from lower socioeconomic backgrounds are not prepared to meet middle-class aspirations because of their early experiences. As a result, the delinquent subculture arises as a different set of standards or principles under which underclass teenagers can adhere.

#### 6. Social process

Social process theory has three main branches:

- Social learning theory emphasizes people are learning how to commit a crime.
- Social control theory analysis the failure of society to control criminal tendency.
- Labeling theory which maintains the negative labels produced by criminal careers

#### 7. Conflict perspective

Conflict theory examines the battle between groups in society over limited resources. It sees social and economic institutions as tools in the struggle of groups or classes to maintain inequality and the ruling class's control. For example, the proletariat working class and the bourgeois ruling class are split along economic class lines in Marxist conflict theory. Later variants of conflict theory look at other aspects of conflict, such as between capitalist factions and diverse social, religious, and different types of groups.<sup>10</sup>

#### 8. Emergent perspective

The last causation theory of crime is emergent perspectives. This theory includes feminist, biosocial, and postmodern criminology. Feminist criminology is a "developing intellectual approach that emphasizes gender issues in criminology" (Schmalleger, 2017. pg. 101). The theory treats women as equals to men, allowing crimes to be punishable in the same way.

#### 9. A ninth category could be interdisciplinary theories, which incorporates a mixture of theoretical opinions to clarify any unlawful behavior

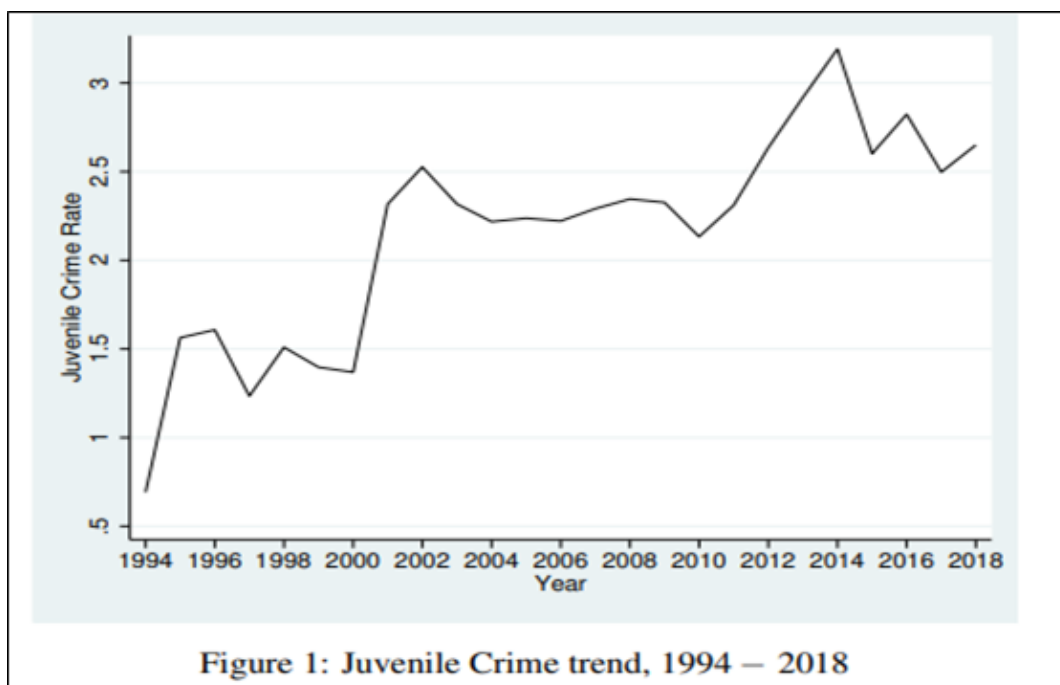
<sup>9</sup> <https://www.encyclopedia.com/social-sciences/encyclopedias-almanacs-transcripts-and-maps/juvenile-delinquency-theories>

<sup>10</sup> <https://equityplusbd.com/Financial%20Terms/conflict-theory/>

### Juvenile Justice Laws: A way out

In a broader sense, the current state of affairs in terms of juvenile crime and Delinquency can be linked to a higher rate of aggravated and violent crimes among the kids, a general increase in criminal offenses, and rising unemployment and school dropout rates.<sup>11</sup> However, it can be drawn from the statistics of school dropouts that there is a relative decrease in the number of youths dropping out of school over the past decade, thus a low crime rate associated with this factor. According to the data presented in the Economic Review 2020, the dropout rate diminished to 0.11% in 2019-20 compared to 0.22% in 2016-17.

The following Figure 1 shows the juvenile crime trend in India from 1994 to 2018.



Poverty, unemployment, and social segregation frequently result in marginalization, and juveniles who are segregated are further vulnerable to the beginning and maintaining delinquent behaviors. Since poverty is closely associated with education and unemployment, the more unemployed civilians, the more juvenile delinquency cases would exist in the region. To ensure their existence, many idlers become embroiled in criminal situations at an early age. Poverty is a direct result of unemployment. Thus the higher the rate, the more juveniles there are. Juvenile law's basic idea is to preserve juveniles' rights while also providing appropriate guidance to offenders and their families. Another important goal of juvenile law is to safeguard society from harm and make juvenile criminals accountable for their acts. In general, a juvenile criminal is allowed to be rehabilitated, whereas adult offenders are primarily punished.<sup>12</sup>

<sup>11</sup> <https://commons.nmu.edu/cgi/viewcontent.cgi?article=1010&context=theses>

<sup>12</sup> <https://studyhippo.com/juvenile-delinquency-4625/>

Additional safeguards for juvenile offenders are required to ensure that their rights are protected. In such situations, juveniles must have the support of their parents or another adult. Juveniles lack the cognitive ability to comprehend the entire scope of the legal predicament they find themselves in. The presence of a parent assures that the minor is not forced, mistreated, or abused by the legal system in any way. Last but not least, they can be incorporated into society and contribute to nation-building if rigorous regulations are in place, as well as community assistance and government development plans for Delinquents.

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