

Juvenile Delinquency and Recidivism: An Overview

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Abstract - Recidivism in juveniles is a legal notion in criminal law. Juvenile refers to someone under the age of 18; the definition of an adult varies from nation to nation. In India, the Juvenile Justice Act mandates that juveniles convicted of misdemeanors be housed in institutions that offer therapeutic, educational, and vocational programs.

The presence of a criminal milieu has influenced many young people to turn to criminal activity as a means of self-expression. In this paper, we discuss two variables that contribute to juvenile recidivism. Firstly, in the adolescent population, a lack of parental oversight contributes to criminal misbehaviour. Juvenile recidivism is fueled by peer pressure. Teenagers who are unemployed or earning low wages are more likely to commit crimes. Secondly, mental health of juveniles is also a hot topic internationally. Suicidal thoughts and behaviours are exacerbated by mental health issues. Depressive illnesses, juvenile detention, and other societal issues combine to create a climate where youth rush to terminate their lives.

In light of the 2012 Delhi rape case and after much debate, intensive conversation, and demonstrations, Indian Parliament enacted the Juvenile Justice (Care and Protection of Children) Act 2015. The author has explained that how juveniles can now be disciplined using new methods under new legislation and adequately implementing existing ones.

Keywords - Recidivism, Juveniles, Criminal law, Mental Health, JJ Act 2015

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INTRODUCTION

“Juvenile recidivism” comprises two words, i.e., juvenile and recidivism. Juvenile means any person who is not an adult; the age criteria for who can be called an adult are different in every country. The Juvenile Justice (Care and Protection of Children) Act, 2000 defines a child as a person under the age of 18. As per the Cambridge dictionary, a juvenile is a young person who is not yet an adult. Such age brackets are required to determine whether the offender should be tried in a juvenile or ordinary court. However, “recidivism” is a concept of criminal jurisprudence. *Recidivism* literally means “a falling back” and often connotes “into bad habits.” It’s derived from the Latin word *recidivus*, which means “recurring.” The National Institute of Justice (NIJ) defines recidivism as a person’s return to criminal activity after receiving punishment or assistance for a prior offense.

Juvenile recidivism refers to a minor’s conviction and imprisonment for a new crime after serving a prior offense. Incarceration has a significant impact on recidivism, particularly among youngsters. A minor’s exposure to hardened criminals increases as a result of jail, and gaining the essential skills to obtain work becomes more difficult. Stereotypes about criminals make youngsters’ lives even more complex and encourage them to commit crimes. Various socio-economic variables, such as financial condition and age, have a role. Criminal activity and recidivism are more common among children from low-income families. India saw a drastic increase in juvenile recidivism from 2015 to 2018 (11.16%). According to the Juvenile Justice Act, children shall be sent to special homes that provide services like counseling, education, and skill development.

INTERNATIONAL JUVENILE RECIDIVISM

When it comes to raising children and guiding them to success, there has always been a great deal of emphasis on this topic since “children are our future.” We see children going to school, playing sports, and practicing music; however, there is another sphere where many young people indulge in criminal activities due to their exposure to a criminal environment. As discussed above, juvenile recidivism is a narrower concept within criminal jurisprudence of recidivism. Juvenile recidivism is a result of an amalgamation of various negative emotions. According to the report of the United Nations fact sheet on juvenile justice, when social conditions like poverty and unemployment are coupled with inequality, abandonment, inadequate education, and due to no proper environment and attention by parents/guardians the, exposure to drugs, firearms, mob result into such behavior of children. About 2/3 and 3/4 of crimes committed by the younger generation are associated with criminal organizations or local gangs. Even when a child offender commits a crime, individually, he is linked to some group/gang.

In this paper, we have categorized the factors resulting in juvenile recidivism under two heads:

1) SOCIAL FACTOR:

A child's capacity to differentiate between right and wrong is strongly influenced by the upbringing he receives. Now, primarily disturbed behaviour of a child is blamed upon bad parenting. According to a study, lack of parental supervision leads to improper criminal conduct in the adolescent population. For instance, if parents are closely involved in their children's lives, the chances of such children getting involved in delinquent behaviour are fairly less. Moreover, parental supervision on behaviour control, exposure, and experience of certain things are connected to adolescent criminal out-bust. A criminal act is a result of a lack of self-control. Thus, parents involved in the criminal world fail to practice control over their children, resulting in “adolescence delinquency.” It is surveyed that delinquent behaviour of minor boys is more likely to be affected by fathers' delinquency/behaviour than mothers' or siblings' delinquency/behaviour. Bad parenting or lack of parental supervision also opens the door to criminal exposure such as drugs, weapons, sexual offenses, etc. Substance abuse, drug, and alcohol offense are very common in juvenile offenders. In a survey of state juvenile center, the research shows that 44% of juveniles who committed burglary did it for purchasing drugs. In addition, 55% of juvenile

offenders accepted that they were under the influence of drugs while committing a crime.

Though “parental supervision” is not the only social factor that leads to a rise of juvenile offenders. School experience and peer pressure have a fair share in building adolescent criminal conduct. It is common for juvenile offenders to have poor academic scores due to inadequate schooling structure, which creates an incredible risk of recidivism. A survey of 555 males in mid-Atlanta states that approximately 80% of juvenile offenders have been suspended from school, and over 50% were removed from school even before entering the criminal world. In addition to all of these, peer pressure also plays a significant role in igniting “juvenile recidivism.” Peer pressure is something that traps not only children but adults as well. In a survey in Chicago, it was found that the criminal conduct of 80% of juvenile offenders who were arrested with co-offenders was because of association /influence by deranged or off-center peers. When a kid is maltreated and suffers physical as well as mental instability, it brings them to the attention of child welfare organizations. When such children engage in criminal activities, they bring the attention of juvenile justice centers; such children are known as “cross-over kids.” The Robert F. Kennedy National Resource Center for Juvenile Justice stated in a survey of a particular area that almost 2/3 population of children in juvenile justice centers are also involved with children's welfare schemes. Cross-over kids are more susceptible to re-committing criminal offenses or falling into the vicious cycle of “recidivism.”

Financial instability is a significant factor in juvenile delinquency and juvenile recidivism. Socio-economic instability is often linked to unemployment and low incomes among the younger generation, increasing their involvement in criminal conduct.

2) MENTAL HEALTH:

Mental health is a prime factor in developing the individuality of a child. Mental health issues are predominant in juvenile offenders. Currently, mental health is one of the leading issues of discussion globally. The MAYSI-2 National Meta-Analysis (2008) found, from the survey at some juvenile centers, that as many as 70% of juveniles have mental health issues to a concerning level. Further, according to research in 2010 by Dr. Gail Wasserman (and others), approximately half of the children in the juvenile justice system were suffering from mental health issues or substance abuse. Most of such juvenile offenders have developed mental health issues/disorders before committing any offense, and these issues are more prevalent in

juvenile offenders than in other adolescent population. An increase in the severity of young offenders' problematic mental health further increases the chances of re-offending or recidivism. When we look at the mental health record of children at juvenile centers, we observe several common mental health diseases common in most youth offenders; these are anxiety disorders, manic episodes, depression, disruptive behaviour disorder, attention deficit hyperactivity disorder, etc. When these diseases are clubbed with hyper emotions, like anger, fear, and emotional agony, it results in juvenile delinquency. Several studies strengthen Johanna Wald's research, for example, USA-based research shows that about 65% of male and 75% of female juvenile offenders are diagnosed with other psychiatric disorders except for conduct disorder. It further stated that the number might be more as under-reporting is widespread in such cases. Females are more prone to experience mental illness. This also highlights one primary concern: even after a humongous amount of attention that mental health issues are getting, the reality is still far from what is desired. The gender biasness in keeping the data on mental health disorders between male and female offenders makes the situation more grave and serious.

Mental health disorders increase the chances of an individual committing a crime but more importantly, it further pushes them and makes them suicidal. Suicide and suicidal thoughts are far more prevalent among children and adolescents engaged in the juvenile justice system than in general. A young mind is a venerable space; an amalgamation of mental disorders, pressure of juvenile centers, and other social factor lead to a specific situation where children rush towards the option of ending their lives.

It is shocking to note that approximately more than 1 million children under the age of 18 are in prison for their criminal conduct, as per the reports of the United Nations Children's Fund, UNICEF. These statistics get more severe after the statement of the UN general secretary in February 2015 that "at-least 160 young offenders are on death row, in Iran, for the criminal offense they committed as minors." According to Child Rights International Network (CRIN), in 67 states, young offenders under the age of 18 are awarded life imprisonment for heinous crimes. Moreover, in 49 countries, sentences of 15 years or above, and in 90 countries, 10 years and above sentences are legitimate for minors. As many as 12 countries worldwide are exercising capital punishment against children. The list of such countries involves developed countries like the United States, Commonwealth Nations, etc. These statistics highlight the criminal exposure to minor children and their path to becoming hardcore criminals. Though few of such young offenders do not re-commit the same or any other crime, as per the recent studies, the majority of young offenders tend to fall into the trap

of "recidivism." In a report of the CSG Justice Center 2015, the data from 39 countries were collected. The report stated that juveniles are more likely to re-commit a crime than adults. The study shows that the highest recorded juvenile recidivism rates in three and five years were 76% and 84%, respectively.

CRITICAL ANALYSIS OF INDIAN JUVENILE LAWS

India's Parliament passed the Juvenile Justice (Care and Protection of Children) Act 2015 in the face of significant controversy, intense dialogues, and protests by activists and some members of Parliament. It provides an overview of the background and processes that led to the passage of this legislation. Changes in structure to remove negative connotations, the inclusion of several new definitions like orphaned, abandoned, and surrendered children, setting timelines for an inquiry by the Juvenile Justice Board, streamlining procedures for adoption, the inclusion of new offenses committed against children, and mandatory registration of Child Care Institutions are among the favorable provisions of the Act that are discussed in detail herein. On the other hand, the controversial provision of "transferring" juvenile offenders aged 16 to 18 into the criminal justice system for "heinous crimes" is also discussed here. It makes suggestions for changes to the law and better ways to put it into practice. Some of the significant amendments are:

- A three-month preliminary assessment is now required for any child suspected of committing a crime, up from the previous one-month requirement.
- A clarification is made that the preliminary assessment is not a trial but rather an evaluation of the child's ability to commit the crime.
- Psychiatrists and sociologists will be on the Juvenile Justice Board, which will decide whether a 16-18-year-old juvenile criminal should be tried as an adult or not.
- Any conviction under the Act will not disqualify the child from participating in the program.
- There will be no conviction record unless it is for a particularly heinous crime.
- Instead of one-month, biological parents who give up their children for adoption will have three months to rethink their decision.

- In India, foster care is now a legal option.
- No one time will be enough for the child in institutional care to receive aftercare.
- More than one financial support is now available to any child leaving a facility for the first time.
- Interstate adoption of disabled children will take precedence.
- The board is now enlisting the help of experts in psychology and medicine in its efforts to overturn a ruling made against the child.
- The Children's Court will review minors under the age of 21 who were placed in a "place of safety" throughout the trial and after that. If the review concludes that the child has not changed, they will be placed on probation or sentenced to the balance of their sentence.

At the beginning of the Standing Committee Report, it is stated that the government conducted a proper consultation and feedback process. However, a closer examination reveals that the Ministry has not given sufficient consideration to major concerns, such as the provisions of children in conflict of law and the entire rationale for repealing the Act of 2000. According to the Committee, various crucial concerns and suggestions were not taken into account by the Ministry when drafting legislation.

Moreover, the government re-enacted the Juvenile Justice Act of 2000, which is intriguing. People questioning the principles of changing the entire act is not ludicrous. A possible explanation for the government's eagerness to pass the new law is the mounting public and media scrutiny following the 2012 Delhi rape. At the end of the day, it appears that this is more of a populist move than one motivated by a genuine need to change the law. Based on scientific research, arresting minors who commit heinous crimes does not serve as a deterrent to future child offenders. The US department 2012 stated that treating juveniles as adults did not act as a deterrent.

The term "heinous crime" has not been sufficiently elaborated to define its ambit in this legislation. Criminal offenses that carry a sentence of seven years or more are classified as "heinous" under Indian law. Even the crimes of comparatively lesser gravity, such as fraud, arson, theft, and trafficking, are included. NLSIU's Child and Law Centre have collated all heinous crimes under the Indian Penal Code, the Commission of Sati (Prevention) Act, the Narcotics and Psychotropic Substances Act, and the Unlawful Activities (Prevention) Act. There must be a definite

structure to fulfill the existing lacunae, given that the principle of a fresh start does not apply in these situations. The researcher believes that the provision for reducing the age of juveniles in heinous crimes should be limited to gruesome acts like murder and rape, depending on the facts of each case.

CONCLUSION

For more than a century, juvenile justice has been employed by governments to protect the public by constructing a system that responds to crimes committed by minors as they age into adults. States understand the differences between children and adults who commit crimes: as a group, they are less guilty and have a higher capacity for change. As a result of the rising crime rates among juveniles, new laws have been enacted regarding the ways and age at which juveniles can be sentenced. Legislators have responded to some erroneous existing laws before Juvenile Justice (Care and Protection of Children) Act 2015 by enacting stricter juvenile justice laws. Juveniles commit only a tiny percentage of all crimes in society, and these numbers haven't increased much over time. As a result, rather than enacting new laws, the emphasis should be placed on ensuring that those already in place are properly implemented. In order to carry out a proper implementation, the infrastructure and resources currently in place are inadequate. However, the government should have dealt with crumbling juvenile frameworks instead of reacting to public outcry. There is no doubting that the amount of heinous acts perpetrated by youngsters is on the rise. However, rather than locking them away, the answer lies in providing them with possibilities for education and therapeutic alternatives.

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