
RELATIONS BETWEEN CHILD ABUSE AND JUVENILE DELINQUENCY

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ABSTRACT

This paper explores a link between children exposed to abuse and domestic violence and their future delinquent behaviours using previous studies, theories, and statistics available. The author has referred to four reports of NCRB which deal with the number of cases, offences as per the International Penal Code (IPC), apprehended juveniles for committing a crime against the human body and the background of the juveniles committing the crimes in two states (Madhya Pradesh and Maharashtra) and one union territory (Delhi) respectively. The authors found that the increase in crimes committed by children in conflict with the law is higher than ever in the past three years in India. Further, there needs to be a focus on preventing such offences by children by creating a safe and healthy environment at home, focusing on healthy lifestyles wherever can be done, validating feelings and emotions and taking time to understand a child's psyche from the very beginning.

Keywords: Juvenile, delinquent, child, justice, abuse

1. INTRODUCTION

The base of the young population determines the development of any nation. For example, India has a booming population of 121.1 crores¹ and has been blessed with 25.52 crores of youth, individuals aged 15-24². In a country having a young population, there is a requirement for their education, protection, and well-being, not to secure the nation's future but primarily to secure their welfare and security. The transition from childhood to adolescence is tough; complexities of emotions and physical and mental attributes are present. They are the impressionable crowd that, if subjected to a demanding environment, would easily be persuaded in the wrong direction. Everyone goes through it; for some, it is the time for peaking in all aspects of life, while others struggle to come to terms with the changes in their bodies, their complex emotions, understanding of the world around them, changing relations, sexual desires and curiosities. There are a few who indulge in delinquent behaviours. In developing countries, there are also new pressures on young people transitioning from childhood to independence. Some of the pressures that young people face include rapid population growth, a lack of housing and support services, poverty, unemployment and underemployment among youth, a decline in local community authority, overcrowding in poor urban areas, family disintegration, and ineffective educational systems.³

This paper will explore a link between children exposed to abuse and domestic violence and their future delinquent behaviours using previous studies, theories and statistics available.

2. LITERATURE REVIEW

2.1 Research done

It is widely believed that delinquency may be a long-term behavioural consequence of child abuse.⁴ Researchers have found physically abused children to direct more aggression towards peers and adults (George & Main, 1979; Hoffman-Plotkin & Twentyman, 1984). A 2007 study⁵. In India, which included 12,477 child respondents, it classified abuse into two

¹ MINISTRY OF HEALTH AND FAMILY WELFARE, NATIONAL COMMISSION ON POPULATION, CENSUS OF INDIA 2011, pg 24, 2019.

² MINISTRY OF HEALTH AND FAMILY WELFARE, NATIONAL COMMISSION ON POPULATION, CENSUS OF INDIA 2011, pg 3, 2019.

³ U.N. Secretary-General, World Youth Report 2003, A/58/79 & E/CN.5/2003/4

⁴ Phyllis T. Howling, et al., Child Abuse and Delinquency: The Empirical and Theoretical Links, Vol. 35, 244, 245, 1990.

⁵ Neela Dabir and Mohua Nigudkar, Child Abuse: Confronting Reality, Vol. 42, 14, 16, 2007.

categories – physical and sexual abuse. Under the category of physical abuse, 2 out of 3 were physically abused, 69 per cent in 13 states, 54.68 per cent were boys, and parents abused 88.6 per cent. Under the category of sexual abuse, 53.22 per cent one or more forms of sexual abuse, 21.9 per cent were severe forms of sexual abuse, 50.7 per cent experienced other forms of sexual abuse, 5.69 per cent reported sexual assault, 7.5 per cent abusers were persons known to the child or is in a position of trust and responsibilities in the child's life. In addition, the relationship between abusive parenting and violent delinquency has been well established.⁶ (Dodge, Pettit, Bates, & Valente, 1995; Kelley, Thornberry, & Smith, 1997; Patterson, 1995; Widom, 1992).

Compared to non-abused adolescents, juveniles exposed to physically abusive and psychologically aggressive parenting have been found to have high rates of self-reported delinquency, involvement in serious and violent delinquent behaviour (Kelly, Thornberry, & Smith, 1997), arrests for criminal acts (Widom, 1992), and recidivism (National Council on Crime and Delinquency, 1999).

Adolescents exposed to abusive parenting exhibited more violent delinquent behaviour and more converted shame, and less expressed shame. However, no significant relation was found between non-abusive parenting and violent delinquency nor expressed and converted shame.

As per the above-referred research, there is an indication of a direct link between child abuse and future delinquent behaviours.

2.2 Difference between child and juvenile

There are two significant attributes to being a child – innocence and dependence.⁷ Christian morals have long been emphasising this aspect of children. The idea that children are "innocent" and, because of this, innocence and sweetness need to be protected from the harsh and sinful world has its roots in the discovery of childhood (Empey, 1978, p.8).

The United Nations defines a child as every human being below the age of eighteen years.⁸

⁶ Jason Gold, et al., The relation between abuse and violent delinquency: The conversion of shame to blame in juvenile offenders, Vol. 35, Child Abuse Negl., 459, 460, 2011.

⁷ PETER CONRAD AND JOSPEH W. SCHNEIDER, DEVIANCE AND MEDICALISATION: FROM BADNESS TO SICKNESS, 16-17, Temple University Press, 1992.

⁸ G.A. Res. 44/25, U.N. Doc. A/RES/44/25 at 24th May, 1989.

As per OHCHR, the child is any human being who is below the age of eighteen unless the law under which they are dealt with specifies that the majority is attained earlier.⁹

However, every country has defined children and juveniles differently as per the needs of society. Further, international human rights law mandates that the child's best interests are paramount, even in the context of children in conflict with the law, in layperson's terms, also known as a juvenile.

Various acts have defined children in India due to the need for a uniform definition of a child. The Child Labour (Prohibition and Regulation) Act¹⁰ defines a child as someone who has not reached the age of fourteen. The definition of age under the Child Marriage Restraint Act¹¹ is gender dependent. For women, the age limit is established at 18, while for men, the age limit is set at twenty-one. According to the Juvenile Justice (Care and Protection) of Children Act¹², a juvenile or child has not reached the age of eighteen. Another act -- Protection of Children from Sexual Offences defines a child as any person who is below the age of eighteen.

In layperson's terms, a child is any human being below eighteen, but the word juvenile is associated with child delinquents. This is because the legal term for child delinquents is 'children in conflict with law' as per the Juvenile Justice (Care and Protection) Act.

A consensus is therefore reached as per the various Conventions and acts used for the definition of the child; any person below eighteen years of age will be considered a child who must be protected from the agencies of the world, given support and security.

3. THEORIES BEHIND THE DELINQUENT BEHAVIOUR

Can there be a society without crime? Unfortunately, no, as a crimeless society is a utopian idea and is a basis of an ideal society, which can only exist in fantasy. Crime exists within society and is an integral aspect of being human and loving in a close-knit group. According to Durkheim¹³, a society cannot be crimeless as it is the basis of society, and there is a need for

⁹ Convention on the Rights of the Child Res. 44/25, at (September 2, 1990).

¹⁰ The Child Labour (Prohibition and Regulation) Act, 1986, § 2(ii), No 61, Acts of Parliament, 1986

¹¹ The Child Marriage Restraint Act, 1929, § 2(a), No 19, Acts of Parliament, 1929

¹² The Juvenile Justice (Care and Protection) of Children Act, 2015, § 2, No 2, Acts of Parliament, 2015

¹³ Emile Durkheim & Steven Lukes, *The rules of Sociological Method* (1982).

rules and regulations to control these deviant behaviours. There are various theories in criminology which explain why crime happens and what crime is.

In the case of children in conflict with the law, criminological theories are pertinent not only to hardened criminals but are even more applicable to children considering they are more impressionable and do not understand the world, nor can they understand the rights and wrongs. Thus, a need to guide them arises.

There are a few theories the author feels are plausible regarding why kids are more impressionable and prone to criminal behaviours.

3.1 Social strain theory

Merton developed this social deviance theory as to why crime occurs. According to this theory, people are driven to commit crimes due to societal pressure. These are known as social factors¹⁴. These social factors can comprise social issues such as lack of education, lack of a stable income, or people who are in poverty. According to this theory, social disability can lead individuals to commit a crime. This strain may be structural, which filters down to an individual level, and the understanding of an individual perceives his or her own needs and how far the individual might go to fulfil that needs. Strain can also be individual which is caused by pains and frictions in the individual's life and affects how that need is viewed. This usually results in the externalisation of those needs and is seen in the commission of the crime by that individual.

Children learn a lot from their environment and such social pressure on an individual and family level causes warped perceptions of rights and wrong. Since children do not have an understanding or rationale, they are prone to get affected by this strain and indulge in crimes.¹⁵ Research has further concluded that children prone to certain risk factors are more prone to commit offences as they enter adolescence.¹⁶

3.2 Differential association

The theory of differential association was given by Edwin H. Sutherland, which talks about

¹⁴ *Strain Theory – How social values produce deviance*, LIBRETEXTS SOCIAL SCIENCES, Feb 20, 2021, <https://socialsci.libretexts.org>, (last visited on 19 November, 2022)

¹⁵ D.S Elliott, *Environmental Factors Contribute to Juvenile Crime and Violence (From Juvenile Crime: Opposing Viewpoints*, NCJ 167329, 83, 85, (1997).

¹⁶ Michael Shader, *Risk factors for Delinquency: An Overview*, U.S. Department of Justice,

"peer-peer association", meaning individuals learn behaviour from their environment and imitate it in their lives. This behaviour is understood in the context of the commission of crime by juveniles. When exposed to an environment that harms their social, emotional, and physical well-being, children are put in a position where they commit crimes. This behaviour of committing crimes is as learned as any good behaviour. According to Sutherland, criminal behaviour is learned in the same way law-abiding values are learned. This learning activity is accomplished in interactions with others through a communication process within intimate groups. He argues that, just as one can be socialised into good behaviour, so also can one be socialised into bad behaviour.¹⁷ He gave nine principles in his theory, explaining this concept at length.

In the context of children committing offences, their background of child abuse or neglect results in early exposure to an environment which is fundamentally bad for their well-being. A child who has faced abuse at home of any manner becomes socially neglected; he starts to become either hyper-aware of his surroundings or does not interact in their social circles; this inadvertently results in them finding a person whose behaviour they start to idolise¹⁸. There have been many cases where a child was exposed to such behaviour at home or indulged in criminal behaviour. Since children admire their next kin or people with frequent interactions, the need to win their approval is more potent in them¹⁹This results in the commission of a crime without even understanding what kind of activity they have indulged in.

3.3 Law of insertion

According to Tarde, laws of imitation apply not only to social sciences but also to natural sciences. Imitation is the main element in social cohesiveness²⁰.

Gabriel Tarde gave the law of insertion and imitation, whose focus was on the social environment of an offender. According to him, an individual's psyche is shaped by the

¹⁷ Thomas Antwi Bosiakoh, Paul K. Andoh, *Differential association theory and juvenile delinquency in Ghana's capital city – Accra: The case of Ghana Borstal Institute*, 2(9) INTERNATIONAL JOURNAL OF SOCIOLOGY AND ANTHROPOLOGY, 198, 200, 2010.

¹⁸ Todd I. Herrenkohl, et al. *Intersection of child abuse and children's exposure to domestic violence*, 9, TRAUMA, VIOLENCE AND ABUSE, 84, 85, 2008.

¹⁹ AACAP, Role models and children (2017), https://www.aacap.org/AACAP/Families_and_Youth/Facts_for_Families/FFFGuide/Children-and-Role-Models-099.aspx (last visited Nov 19, 2022).

²⁰ Faridah Djellal, Faïz Gallouj, *The laws of imitation and invention: Gabriel Tarde and the evolutionary economics of innovation*, HAL OPEN SCIENCES, 35, 2, 2014.

environment in which the individual is. He gave three principles –

a. Law of close contact and association

Tarde stated that two individuals in proximity would learn behaviour just by being near each other.

b. Law of imitation/ inferiors imitating their superiors.

Individuals who resemble each other because they imitate each other. 'Inferior' here means an individual who is not well off. According to Tarde, imitation works from the inside individual towards the outside meaning internal models (i.e., personal goals or ideas) are imitated before external models (i.e., means or expressions). Further, imitation operates on the top to down principle – from superior to inferior (Tarde, 1890 [1993], p. 40)

c. Law of insertion

When two mutually exclusive fashions come together, one can be substituted. When this happens, there is a decline in the older method and an increase in the newer method.²¹

Studies suggest that children who have faced childhood maltreatment could predispose to risky, self-destructive or aggressive behaviours.²² When such children are continuously exposed to abuse or violence, they learn that behaviour and the outcome of it but are unable to understand the consequence of it. Further, to please their role models, they indulge in such acts, which might result in a gruesome offence as they have not yet developed complex emotions such as empathy, sympathy and grief.²³

4. FINDINGS AND RESEARCH

There has been a recent increase in the commission of the crime by the youth in India. These children are referred to as children in conflict of law. The author has referred to four reports of NCRB which deals with the number of cases, offences as per the IPC, apprehended juveniles

²¹ Margaret S. Wilson, Pioneers of Criminology I- Gabriel Tarde (1843-1904), 45 J. Crim. L. Criminology & Police Sci. 3 (1954-1955).

²² A.H. Claussen, et al. Physical and Psychological maltreatment: relations among types of maltreatment, 15, PubMed, 1991.

²³ Emotional development, <https://rwjms.rutgers.edu/departments/pediatrics/divisions/institute-for-the-study-of-child-development/research/emotional-development> (last visited Nov 20, 2022).

for committing a crime against the human body and the background of the juveniles committing the crimes in two states (Madhya Pradesh and Maharashtra) and one union territory (Delhi) respectively. As per the reports of the National Crime Bureau²⁴, crime has significantly increased in the past three years; Maharashtra had the highest rate of crime committed, followed by Madhya Pradesh in 2018. By 2020, the crime reported decreased, but by a minor number; Madhya Pradesh had the highest commission of the crime, followed by Maharashtra.

Table 4.1

State	2018	2019	2020	Total population*	Percentage
Madhya Pradesh	5232	5522	4819	287.6	16.8
Maharashtra	5880	5189	4079	361.1	11.3
Union Territory	2018	2019	2020	Total	Percentage
NCT of Delhi	2727	2783	2455	55.4	44.3

**Total population in lakhs as per the consensus of 2011.*

In another data of NCRB regarding the crimes committed as per the Indian Penal Code, 1860, in 2020, Madhya Pradesh ranked the highest, followed by Maharashtra. Out of all the Union Territories, Delhi ranked the highest.²⁵ These crimes include offences such as culpable homicide not amounting to murder, murder, causing death by negligence, dowry deaths, abetment to suicide, attempt to commit murder, attempt to commit culpable homicide, hurt, assault on women, kidnapping and abduction, and other. Out of which, the most crimes

²⁴ MINISTRY OF HOME AFFAIRS, NATIONAL CRIME RECORDS BUREAU, CRIMES COMMITTED BY JUVENILES (STATE/UT WISE) 2018-2020, (2020).

²⁵ MINISTRY OF HOME AFFAIRS, NATIONAL CRIME RECORDS BUREAU, IPC CRIMES COMMITTED BY JUVENILES (STATE/UT WISE) 2020, 2020.

committed were hurt.²⁶ Madhya Pradesh has 1693 cases, followed by Maharashtra with 978 cases and 173 cases in the NCT of Delhi. This trend was followed by assaults committed on women.²⁷ Madhya Pradesh having 293 reported cases, Maharashtra having 192 cases, followed by the NCT of Delhi with 87 reported cases. Further, the third most commissioned crime was an attempt to commit murder.²⁸ The highest number of cases reported was in Maharashtra, with 201 cases, followed by Madhya Pradesh, with 144 cases and 77 cases reported in the NCT of Delhi.²⁹

This data shows us that children in conflict with the law regularly indulged in serious crimes; the reason behind it is unsure, but this trend is unsettling to see as the criteria of a child as per the offences provided under the Indian Penal Code varies per the Juvenile Justice Act, any person below the age of eighteen is considered as a child.

Table 4.2

State	Crimes committed Table 4.2 against human body (2020)	Total states	Total crimes committed against the human body in India*
Madhya Pradesh	2560	10504	11164
Maharashtra	1723		
Union Territory	Crimes committed against the human body (2020)	Total Union Territory	

²⁶ The Indian Penal Code, 1860, § 319, No. 45, Acts of Parliament, 1860 (India).

²⁷ The Indian Penal Code, 1860, § 354, No. 45, Acts of Parliament, 1860 (India).

²⁸ The Indian Penal Code, 1860, § 307, No. 45, Acts of Parliament, 1860 (India).

²⁹ MINISTRY, *Supra* note 25.

NCT of Delhi	560	660	
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**Total crimes committed in India against the human body in 2020. The number is not in lakhs.*

In another report of 2020 given by NCRB³⁰, juveniles who were apprehended for Commissioning offences against the human body as per their age and gender, the crimes committed by boys were higher in the category of 12 years and below as well as above 12 and below 16, further in above 16 and below 18 years of age. On the other hand, the crimes committed by girls were relatively low in all age categories.

Table 4.3

Cases reported against Juveniles	Below 12 years of age		Total*
11164	Boys	Girls	107
	105	2	
Cases reported against Juveniles	12 years and above and below 16 years of age		Total
11164	Boys	Girls	2888
	2857	31	

³⁰ MINISTRY OF HOME AFFAIRS, NATIONAL CRIME RECORDS BUREAU, JUVENILES APPREHENDED (CRIME HEADS, AGE GROUPS AND GENDER-WISE) 2020, 2020.

Cases reported against Juveniles	16 years and above and below 18 years of age		Total
11164	Boys	Girls	11074
	9918	156	

**The number of offences affecting the human body is not in lakhs.*

As per table 4.3, the highest number of crimes committed by juveniles as per this report was hurt.³¹ having apprehended 5869 juveniles, followed by an assault on women³² having apprehended 1154 juveniles and further cases of attempt to commit murder³³ having apprehended 981 juveniles. The crime committed by the children in conflict with the law as per the report includes offences such as murder, culpable homicide not amounting to murder, causing death by negligence, dowry deaths, hurt, kidnapping and abduction, assault on women with intent to outrage her modesty, rape, attempt to commit rape, etc.³⁴

Another report from NCRB provided data regarding education and family background.³⁵ Of the children in conflict with the law who committed offences provided under the Indian Penal Code, 1860 and were arrested subsequently. Madhya Pradesh had the highest rate of

commission of a crime by juveniles, followed by Maharashtra. Out of all the Union Territories, Delhi had the highest crime rate. Children in conflict with law studying in primary till matric had the highest crime rate; further, the crimes committed by children living with their parents were the highest compared to children who are homeless. The total number of juveniles arrested for crimes was 32005, in all Union Territories was 3347, and all over India, it was 35352.³⁶

³¹ THE INDIAN, *Supra* note 26.

³² THE INDIAN, *Supra* note 27.

³³ THE INDIAN, *Supra* note 28.

³⁴ MINISTRY, *Supra* note 30.

³⁵ MINISTRY OF HOME AFFAIRS, NATIONAL CRIME RECORDS BUREAU, EDUCATION AND FAMILY BACKGROUND OF JUVENILES ARRESTED (2020), 2020.

³⁶ *Id.* 35

Table 4.4

State	Education					Family Background		
	Illiterate	Up to primary	Above primary to matric	Above matric to higher secondary	Above higher secondary	Parents	Guardians	Homeless
Madhya Pradesh	465	1808	2463	611	150	3520	1166	811
Maharashtra	179	1120	2774	936	71	4307	686	86
Total (M.P.)	←—————→					5497		
	5497					5497		
Total (Mh.)*	←—————→					5080		
	5080					5079		
Union Territory	Illiterate	Up to primary	Above primary to matric	Above matric to higher secondary	Above higher secondary	Parents	Guardians	Homeless
Delhi	406	995	1265	238	36	2396	289	255
Total	2940					2940		

*Maharashtra

This report when compared with the 2018³⁷ and 2019³⁸ Report of NCRB about the educational and family backgrounds of the juveniles arrested for committing offences provides us with a trend that has increased over the past three years. The crimes committed by children who live with their parents are the highest, whereas homeless children commit fewer crimes.

5. WHERE DO WE STAND?

5.1 Observation

There is a high contrast in the stereotypes attached to the commission of crimes, such as children who live in poverty or are illiterate committing more crimes. In contrast, the data collected by the government provides a stark contrast to the same. Rather than poverty or illiteracy being the reasons for the commission of crimes, the social backgrounds prove a different story altogether.

We have inculcated this belief in ourselves that people who are poor, uneducated, and not having a shelter commit crimes and that we should beware of them; society stereotypes them as a menace to society itself. Table 4.4 proves this disposition to rest, children who are given basic literacy are committing more crimes than committed to illiterate children. Further, children with stable families and living with their parents commit more offences than those who do not have a place to call home. As per the NCRB reports of 2018-2020, in the year 2018, the number of juveniles arrested was the highest, more than four thousand; in 2019, more than four thousand got arrested, and all were living with their parents, respectively. Looking at the theories, we can see a link between how the immediate social environment can affect the child's behaviour. A child living in an abusive household or witnessing even small behaviours of violence acted on by any family member is likelier to commit such acts themselves soon. This link is solidified considering that the arrested children were primary matric students, meaning somewhere in the age bracket of 5 to 12. The reason for the commission of a crime is unclear. However, this increase in crimes committed by such young children is worrisome.

As per the research stated above, there is a need to look at the background of the children in conflict with the law to prevent such behaviour at a starting stage. Therefore, the Juvenile

³⁷ MINISTRY OF HOME AFFAIRS, NATIONAL CRIME RECORDS BUREAU, EDUCATION AND FAMILY BACKGROUND OF JUVENILES ARRESTED (2018), 2018.

³⁸ MINISTRY OF HOME AFFAIRS, NATIONAL CRIME RECORDS BUREAU, EDUCATION AND FAMILY BACKGROUND OF JUVENILES ARRESTED (2019), 2019.

Justice Board tries to establish a reason to understand why a child in conflict with the law committed such an offence.³⁹ However, the J.J. Act is more focused on the regulation of such children rather than focusing on the prevention of such criminal behaviour by way of conducting awareness among them.

The law in India is child-centric prima facie, but the provisions of these laws usually benefit the state as a factor.

5.2 Conclusion

The increase in crimes committed by children in conflict with the law is higher than ever in the past three years in India. Much research has been done internationally to find a link between children falling victim to abuse in their households and future delinquency in children; such reports are but a few in India. We need to take this trend along with these international reports as a precautionary tale and look at this issue in a new light. The outlook of laws relating to children needs to be changed as well; from state-focused to child-focused is what we need as a society at this moment. Further, there needs to be a focus on preventing such offences by children by creating a safe and healthy environment at home, focusing on healthy lifestyles wherever can be done, validating feelings and emotions and taking time to understand a child's psyche from the very beginning. Children are the future of any nation and must be protected from such abuse and trauma and led into a path of happiness and morality. These small changes can lead to change in the shift in society itself.

³⁹ The Juvenile Justice (Care and Protection) Act, 2015, § 14, No. 2, Act of Parliament, 2015.