
UNIT 2 TYPES OF SOCIAL PROBLEM

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2.0 INTRODUCTION

The previous unit introduced you to social problems and the various causes of social problems. In this unit you will learn about types of social problems. Social problems affect people considerably and it is difficult to assess the rate and intensity of such problems. However, there are myriad social problems which affect social life and these problems are inter-connected with each other. In this context, the unit provides you with an understanding of problems like crime and delinquency and various measures undertaken to eradicate such problems. The problems of women are also discussed in this unit so that a sociological imagination is developed towards such sensitive issues.

2.1 UNIT OBJECTIVES

After going through this unit, you will be able to:

- Understand the concept of crime from a sociological perspective
- Learn about the various theoretical perspectives in understanding crime
- Analyse the problem of juvenile delinquency

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- Discuss the nature and extent of the problem with special reference to remedial measures
- Learn about the evil practices against women, like female foeticide, infanticide, etc.
- Explore the problem of dowry with special emphasis on the social legislations formulated in this regard

2.2 UNDERSTANDING CRIME

Fear of crime is widespread among people in many Western societies, affecting far more people than the personal experience of crime itself; as such, it constitutes a significant social problem. Criminality has been a problem confronting India and has become an important area of research in social sciences. In his classic discussion on the 'normality of crime', Durkheim (1964) argues that crime is 'closely connected with the conditions of all social life', leading him to arrive at a conclusion that there cannot be a society devoid of crime. Therefore, criminal behaviour exists in every society and it has become an important area of research for criminologists, sociologists and psychologists.

So far as the meaning of the word 'crime' is concerned, it has come from Latin 'Crimen' which means charge or offence. The Concise Encyclopaedia of Crime and Criminals defines crime as 'an act or default which prejudices the interests of the community and is forbidden by law under pain of punishment. It is an offence against the state, as contrasted with a tool or a civil wrong, which is violation of a right of an individual and which does not lead to a punishment.'¹

However, it can be said that

- Crime is an act or omission which is punishable under law.
- It is an act which is believed to be socially harmful, to which law prescribes certain penalty on the doer.
- Crime is linked with social norms, i.e., society prepares the crime and the criminal commits it.
- Crime is not vice. It is not punished as offence against God, but it is prejudicial to society.
- It is something done against the dictates of society or law and is due to a failure to adjust oneself to such dictates.

Therefore, crime implies a disturbance in social relationship. The nature of criminal and non-criminal conduct is determined by social values which the larger defining group considers important. Wherever the social equilibrium is upset, there develops crime.

¹ Scott, Hard (ed) 1961. The Concise Encyclopedia of Crime and Criminals. Andre Deutsch Ltd. London. pp 84-85.

Crime and delinquency are often used synonymously, the only difference between the two being that of age. While crime refers to offences committed at a mature age, delinquency refers to offences committed at a pre-mature age by the juveniles.

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2.3 UNDERSTANDING JUVENILE DELINQUENCY

Conflict between reason and instinct is age old in human psyche. If crime is inherent in the social setup since the beginning of human creation, children negating and deviating are no exception. Hence, deviation from the practiced social norms among children is a part of the ongoing social system. Certainly the emergence of the problem of 'juvenile delinquency' is acquiring greater dimension amidst the growing insanity of the modern society.

The phenomenal advances of science and technology in the modern age of speedy sputniks and guided missiles have tremendously shaken up the old order of human life. Human society is experiencing terrific convulsions of social change. The multi-sided dynamic developments in different fields of human thought and action are shattering the fundamental basis of social order. A well-knit family life is threatened and the established standards of social behaviour, social norms and values are undergoing metamorphosis. The continuance of this process has led to increasing deviations and abnormalities in individual behaviour. The criminal in the adult and the delinquent in the juvenile are none but the upshots of this process, the process of social disorganization and maladjustment. The problem of juvenile delinquency is a complex social problem confronting almost every society.

2.4 CONCEPTUALIZING JUVENILE DELINQUENCY

The concept of juvenile delinquency has in fact undergone a radical change and today the term 'juvenile delinquent' has such a changed connotation that a person so labelled is not subject to the jurisdiction of the normal course of criminal procedure, but to the special laws and courts that have been recently devised for him and that deal with him differently from the adult criminal. Juvenile delinquency exhibits a specific pattern of behaviour. It involves 'wrong doing by a child or by a young person who is under an age specified by the law of the place'. Phillippe Aries (1962) stated that the development of the concept of juvenile delinquency can be traced to the roots of Anglo-Saxon legal tradition. Early English jurisprudence held that children under seven were legally incapable of committing crimes (Aries, 1962). Juvenile delinquency is the manifestation of desires and urges that remain unsatisfied in the normal way. For others, it signifies misconduct but for the delinquent it is a normal response to inner desires and outer stimuli.

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The legal definition of juvenile delinquency varies from one country to another. Delinquency is after all a legal term which denotes acts of varying degrees of social consequences from mere naughtiness to a major act punishable by law. So a child is said to be a delinquent when he involves himself in stealing, vagrancy, truancy, indulging in sexual offences, assaulting etc. A child is said to be regarded technically as a delinquent when his antisocial tendencies appear so grave that he becomes or ought to become the subject of official action (Cohen, 1955).

In India, the legal tendency is to consider all young offenders usually ranging from the age of seven to twenty-one years as juveniles and the Indian penal Code uses the expression 'Juvenile offence' rather than the term delinquency. According to the Juvenile Justice Act 1986, a juvenile is defined as a male below 16 years and a female below 18 years of age. In the Encyclopaedia of Crime and Justice (1983)², juvenile delinquency has been defined as 'such conduct by children, which is violative of prohibition of the criminal law or is otherwise regarded as deviant and inappropriate in social context'. Modern concept of delinquency on the whole suggests that children who are called delinquent are delinquent primarily in terms of social laws and norms of conduct and also in their ability to conform to the social milieu.

However, the psychologists and psychiatrists do not consider delinquency as a unique form of behaviour, nor do they think that a sharp differentiation can be made between delinquents and non-delinquents. The psychological approach emphasizes upon deviant personality aspects, such as emotional instability, aggressiveness and neurotic tendencies. Psychiatrists viewed delinquency as a particular type of disorder on the basis of which a delinquent would be regarded as a disordered person. They consider delinquency to be an unfortunate expression of personality. According to Friedlander (1947), delinquency may mean to the offender an attempt

- (a) to escape or take flight from a tense, unpleasant situation
- (b) to obtain social recognition
- (c) to provide excitement and thrill
- (d) to take revenge against parents and others
- (e) to deny dependence on others
- (f) to seek off the sense of conscious or unconscious feeling of guilt

So far as the sociological approach is concerned, Warren (1962) says 'a delinquent is essentially a criminal or social offender, viewed as a social type'. Cyril Burt has defined 'a child is to be regarded as technically delinquent when his anti-social tendencies appear so grave that he becomes, or ought to have become, the subject of official action' (Burt, 1955).

² Encyclopaedia of Crime and Justice 1983 vol II, Kingpaul pp 583

Thus, the act of delinquency has been largely defined as a course of conduct of a child which is socially undesired and unrecognized. Sociologically, juvenile delinquency is regarded as an expression of internalised norms of a deviant sub-culture which places the individual in conflict with the values of society.

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2.5 NATURE AND INCIDENCE

In a developing country like India where the youth comprise a majority of population, it becomes a matter of serious concern to probe into the problem of delinquency. While commenting on the nature and extent of juvenile delinquency in India in a theoretical paraphrase, consideration is given to the peculiarities of the Indian culture and varying conditions in the Indian social institutions, which may account for differential rates of incidence of delinquency and varying societal responses.

The official source of statistics 'Crime in India' published by the National Crime Records Bureau, Ministry of Home Affairs, Government of India can provide an indication of the recent trends and dimension of the problem. It appears that in 1995, a total of 9766 crimes under IPC were registered against juveniles which constituted 0.6 per cent of the total crimes, i.e., 1695696 reported during the year, showing an increase of 13.5 per cent over 1994. There has been an increase in 1996, i.e., 10024 while in the year 2000 it has only slightly decreased to 9267.

Table 2.1 Rate of Crime in India

Year/State/U. T/City	Theft	Riots	Criminal Breach of trust	Cheating	Counterfeiting	Other IPC crimes	Total Cognisable crimes.
1991	4638	1270	21	47	2	4139	12588
1995	2835	955	33	54	1	3869	9766
1996	2356	856	18	60	-	4708	10024
1997	1975	513	16	43	1	3553	7909
1998	2143	574	19	32	-	4576	9376
1999	2172	509	13	31	7	4197	8888
2000	2388	532	24	37	3	4355	9276

Source: Statistical Abstract India 2002

The Regional Monitoring Reports pay close attention to gender inequalities and to point to opportunities to redress historical imbalances. In case of juvenile crimes, the gender gap is being closed because of an expanding role of young female offenders. But so far as the Indian scenario is concerned, of all IPC crimes in 1991, i.e., 15927, crimes committed by boys were 13213 and girls 2714. This trend has decreased in the year 2000, i.e., of 12040 IPC crimes reported, the crimes committed by boys was 9193 and girls 2847. Women, however, are less inclined to break the law due to the sex-role

socialization they undergo from birth onwards. And, although girls are also encouraged to begin to grow up, they continue to be subjected to close parental attention.

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On the other hand, when we make an analysis of the regional variation in delinquency it can be said that delinquency is largely an urban phenomenon. The most alarming trends in the region are the rise in the number of violent acts committed by young people, the increase in drug-related offences, and a marked rise in female juvenile delinquency.³

2.6 THEORETICAL CONCEPTION OF CRIME AND DELINQUENCY

Over the past few decades sociological research on crime and juvenile delinquency has led to the development of some theoretical perspectives on the understanding of the phenomenon of deviance. Many theories have been propounded by psychologists, psychiatrists, lawyers, philosophers and sociologists to comprehend criminal behaviour. Generally, all the aforesaid theories may be put under three broad categories: Biogenic, Psychogenic and Sociogenic.

Biogenic Theories: Biogenic or Physiological theory emphasize on heredity or biogenic aspects of criminal behaviour. According to this theory, some individuals are more prone to crime than others because of their genetic make-up. The biogenic theory of Lombroso is considered to be first scientific analysis of crime causation in the field of criminology. The biological type delinquent would be a special category of human being different in physique, physiognomy and mentality from the law-abiding citizen. Lombroso emphasized on the biological causes of crime and suggested overall criminal types such as criminals by passion and occasional criminals and also said that criminals were born as such. He talked of the 'born criminal type'. The modern supporters of genetic theories of crime are, however, more cautious than their predecessors. They do not suggest that an individual is a total prisoner of his genes. Instead, they argue that genetically based characteristics predispose an individual to criminal behaviour. Eysneck too states that heredity is a very strong predisposing factor as far as committing crime is concerned (Eysneck, 1964).

Psychogenic Theories: The central hypothesis guiding psychogenic investigation is that the critical causal factors in delinquency centre around personality problems to which juvenile misbehaviour is presumed to be a response. These theories advocate criminality to be the intent of mind, which is a consequence of personality make-up of an individual. Henry Goddard

³ The Global Situation of Youth in the 1990s: Trends and Prospects: NY: UN Center for Social Development and Humanitarian Affairs, 1993.

stated in 1919 that feeble-mindedness is the greatest single cause of delinquency. Feeble-mindedness according to him is inherited and is little affected by life events. William Healy, a psychiatrist in Chicago, found that juvenile delinquency is caused by defective personality and psychogenic factors, i.e., mental disorder or emotional disturbances. He observed that there was a greater frequency of personality disorders among delinquents than among non delinquents. Healy and Bronner (1926) focussed their research on the individual, his conflicts and his early family relationship and the way such factors influenced criminal behaviour.

Psychological theories argue that in the genesis of juvenile delinquency, something must have gone wrong in the socialization, involving emotional disturbance which leads to the formation of maladjusted personality traits.

Sociogenic Theories: The Sociogenic theories treat delinquency as inter-related with the social and cultural systems of society. Sociologists argue that delinquent behaviour is learned and is conditioned by the social environment. Some of the major sociological theories of delinquency are:

Sutherland's Theory of Differential Association

Edwin Sutherland propounded his theory in 1939 in 'Principles of Criminology'. The concept of differential association appears in his explanation of 'systematic criminality' as a result of interactional process. Sutherland hypothesized that criminal behaviour is learned in a pattern of communications as persons acquired patterns of lawful behaviour. This theory is called the theory of differential association. He felt that criminal behaviour is not inherited and he who is not already trained in crime does not indulge in criminal behaviour. Rather criminal behaviour is learned in interaction with other persons especially within intimate personal groups.

Merton's theory of Social Structure and Anomie

Merton attempted to explain deviant behaviour in terms of social and cultural structures. The cultural system of society enjoins all members to strive for goals by means of normatively regulated or accepted forms of behaviour. However, since the members of society are placed in different positions in the social structure—for example they differ in terms of class position—they do not have the same opportunity to reach to these goals through socially approved means. Thus, means of goal realization are unequally distributed in the society. This situation can generate deviance. Merton outlined five possible way in which member of a society can respond to success goals: conformity, innovation, ritualism, retreatism and rebellion.

Cloward and Ohlin's Theory of Differential Opportunity

Richard A. Cloward and Lloyd. E. Ohlin combined Sutherland's and Merton's theories and developed a new theory of delinquent behaviour in 1960. Cloward

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and Ohlin argue that Merton has only dealt with half of the picture. He has explained deviance in terms of the legitimate opportunity structure but failed to consider the illegitimate opportunity structure.

Cloward and Ohlin have identified three types of delinquent sub-cultures: the criminal sub culture, the conflict sub-culture, and the retreatist sub-culture. Criminal sub-culture tends to emerge in areas where successful and big time criminals reside and they have a high status in the conventional community and mutually acceptable relation with political machines and law enforcement officials. This sub-culture does not manifest violence. Criminal sub culture is mainly concerned with 'utilitarian crime' which produces financial rewards.

Cohen's Theory of Delinquent Sub-culture

Cohen's work is a modification and development of Merton's theory. In Merton's view delinquency is an individual response to his position in the class structure but in Cohen's view delinquency is a collective response of individuals. Cohen holds that Merton has failed to account for 'non-utilitarian' crime such as vandalism and joy riding which do not produce monetary reward. His theory mainly deals with the problems of status adjustment of working class boys. Cohen believes children learn to become delinquent by becoming members of groups in which delinquent conduct is already the accepted practice. He sees a 'delinquent subculture' persisting most conspicuously in slum areas through transmission of beliefs, values and knowledge down a succession of juvenile groups.

Howard. S. Becker's Labelling Theory

Howard Becker propounded his theory in 1963 which does not deal with the question as to why a person becomes a criminal but agrees the society labels some people as criminals or deviants. According to him, the criminal or deviant is one to whom the label has been successfully applied, deviant behaviour is a behaviour that people so label. Becker suggests that in one sense there is no such thing as a deviant act. An act only becomes deviant when others perceive and define it as such. For instance, some persons who drink heavily are called alcoholics while others are not. Thus, there is nothing intrinsically normal or deviant. It only becomes deviant when other label it as such whether or not the label is applied will depend on how the act is interpreted by the audience. This in turn will depend on who commits the act when and where it is committed, who observes the act and the negotiations between the various actors involved in the interaction situation. Initially, the individual is labelled as deviant. This may lead to his rejection by his family and friends, lose his job and be forced out of the neighbourhood. This may encourage further deviance. The deviant is denied the ordinary means of carrying on the routines of everyday life open to most people. Because of this denial, he develops illegitimate routines. He joins the gang that supports

and justifies his activities and identities. The young person is socialized into the criminal sub-culture and becomes a full criminal.

Walter B. Miller's Lower Class Culture Theory

The theory of cultural transmission has also been developed to explain the occurrences of juvenile delinquency by Miller in 1958. The theory suggests that delinquent traditions are believed to be transmitted from one generation of the youth to the next. According to Miller, delinquency is associated with class culture. The delinquent is associated with class culture. The delinquent is a product of the influence of specific conditions and circumstances. Miller, in his study of lower-class structure, has attempted to show that delinquent behaviour of the lower class boys may be treated as response to a distinct lower-class sub-culture.

Miller appears to be in total disagreement with Cohen so far as the latter relates delinquent behaviour of the lower class boy to 'reaction formation' against the middle class values which they fail to attain. As against this, Miller propounds that delinquent behaviour of the lower-class boys is a product of their socialization into the specific type of lower class values that are inherent in the lower class. Miller describes six 'focal concerns' of the lower class culture. They are: trouble (avoidance of complications with official authorities), toughness (physical prowess, masculinity and bravery), smartness (capacity to outwit and dupe others), excitement (to be sought through alcohol, sexual adventure and gambling), fate (belief that life is governed by the forces beyond individual's control) and autonomy (I don't need anybody to take care of me).

Drift Theory of David Matza

David Matza, 1957 also contributed and introduced new vigour into sociological discussions relating to delinquency and social deviance. In collaboration with Gresham Skyes, Matza published his work *Techniques of Neutralisation*, 1957 which later on became a part of the standard literature on delinquency. The delinquent, according to their theory, merely stretches a series of such defences far beyond acceptable limits, thereby providing himself with the justification of delinquent behaviour and at the same time neutralizing both internal and external disapproval in advance. In other words, unequivocally committed to any set of antithetical values the delinquent himself gives a series of definitions favourable to violation.

The delinquents, in spite of their out of the way behaviour may have continuing commitment to convention. Many of the 'delinquent' values are merely expressive analogues of subterranean values embodied in the leisure activities of the dominant society. Matza holds the view that deviants of all kinds must be regarded as subjects rather than objects as acting and self reflecting rather than merely reacting to the contact of external stimuli.

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2.7 CAUSAL FACTORS OF JUVENILE DELINQUENCY

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Juvenile delinquency has become one of the baffling problems in India. In the trail of rapid changes, especially those of urbanization and industrialization, social and pathological problems like juvenile delinquency have manifested themselves in an alarming manner. The important factors that are mainly responsible for the causation of juvenile delinquency and anti-social propensities include economic, personality, and environmental factors.

Poverty may not be direct cause of delinquency but its unwholesome effects on the child may be disastrous. Feeling of inadequacy, frustration and emotional insecurity play a dominant role in giving rise to anti-social propensities. Truly, no child is a born anti-social and in fact delinquency is acquired through a learning process. In other words, techniques relating to commission of crime are learnt through association with criminals alone.

Economic factors often play an important role to indirectly give rise to the problem of delinquency and anti-social tendencies. Owing to the abject poverty, unemployment, under employment, social ostracism among different sections of people takes place from rural to urban, thus swelling the enormous floating population. They settle down in undesirable areas without adequate amenities and as such, slums grow in course of time with an unfavourable environment. A strange culture prevails without any social norms. In other words, there is total anomie or normlessness.

In developing countries like India, the problems of rural urban drift, poverty and deprivation have adversely affected substantial segments of youth population.

Like family, which play a dominant and primary role in socialization of child, the school has also a very important role in moulding the personality of the child. It provides the most important opportunity to a child for the development of his social attitude. The child gets his first exposure at school with the outside world, which was hitherto unknown to him. Some important factors like low-socio-economic status of the family, low intelligence, lack of motivation, poor school performance, personality defects, lack of extracurricular activities, lack of sense of belonging to the school etc adversely affect the attitude of the child towards his school.

Nowadays films in general depict intolerance and violence which have lasting effects on the impressionable minds of young children. Sometimes the child may develop a sense of curiosity and seek to put into practice whatever they have witnessed in cinema halls and other televisions at home. Moreover, easy access to pornographic publication and trash obscene writing

and paintings pollute the impressionable minds of young persons. Gradually, they may develop a tendency which is inimical to the interest of their studies and other aesthetic pursuits.

2.8 REMEDIAL MEASURES FOR DELINQUENCY PREVENTION

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Delinquent behaviour among children has increased in spite of technological and scientific advancements in our society. The concern of the society with the problem of juvenile delinquency has two dimensions; the first focuses attention on the child, whose protection and care is the primary duty of the society, the other is the protection of the society itself because juvenile delinquency is a symptom of social pathology and social disorganization. Therefore, efforts should be made for early treatment of juvenile delinquents. The age old traditional informal system of social, cultural and emotional society provided by joint family and a well-knit community organization is now on the verge of collapse. It has been therefore necessary to provide for legal safeguards to ensure protection of rights of the child and other related issues. However, two types of methods are proposed to treat delinquency, Preventive and Rehabilitative.

Preventive Measures

These measures include the creation of a team work of private and Public Agencies devoted to preventive work; for instance, the establishment of schools, churches, group work agencies like scouts and guides etc. The careful training of members and staff of all organizations concerned with delinquency control is essential in order to enable them to recognize the potential threats and bring parents and youth in contact with the agency which has facility to help them. Apart from this the establishment of child guidance clinics are necessary for the treatment of maladjusted children. Schools, churches and other character building agencies should be encouraged to serve the under-privileged children. Other preventive measures can be taken by propaganda, i.e., newspapers, magazines, television and motion pictures should interpret juvenile delinquency in terms of honest reports about causes and protection of youth rather than focussing on sensational issues.

Rehabilitative Measures

Programmes before Independence

1. **Apprentices Act of 1850:** This was one of the earliest steps undertaken in this direction which was intended for the benefit of children, especially orphans and poor children, to train them for traders, crafts and employment by which they may gain a livelihood.

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- 2. Reformatory Schools Act of 1897:** This act empowers the courts to send a young offender sentenced to imprisonment for detention in a reformatory school for a period not less than three years or more than seven years. A person is not detained after he attains the age of 18. This act was imbued with the spirit of reformation and provided that the reformatory schools might be established and youthful offenders might, at the direction of the sentencing court, be ordered to be detained in such a school for three to seven years instead of undergoing a sentence of imprisonment. However, this act did not make any provision for dealing with girls though the original Act 1876 made provisions for both boys and girls.

Programmes after Independence

- 1. Juvenile Courts:** Juvenile courts have been established in some states to try and convict specifically the juvenile delinquents. The main features of juvenile courts are in formality of procedure, de-emphasis on deterrent or retributive justice, protection and rehabilitation of juvenile and use of socialized treatment measures.
- 2. Remand Homes or Observation Homes:** These homes are meant for the children during pendency of trial in the courts, but they are also used for keeping the homeless, destitute and neglected children. These homes are viewed more as observation homes than as places of detention. These homes are mostly managed by welfare agencies with government assistance.
- 3. Certified or Reformatory Schools:** Juveniles given detention orders by the court are kept in Reformatory Schools for a period of three years and a maximum period of seven years. These schools are meant for education and vocational training of delinquent children with regard to the type of crime committed.
- 4. Borstal Schools:** Such schools were created in 1920s for the segregation of adolescent offenders from the adults so that correction services are free from the authoritarian atmosphere. Borstal Schools were established for youthful offenders in the age group of 16-21 years and term in a borstal school is from 2-3 years.
- 5. Probation Homes:** These institutions established under the Probation of Offenders Act are meant to provide residential care and treatment to the offenders released under probation under the supervision of a probation officer. The inmates are given complete freedom to move out and also take up certain jobs of their choice.

Legal Interventions

The Apprentices Act of 1850 was the first effort to introduce juvenile legislation in India. It was for the betterment of children who committed petty offences. The main purpose of this act was to regulate the relations

between employers and employees. It also dealt with the children between the ages of 10 and 18 years who had committed petty offences or were destitute. This act empowered magistrates to commit such children as apprentices to employers and provided for controlling the relations between them. The act was intended for the benefit of children, especially orphans and poor children brought up by a public charity to train them for trades, crafts and employment by which they may earn livelihood when they attain majority.

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The Indian Penal Code 1860 enacts a conclusive presumption of innocence in children under seven years of age. It has recognized separate status of children. Section 82 provides that no child under seven can be convicted of any offence.

The Code of Criminal Procedure was enacted first in 1861 which was later modified in 1898. Section 29 (B), 399 and 562 referred to children and young persons up to the age of 21 years. Section 29 (B) of the code provided that any person under 15 years of age who had committed an offence not punishable with death or transportation, could be tried by a District magistrate or Chief Presidency Magistrate or any Magistrate empowered under the Reformatory Schools Act 1897. Thus it restricted the jurisdiction of ordinary courts in the trial of juvenile delinquents.

The Criminal Tribes Amendment Act 1897 provided for the establishment of industrial, agricultural and reformatory schools for the children of criminal tribes between ages of four and eighteen years. The government was empowered by this act to remove the children of this age group from the criminal tribes settlements and place them in a reformatory established under this act.

The Indian Jail Committee (1919-1920) appointed by the government of India under British rule brought out a detailed report of its observations and recommendations. It emphasized that the child offender should be given different treatment from that of the adult. It held that imprisonment of child offenders should be prohibited. It recommended the provision of Remand Homes, Children's Courts, and Certified Schools which approximate to ordinary schools.

After Independence in 1947 the government initiated various activities of nation-building. A new emphasis was laid on child development and a number of schemes were also undertaken to improve the conditions of children in distress and adequate measures were being taken to deal with those who came in conflict with law. The government of India enacted the Children Act, 1960 for enforcement in the Union Territories.

Juvenile Justice Act 1986

The Juvenile Justice Act 1986 replaced the children's acts, formerly in operation in the States and Union Territories. It came into force in 1987 on a

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uniform basis for the whole country. The Preamble of the Juvenile Justice Act states that the act is to provide for the care, protection, treatment, development and rehabilitation of neglected and delinquent juveniles and adjudication of certain matters relating to disposition of delinquent juveniles. Under JJ Act 1986, juvenile means a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years.

The act has provided for the classification and separation of delinquents on the basis of their age, the kind of delinquency and the nature of offences committed by them. The Juvenile Justice Act does not directly deal with child sexual abuse but the definition of a neglected juvenile who lives in a brothel or with a prostitute or who is likely to be abused or exploited for immoral or illegal purposes. The JJ Act binds itself only to matters regarding the relationship between the government and the children, the parents, relatives, school and community; it does not have any role in care and nurture of the child.

Juvenile Justice (Care and Protection of Children) Act 2000 (JJ Act 2000)

The ratification of Convention on the Rights of the Child 1989 by India in 1992 and the social attitudes towards criminality by children reflected in Supreme Court decisions like the cases of Amrutlal Someshwar Joshi, Ramdeo Chauhan and Arnit Das⁴, and the need for a more child friendly juvenile justice system were some of the factors that led to the passing of the Juvenile Justice (Care and Protection of Children) Act 2000. In this Act, 'juvenile' or 'child' means a person who has not completed eighteenth year of age (Section 2 (K)) whereas the juvenile in conflict with law means a person who is alleged to have committed an offence(Section 2(1)). Thus, there are two distinct categories of children under this act.

- 'Juvenile' for children in conflict with law
- 'Child' for children in need of care and protection

This act also covers mentally and physically disabled children; sick children or children suffering from terminal diseases or incurable diseases having no one to support or look after them; children who are abused or tortured and children victimized by armed conflict or natural calamity.

CHECK YOUR PROGRESS

1. Define crime.
2. How is criminality explained?
3. What is juvenile delinquency?
4. List the factors responsible for delinquency among children

⁴ (1994) 6 SCC 488,(2000) 7 SCC 455,(2000),5 SCC 488

2.9 EVIL PRACTICES AGAINST WOMEN

Gender inequality and gender bias has been perennial problems confronting women in India. Discrimination and exploitation on the basis of gender constitutes a serious issue which clearly signifies that half of the human race is unable to realize its full potential and condemned to optimal standards of existence. One of the most serious impediments to women's development is the phenomenon of continuing and increasing violence against women—gender violence, which manifests in various forms like female foeticide, infanticide, sexual abuse, dowry, sexual harassment at workplace, domestic violence, assault, wife battering, etc. The National Crime Records Bureau also has reflected upon the increasing crime against women. Some of the evil practices against women in India are discussed now.

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2.10 FEMALE FOETICIDE

The discrimination against women and the preference for sons has given rise to female foeticide in India. With advancements in science and technology, techniques have evolved to select the sex of the foetus before or after conception. Female foeticide has definitely distorted the sex ratios in India. Sex selective abortions have continued to increase in India and it includes both rural and urban areas. Various techniques pertaining to sex-determination and pre sex selection have been developed since many years. Techniques such as fonography, fetoscopy, needling, chorion biopsy, and the most popular one, amniocentesis are increasingly becoming household names in India (Ravindra, 1986 quoted in Vibhuti Patel 1996). Factors such as poverty and dowry play an important role in people's preference for a male child.

2.11 FEMALE INFANTICIDE

Female infanticide is an act of eliminating girl child. It is a deliberate and intentional act of killing a female child within one-year of its birth either directly by using poisonous organic or inorganic chemicals or indirectly by deliberate neglect to feed the infant by either one of the parents or other family members or neighbours or by the mid-wife. Infanticide is the 'killing of an entirely dependent child under one year of age who is killed by mother, parents or others in whose care the child is entrusted' (Kolor, 1990). However such practices are deeply rooted in the socio-cultural milieu of Indian society. Many systems prevalent in India like the dowry, social customs, low position of women have all contributed to give rise to such inhuman practices against the girl child.

Drawing a historical trajectory of such practices provides enough evidence where atrocities on girl child are perpetrated. Desai (1988) reported

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that female infanticide was so widespread in Jadeja (Rajput) families of Kutch and Saurashtra that only five such families were found who had not killed their 'new-born' daughters. Prevalence of female infanticide in post-independence period was reported from Madurai district of Tamil Nadu (South India), Bihar, Rajasthan, Orissa and Maharashtra.

According to Crime in India (2000) foeticide cases reported an increase by 49.2 per cent over previous year and infanticide cases increased by 19.5 per cent over previous year

Table 2.2 Incidence of Female Foeticide and Female Infanticide in India

SL.No	State/UT	Foeticide		Infanticide	
		I	P	I	P
	STATES				
1	Andhra Pradesh	8	8.8	8	7.7
2	Assam	0	0.00	4	3.8
3	Bihar	1	1.1	4	3.8
4	Gujarat	0	0.00	4	3.8
5	Haryana	13	14.3	1	1.0
6	J and K	0	0.00	1	1.0
7	Karnataka	1	1.1	2	1.9
8	Kerala	0	0.0	2	1.9
9	Madhya Pradesh	14	15.4	31	29.8
10	Maharashtra	41	45.1	20	19.2
11	Orissa	1	1.1	0	0.0
12	Punjab	0	0.0	6	5.8
13	Rajasthan	9	9.9	5	4.8
14	Sikkim	0	0.0	3	2.9
15	Tamil Nadu	0	0.0	8	7.7
16	West Bengal	0	0.0	2	1.9
	UNION				
	TERRITORIES				
17	Chandigarh	1	1.1	0	0.0
18	Delhi	2	2.2	2	1.9

Source: Crime in India 2000 (pp 216)

2.12 DOWRY: A SOCIAL EVIL

The evils of dowry have acquired menacing proportions in the social system of India cutting across caste, creed and religion. What really started from the noble gesture of the parents willingly imparting a reasonable sum of money to their daughters at the time of marriage mainly to assist her to start a new

life has to today acquired very horrifying and demeaning dimensions, leading often to murders or physical or mental torture to newly married girls. In many traditional societies, some transfer of money, goods and services accompany the initiation of marriage. When these transfers are made from brides and their families to groom and their families, they are broadly classified as dowries. A transfer in the opposite direction, from grooms and their families to brides and their families, commonly found in polygamous societies with well-defined property rights is generally called a bride-price (Bergstrom, 1993). Both dowry and bride-price have a patterned distribution world-wide.

Tambiah defines dowry as 'Wealth given to a daughter at her marriage for the couple to use as the nucleus of their conjugal estate, by and large we can say that dowry in India and Ceylon (Sri Lanka) the notion of female property (Streedhanam) which technically is her property and in her own control though the husband usually has rights of management' (Kumari, 1982).

In the Dowry Prohibition Act, dowry includes any property or valuables given or agreed to be given directly or indirectly (1) by one party to a marriage to the other party to the marriage, or (2) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person at or before or after the marriage.⁵

The definition in law does not include any presents made at the time of marriage to either party to the marriage in the form of cash or other consumer items. Nor does it include the woman's exclusive owned property. With only very rare exceptions, a woman's dowry consists only of 'movable' property (jewellery, gold or silver, consumer items, etc.) and not land or buildings ('immovable' property). Inheritance of property is not legally forbidden for women, but it rarely occurs due to social forces and Hindu tradition.

The dowry system has always given rise to innumerable socio-economic problems having far reaching consequences. Of late, numerous incidents of bride-burning, harassment and physical torture of the young brides and various kinds of pressure tactics being adopted by husbands/in-laws pressurising for more dowry have compelled the social reformers and the intelligentsia to give serious thought to the various aspects connected with the very institution of dowry (Sachdeva, 1998). Legislation by itself cannot normally solve the problem but it is necessary to exercise educative impact besides providing legal sanctions against this social evil.

It is in this context the Dowry Prohibition Act 1961 was enacted and the Dowry Prohibition Amendment Act, 1984 was passed in order to make necessary improvements in the previous act. It came into force on 2 October 1985 requiring that lists shall be maintained in writing and shall contain a

⁵ In Shailendra Kumar Awasthi and Uma Shanker Lal, Law relating to Dowry Prohibition Act 1961, 1984 ed (Allahabad: National Law Agency, 1984).

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brief description of each present, its approximate value, the name of the person who has given the present, and whether the person giving the present is related to the bride or bridegroom a description of such relationship, and shall be signed by both the bride and bridegroom (Sachdeva, 1998).

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The Dowry Prohibition Amendment Bill 1984, widens the scope for legal action while the 1961 act stipulated that 'no court shall take cognisance of any such offence except on a complaint within one year', the amendment drops the time limit for making the complaint. Also it permits cognisance on the basis of knowledge, the court itself may have, or on the basis of police reports, or on complaint from parents, relatives or of a state recognized welfare institution or organization. However dowry offences continue to be non-cognisable except for purposes of investigation, and remain bailable and non-compoundable.

In spite of the formulation of these acts dowry inflation has persisted despite its illegal standing. Many studies conducted in India show the increasing trend of dowry payments. The custom of dowry payments has spread geographically and socially throughout India into regions and communities in which it was never practiced before. (Srinivas, 1980, Sharma, 1984, Paul 1985, Kumari 1989). the social consequences of this increase in dowry payments are severe. The sums of cash and goods involved are often so large that the payment can lead to impoverishment of the bridal family. This has a devastating effect on the lives of unmarried women, who are increasingly considered burdensome economic liabilities. The custom of dowry has been linked to the practice of female infanticide and among married women to the more obvious connection with bride burning and dowry death, in other words, physical harm on the wife if promised dowry payments are not forthcoming. The National Crime Records Bureau of Government of India reports approximately 6000 dowry deaths every year. Though several reasons are there for the prevalence of dowry system in India, the main one is that it is considered a necessary pre-condition for marriage. It is taken as a normative custom and dowry harassment has become a part of family life.

However, in spite of the legal intervention the reality of Indian women, mainly from the middle and lower income groups has remained unchanged. many suggestions would include equal property rights for women, fixing a ceiling on marriage expenses and gifts as percentage of annual income as recommended by a Joint Parliamentary Committee in the early 1980s. Others would include encouragement of inter-caste and self-choice marriages, actions against advertisements and media programmes that promote son preference and including gender sensitization in school curricula from primary level. But all this is possible only when a political and economic dispensation seeks to radically alter the status of women by changing the present path of development that glorifies profit by means and material possessions above

human happiness to one that is in consonance with egalitarianism and gender justice is created by popular will. Unless people become progressive in their outlook, less orthodox in their ways and more revolutionary in their ideas dowry will remain the bane of our society.

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CHECK YOUR PROGRESS

5. How is delinquency combated in India?
6. What is gender violence?
7. How big a social problem is dowry?

2.13 SUMMARY

- Fear of crime is widespread among people in many Western societies, affecting far more people than the personal experience of crime itself; as such, it constitutes a significant social problem.
- Conflict between reason and instinct is age old in human psyche. If crime is inherent in the social setup since the beginning of human creation, children negating and deviating are no exception.
- The concept of juvenile delinquency has in fact undergone a radical change and today the term 'juvenile delinquent' has such a changed connotation that a person so labelled is not subject to the jurisdiction of the normal course of criminal procedure, but to the special laws and courts that have been recently devised for him and that deal with him differently from the adult criminal.
- In a developing country like India where the youth comprise a majority of population, it becomes a matter of serious concern to probe into the problem of delinquency.
- Over the past few decades sociological research on crime and juvenile delinquency has led to the development of some theoretical perspectives on the understanding of the phenomenon of deviance.
- Juvenile delinquency has become one of the baffling problems in India. In the trail of rapid changes, especially those of urbanization and industrialization, social and pathological problems like juvenile delinquency have manifested themselves in an alarming manner.
- Delinquent behaviour among children has increased in spite of technological and scientific advancements in our society. The concern of the society with the problem of juvenile delinquency has two dimensions; the first focuses attention on the child, whose protection

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and care is the primary duty of the society, the other is the protection of the society itself because juvenile delinquency is a symptom of social pathology and social disorganization.

- Gender inequality and gender bias has been perennial problems confronting women in India. Discrimination and exploitation on the basis of gender constitutes a serious issue which clearly signifies that half of the human race is unable to realize its full potential and condemned to optimal standards of existence.
- Female infanticide is an act of eliminating girl child. It is a deliberate and intentional act of killing a female child within one year of its birth either directly by using poisonous organic or inorganic chemicals or indirectly by deliberate neglect to feed the infant by either one of the parents or other family members or neighbours or by the mid-wife.
- The evils of dowry have acquired menacing proportions in the social system of India cutting across caste, creed and religion. What really started from the noble gesture of the parents willingly imparting a reasonable sum of money to their daughters at the time of marriage mainly to assist her to start a new life has to today acquired very horrifying and demeaning dimensions, leading often to murders or physical or mental torture to newly married girls.

2.14 KEY TERMS

- **Crime:** Act which is believed to be socially harmful to curb, and for which law prescribes certain penalty on the doer.
- **Juvenile delinquency:** Offence or misdeed, usually of a minor nature, one committed by a young person.
- **Gender inequality:** Refers to the obvious or hidden disparities among individuals based on gender.
- **Infanticide:** Practice of intentionally killing an infant.
- **Female infanticide:** Practice of intentionally killing an infant of the female gender.
- **Dowry:** Present given to a new husband by the bride upon marriage. It took the form of land, goods, or money.

2.15 ANSWERS TO 'CHECK YOUR PROGRESS'

1. Crime is an act or omission which is punishable under law. It is an act which is believed to be socially harmful to curb, and for which law prescribes certain penalty on the doer.

2. Criminality is explained through various theories, biological, psychogenic and sociogenic theories.
3. Juvenile delinquency is such conduct by children, which is violative of prohibition of the criminal law or is otherwise regarded as deviant and inappropriate in social context.
4. There are various factors like economic factors, personality factors and environmental factors which are responsible for delinquency among children.
5. Various preventive and rehabilitative measures are undertaken in order to combat delinquency in India. Juvenile Justice Act 1986 is an important step in the legal intervention of delinquency.
6. Gender violence manifests in various forms like female foeticide, infanticide, sexual abuse, dowry, sexual harassment at workplace, domestic violence, assault and wife battering
7. The phenomenon of dowry has been a severe social problem confronting India and has menacing proportions cutting across caste, creed and religion.

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2.16 QUESTIONS AND EXERCISES

Short-Answer Questions

1. Write a short note on the meaning of crime.
2. What do you mean by juvenile delinquency?
3. What are the various measures undertaken for the prevention of delinquency?
4. Outline the various practices against women in India.
5. Write a short note on dowry.

Long-Answer Questions

1. Discuss the various theories of crime.
2. Explain the difference between delinquency and crime.
3. Discuss the various causes of delinquency in India.
4. Elaborate on female foeticide and infanticide.
5. Analyse the nature of social legislation formulated for the prevention of dowry.

2.17 FURTHER READING

NOTES

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UNIT 3 COMMUNALISM

Structure

- 3.0 Introduction
- 3.1 Unit Objectives
- 3.2 Conceptualizing Communalism
- 3.3 Incidence of Communal Violence and Riots
- 3.4 Theoretical Approaches
- 3.5 Causative Factors
- 3.6 Preventing Communalism: Is Secularism the Way Out?
- 3.7 Summary
- 3.8 Key Terms
- 3.9 Answers to 'Check Your Progress'
- 3.10 Questions and Exercises
- 3.11 Further Reading

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3.0 INTRODUCTION

India has been a society of which has a deep history of external aggression. Indian society has been the finest example of accommodation and assimilation with the alien cultures in spite of their resentment to the outside forces. In a plural society like India such co-operative activities sometimes have been reasons for insecurity. The period of Mughal Dynasty that preceded colonial rule was a turbulent period witnessing wars and upheavals. Moreover, the divide and rule policy of the British sowed the seeds of communalism.

The term communalism came to be first used by the British in the context of colonies like India where substantial religious minorities existed alongside a religious majority. This specific connotation had a certain element of divisiveness and bigotry and the term, with its negative specifications continued much after the partition and post-independence era. The term communalism was first used in the Indian context during the debate on Minto-Morley and Montagu-Chelmsford Reforms. References were made these debates to 'communal feeling' and 'communal principle', of representation of the different religious communities.¹

Communalism has been a problem in India for quite some time. Some imperialists have tried to utilise it and have made it as a part of their policy of 'divide and rule'. As a national liberation movement drew near its goal, communalism spawned the pernicious 'two-nation' theory. It ultimately led to the partition of India. The upsurge of communalism based on the *mandir-masjid* issue distorted the feelings of nationalism among the Indian masses thereby undermining the spirit of harmony.

¹ Gyanendra, Pandey, *The Construction of Communalism in Colonial North India*, Oxford University Press, Delhi, 1990 pp8.

3.1 UNIT OBJECTIVES

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After going through this unit you will be able to:

- Understand the concept of communalism
- Learn about the various types of communalism
- Analyse the historical roots of communalism
- Examine the causes of communalism
- Develop a theoretical understanding towards the issue of communalism.
- Understand the various measures to prevent communalism.
- Exploring the way out for communalism.
- Analysing the concept of secularism and fundamentalism

3.2 CONCEPTUALIZING COMMUNALISM

Communalism can be conceptualized as an ideology which is based on blind loyalty towards one's own religion and at the same time antagonism against the other religion. Such an ideology divides the society into religious groups who have differing interests and their interests are sometimes opposed to each other. Communal people practice politics through religion.

Historical constructions were clearly part of a more general assertion of community and status by many different groups and classes. What such assertions and counter assertions did paradoxically was to transform the very sense of 'community' and redefine it at every level. In an earlier period the discourse of community had perhaps been stronger, in the sense of being more universal and unchallenged by any other discourse. At the same time, however, the sense of the individual community had also been 'fuzzier'-capable of apprehension at several different levels of sub-caste, sect, dialect and other regional and religious groupings and not greatly concerned with numbers or the exact boundaries between one community and the next. Much of this survived...into the late nineteenth and even the twentieth century. But the balance of forces was against its long survival in old form. The new 'communities' were now more often territorially more different than before, less tied to a small locality, less parochial, on account of the changes in communications, politics and society more generally. They were at the same time historically more self conscious, and very much more aware of the differences between themselves and others, the distinction between 'us' and 'them' (Pandey, 1990).

It can be said that such a construction of differences culminates in 'communal violence'. Communalism has many connotations. T.K Oommen, while addressing a gathering at India Islamic Cultural Centre, New Delhi on

Intervention into such problems said that 'these are recurring events nowadays and one needs to look at the root cause'. Communalism and such terrorisms have different manifestations.

He agreed that there are six dimensions of communalism and three of them are variants of a political force which are a threat to the State. They are:

1. **Sessionist Communalism:** A religious community defines itself as an autonomous political community, that is, an entity entitled to have its own state. This implies session from the State to which it is currently attached and hence may be designated as secessionist communalism. The Khalistan Movement is an example of sessionist communalism.
2. **Separatist Communalism:** The second variant of communalism is the proclivity on the part of the religious collectivity to define itself as a nation, as a cultural entity with a territorial base. This is often articulated in the argument that in order to maintain its cultural specificity the nation should have separate politico-administrative arrangement, which could be a district or a province within the federal polity. The demand for a separate Punjabi Suba, although couched in linguistic terms, was essentially a demand for a separate Sikh Province within India. To the extent that the demand is geared to preserve the cultural specificity of a religious collectivity and a separate province is viewed as a tool to achieve that end. Such a kind of communalism is designated as separatist communalism.
3. **Welfarist Communalism:** The demand for a religious collectivity to be recognized as a specific entity suffering from material deprivations, the eradication of which could be met through measures such as political representation, employment quotas, distribution of land, industrial licenses, and so on. In this context, mobilization of the religious collectivity is attempted as an interest group geared to the welfare of its members. Therefore this variety of communalism may be labelled as welfarist communalism.
4. **Assimilationist Communalism:** This claims that small religious groups are assimilated into big religious group. The forced conversions are included in this category. Incidents of re-conversion can also be termed as assimilationist communalism.
5. **Retreatist Communalism:** In this kind of communalism a small religious community keeps itself away from politics; example, the Bahai Community.
6. **Retaliatory Communalism:** This kind of communalism attempts to harm, hurt and injure the members of other religious communities; for example, killing of priests etc.

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