

## CHAPTER II

## DELINQUENCY -

## VIEWED THEN AND NOW

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## GENERAL ORIENTATION

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Every society whatever its nature, possesses a certain body of social values which have been developed as a result of its culture and heritage. Thus, the customs, conventions, traditions, morals and legal code of that society prescribe the definite rules or norms of conduct to preserve and protect them. Almost every human individual is called upon by customs, traditions, morals and legal code of society, of which he is a member, to achieve a certain minimum standard of conformity. But this standard of conformity varies not with the time, place and culture, but also with the customary demands made upon the individuals at various age levels. Everywhere in every walk of life - religious social or moral, economical or educational, cultural, political or vocational - by means of its own customs, traditions and laws, society places upon each age group the responsibility for a certain minimum adjustive capacity, which it achieves with

either an indirect, unconscious and voluntary acceptance under a psychological process of suggestion or under more direct persuasion or education, or with a reluctant acceptance under pressure of punishment or any other force or corrective treatment. But from the bulk and diversity of mankind it follows that some individuals show from the beginning retardation in the various powers, intellectual, emotional and volitional; these powers are indispensable for successful adjustment even at the very earliest stage at which individuals in our society are held accountable for anti-social acts. Some individuals successfully meet the adjustive requirements as they reach puberty, adolescence or adulthood, or middle age or old age, while some individuals get arrested and become delinquent at an earlier age, a few at a later stage and still others only with oncoming old age. Symptomatically delinquent behaviour, whatever specific form it may take, has the common element of maladjustment of the individual to the demands of the social code of his time, be it to the rules of family life or society at large. The delinquency is a form of maladjustment to the complex standards and codes of society, expressing itself under the fear of punishment in act that

happens to have been restricted by law. In other words, maladjustment to the requirements of society by individual is a pre-condition of delinquency. Further, from every type of maladjustment all children in their subsequent growth do not necessarily become delinquent, but there is evidence that adult criminality has its roots in childhood in the same factors which cause early disorders of behaviour. In any way, both early delinquency as well as later criminality are traced to events of early maladjustment.

## WHAT IS DELINQUENCY ?

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It is a matter of much difference and dispute regarding the exact meaning and nature of delinquency. Different writers define it in a different manner. Usually, it signifies merely misconduct. The term is only meant for a juvenile and not for an adult. For an individual there is his own adjustment to his environment, approved by him though not necessarily by others. Such adjustment of personal nature which others term as 'maladjustment' indicates a failure on the part of the individual to make a socially acceptable adjustment to the requirement of the society. It means a conduct in contravention of socially accepted norms of a particular time. It is also defined as an act against law or any city ordinance, committed by an adult, an act which would have been punishable under the existing legal code. Professor Haikerwala (18) observes that delinquency implies such behaviour of the individual as interferes with the order of human relationships which society regards

as the primary condition of existence. Thus, according to his view it is due to a maladjustment between the individual and the group, which creates a critical social situation. The American White House Conference Meeting (45) agrees with the view that delinquency is any such juvenile misconduct as might be dealt with under the law. Sheldon and Eleanor Glueck (39) in their well-known work define delinquency as repeated acts of a kind which when committed by a person beyond the statutory juvenile court age of sixteen are punishable as crimes (either felonies or misdemeanors) except for a few instances of persistent stubbornness, truancy, running away, associating with immoral persons and the like. Professor J.D.W. Pearce (34) holds that juvenile delinquency may be defined quite simply as an anti-social conduct in the young and youthful. It is a symptom of a social malaise. It indicates that something has gone wrong with the society and its organisation. It is always an individual problem for the delinquent child and the one who comes in contact with him.

To analyse psychologically, delinquency may be looked upon as one kind of general behaviour.

William Healy and Augustus Bronner (22) observe that delinquency is a mode of behaviour which is one part of the stream of life's activities; it must have as much meaning in the total order of happenings as socially acceptable forms of conduct. When desires and urges are threatened in normal course of behaviour, they find expression in the form of delinquent behaviour. For the observer it merely signifies misconduct; for the delinquent child it is just as much a response to inner drives and other stimuli as any other kind of conduct. It is one variety of expression. Delinquency is the result of interferences with fundamental wishes felt by the child as thwartings and deprivations causing keen dissatisfactions. Delinquency is a form of substitutive activity; which course it will take depends partly on external circumstances, but mainly upon the acceptance of certain ideas by the child. Psycho-analytically, any emotional problem is a reaction to frustration, deprivation or feeling of insecurity. Delinquency is an expression of emotional conflict. In other words, every child has a potentiality for becoming a delinquent.

WHO IS DELINQUENT ?

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Professor Ralphs Banoy (3) in his book "Youth in Despair" holds that, according to the law, juvenile delinquency is the crime of the young, but each locality is left to define both terms. Difference of opinion prevails regarding the definition of delinquent as it is with 'delinquency'. Technically, the child is defined as a juvenile delinquent when he has violated any law of the state or ordinance of the city. In such a state of affairs, determining the exact characteristics of a delinquent child has been the work of many workers, and then it becomes a matter of dispute. A well-known English authority on the subject, Dr. Cyril Burt (5)<sup>6</sup>, defines a delinquent child thus :

" A child is 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".



Professor Reckless and Smith (35) put thus :

" The juvenile delinquent is not a type, but is usually a normal child gone astray".

Teeters Negley K. and others (43) in 'The Challenge of Delinquency' view that the legal definition of delinquency is so vague that the average citizens think of the delinquent child only as one who has violated a law. For the present investigation the delinquent is a child who has committed an offence. Bombay Children Act of 1948 defines a child as a person under sixteen years of age. Thus, a delinquent is a child under sixteen, who has committed an offence. Juvenile delinquent is a child who has been adjudicated as such by a court of proper jurisdiction. In the present investigation those delinquents are studied who have been adjudicated so by the juvenile courts of the respective offenders. The report\* on Juvenile Delinquency in India defines delinquents thus :

" Offenders above age of seven but below sixteen years were considered by law to be juvenile offenders".

The present study takes into account such offenders as subjects for investigation.

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\* A Report on Juvenile Delinquency in India. A Project of Indian Government, Delhi. The Bureau of Delinquency Statistic and Research. The Children's Aid Society, Bombay, 1956, p.16.

## CHANGING CONCEPTS OF DELINQUENCY

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Law violation whether by an adult or a juvenile has become a national concern. It is one of the most critical problems confronting almost all the states. As noted earlier, juvenile delinquency is a problem from time immemorial, but the complexity of civilization has intensified and given it a new emphasis during recent years and hence it needs our special attention.

Before the advent of the eighteenth century different conceptions were prevalent regarding delinquency. For many years, the treatment of the child offender was influenced by the prevailing theories of adult criminology; their treatment was punitive in nature. A generation ago, delinquent children were being tried, detained and even imprisoned to some extent in the same courts, police stations, jails and prisons as adults. Any individual whether an adult or a child was treated on a par. There was no difference in treatment as it is found today. A child offender was treated with the

same punitive motive and severity of punishment as for the adult. England and the United States were the pioneer countries recognising the importance of this problem. As Prof. Clifford Manshard (28)<sup>a</sup> narrates,

" Thus, as late as 1844 we find that there were in prison 11,348 persons between the ages of 10 and 20 - 1 in 304 of the total population of that age. In 1849 no less than 10,703 persons under 17 were sentenced to imprisoned or transportation".

Similarly in America also the precedents of a punitive common law were carried over, as noted by Prof. Paul W. Tappan (43)<sup>a</sup>:

" Plymouth colony, for example, provided capital punishment for sixteen different offences, including a course of conduct that closely resembles modern 'incurability' statutes".

The legal code of colony of Connecticut in America as published in 1673 contained the following provisions :

" If any child or children above sixteen years old, and of competent understanding shall Curse or Smite their Natural Father or Mother; he or they shall be put to Death, unless it can be sufficiently

testified that the Parents have been very Unchristianly negligent in the Education of such Children, or so provoked them by extreme and cruel correction, that they have been forced thereunto to preserve themselves from Death or Maiming".

Further,

" If a Man have a Stubborn or Rebellious Son, of sufficient years and understanding (Viz.) sixteen years of age, which shall not obey the voice of his Father or the voice of his Mother, and that when they have chastened him, will not harken unto them; then shall his Father and Mother, being his natural parents, lay hold on him, and bring him before the Magistrates assembled in Court, and testifie unto them, that their Son is Stubborn and Rebellious, and will not obey their voice and chastisement, but lives in sundry notorious crimes; such a Son shall be put to Death, or otherwise severely punished".

Such provisions and instances show that there was no special treatment for the child offender in early days.

Once it was believed that crime, like madness, was due to the natural depravity of man and intensified by the devil. According to this belief, juvenile offender was possessed of the devil and meanness combined. Even today, sometimes we hear or read that "this child is a little imp, a moral leper, ascapegrace. These conceptions are lingering medievalisms which have little stand in this scientific age.

The Italian criminologist Ceasare Lombroso (26)<sub>a</sub> in 1876 developed a theory that the heart of the criminal problem was not the crime but the criminal himself. He was an anthropologist and a surgeon. He was doing post-mortem examinations of deceased prisoners as one of his official duties. He, on the basis of rather naive and superficial evidence, concluded in the following words :

" In conclusion, the born criminal possesses certain physical and mental characteristics, which mark him out as a special type, materially and morally, diverse from the bulk of mankind".

Further, it was observed by him that criminals possessed certain inherited traits, that they were in essence primitive people, at odds with civilisa-

tion, and that they could be identified by marked asymmetry and ear-deformation. He also assumed that criminals were more or less the same type the world over, irrespective of race, nationality and culture. The idea of the born criminal type has been advocated by him and his followers. According to this view, juvenile delinquents constitute a special biological type, differing in physical and mental traits from non-delinquents. This type of interpretation is labelled 'the positive school'.

The classical school of criminology advocated by a group of eighteenth century thinkers was grounded in a hedonistic philosophy. It was assumed that man was a free moral agent who could exercise the right of choice. In course of experience, naturally he would choose to do that thing, which afforded him pleasure and refrain from that act which resulted in pain (28). This school of thinking assumes that all criminals are endowed with intelligence and feelings like normal individuals, but they commit misdeeds consciously and with unrestrained impulse<sup>far</sup> pleasure; while modern or even positive school maintains that antisocial tendencies of criminals are the result of their physical and psychic organisation which differs essentially from that of normal individuals.

If we examine a number of criminals, we shall find that they exhibit numerous anomalies in the face, skeleton and various psychic and sensitive functions, so that they strongly resemble primitive races. Criminal tendencies are of atavistic origin.

Charles Goring of England was the first to refute Cesare Lombroso's theory of a born criminal. He, assisted by Karl Pearson, studied more than 3,000 English convicts with special reference to those physical traits which Cesare Lombroso had <sup>held</sup> to be characteristics of criminals. Charles Goring's conclusion is as follows, as quoted by Prof. Clifford Manshardt (28)6:

" We have exhaustively compared, with regard to many physical characters, different kinds of criminals with each other, and criminals, as a class, with the law-abiding public..... Our results nowhere confirm the evidence (of a physical criminal type), nor justify the allegation of criminal anthropologists. They challenge their evidence at almost every point. In fact, both with regard to measurements and the presence of physical anomalies in criminals, our statistics present a startling conformity with similar statistics of the law-abiding class. Our inevitable conclusion must be that there is no such thing as a physical criminal type".

Charles Goring's criminals were slightly shorter in stature than the law-abiding civilians and that their weight was also somewhat less than the corresponding civil group. He postulated, but not proved, that criminals were mentally deficient basing his argument on a series of general impressions.

Persons who were labelling a delinquent child as a born type still resorted to biological authority for the explanation of delinquency. To them delinquency was an inherited biological trait. But in recent years more careful students of criminology have modified this conception. According to their view, the child cannot be said to inherit a trait of stealing as he does any physical trait, e.g. blue eyes. At the most the child inherits the tendency to steal; thus instead of inheriting the trait itself, one is said to inherit the predisposition for it. However, even here, it needs still to be justified to state that a person inherits a tendency for certain physical and mental traits. It is not a tenable position to assume that children who get into the juvenile court have a tendency to become delinquent. As Professors Walter C. Reckless and Maphews Smith (35)<sub>a</sub> remark :



" The detailed study of individual cases shows that the behaviour of children, which gets them into the arms of the law, can be explained more adequately by definite individual and social factors than by the assumption of an inborn tendency which leads its possessor to violation of society's code".

Many tendencies which were formerly believed to be instinctive in origin are now held to be the result of the environment; they all can be explained by one or the other potent influence of his environment within which the possessor thrives. The present study collaborates this view to a greater extent with facts and figures.

The most recent of the fallacious public conceptions about the delinquent or criminal is that he is a moron. Ever since Charles Goring declared without the aid of standardised psychological tests that the criminals showed a large number of 'weak-minded' individuals than those among the law-binding, experts and educated persons have looked upon feeble mindedness as the major explanation of the criminals and delinquents. Charles Goring based his conclusion not upon standardised scientific tests but on a series of general impressions. The observed criminals being mostly feeble-minded, he assumed

that feeble-mindedness among criminals was far in excess of the amount of feeble-mindedness found among the general population. But the fallacy is that no one knows the extent of feeble-mindedness among the general population.

However, as a result of widespread investigations during the War, one fact was definitely established that the mental age of the criminal and the law-abiding group was practically the same. Thus, it is obvious that feeble-mindedness could no longer be looked upon as the single cause of crime. And sometimes the present day dealings and tactics resorted to by shrewd criminals as reported by newspapers suggest that we can hardly think of feeble-mindedness as contributing to crime which often is associated with active-mindedness, and which is traced to result not from inheritance but from environmental influences as well as socio-economic exigencies. Professors Reckless and Smith cite the case of Ghussie who was found mentally retarded; but experts who studied the case were of the opinion that the retardation was the result of lack of home training, schooling, and of mal-nutrition(35). One

of the foremost authorities, Bronner Augusta F. who had the opportunity to study thousands of cases of juvenile delinquents, says, as quoted by Reckless and Smith (35)6:

" Concerning the relationship of feeble-mindedness to delinquency the point of view has largely changed within the last decade (given in 1925). There is now quite general acceptance of the minimized role which mental defect plays in the genesis of misconduct and of the correlated fact that the feeble-minded vary much in personality traits".

A child begins his life in the world with a certain psycho-physical equipment which may be explained as "a bundle of potentialities". Whether future behaviour will be social or anti-social depends upon a large number of factors. Heredity contributes a push in the direction of physical strength or weakness. From the moment of birth the whole organism is influenced by the environment in which the child is placed. From that point onwards the individual and his environment are inextricably intertwined and inter~~fasting~~asting.

The life histories of a number of criminals and delinquents manifest the background influence of

poverty, bad housing, lack of proper educational and recreational facilities, broken homes, family conflicts and tensions, immorality in the home, neglect of children by working parents and what not ! But all these facts alone could not explain the problem situation, because countless other men with no better or even worse backgrounds have not turned out as delinquents or criminals. On the other hand, we have children or youths from the most favourable homes and environment in which there is least possibility of susceptibility to crime and yet which have not saved them from being caught in the toils of delinquency. It is rather impossible if not difficult to explain delinquency or crime in terms of any single cause. Each delinquent must be studied in relation to his own complete environment. At the same time he cannot be understood in light of his present circumstances alone. That which has gone before is also a part and parcel of his social life and it influences misconduct. The <sup>cause</sup> ~~case~~ of present misconduct or anti-social behaviour may have its root also in the past.

Applying the foregoing discussion to the delinquent child we would say that delinquent or criminal behaviour patterns are not innate, that no child is born criminal. Delinquency is a problem in adjustment of the child's personality. Delinquency may be involved with, or develop out of some sort of maladjustment. It is now being realised that the delinquent child is pretty much the same as other children. If any difference is sought for, it can be said that the delinquent child is one who has been caught and brought before the court and the non-delinquent child is one who either is not caught by the police and brought before the court (often under pressure of status) or is never found out (by the less vigilant eye). Another difference between the delinquent and the non-delinquent is that the delinquent persists in his anti-social behaviour for a longer <sup>period</sup> ~~time~~ of life, while the non-delinquent is one who abandons his delinquent behaviour very soon. Almost all the children are misbehaving and doing boyish pranks, but in delinquent children they are exaggerated. Still another important difference between the delinquent and non-delinquent is the degree of exposure to this delinquent culture pattern. The delinquent is not

distinguished by any special stigmata, physical or psychological. Some delinquents are bright, some are slow; some are seriously frustrated, some are not; some have grave mental conflicts and some do not. And the same is true of non-delinquents. The difference is only in the pattern with which the child associates himself. Professors Reckless and Smith(35) also say :

" It is important to note that in juvenile research, child guidance clinic and sociological research circles, the term 'juvenile delinquent' merely denotes a child who has been acted upon officially by police officers or court authorities and does not signify a type of case generically different from cases of non-delinquent problem children or those children whose problems have not been officially recognised".

Even Burt (5), a British research worker in juvenile delinquency, lends his authoritative support to this view when he says :

" There is, however, no sharp line of cleavage by which the delinquent may be marked off from the non-delinquent. Between them no deep gulf exists to separate the sinner from the saint, the white sheep from the black. It is all a problem of degree, of a brighter or a darker grey. This graded continuity, the normal melting into the abnormal by almost imperceptible shades, is entirely in accord with what we now know of most other forms of mental deviation.

The insane, the neurotic, the mentally deficient are never to be thought of as types apart or as anomalous specimens separated from the ordinary man by a profound and definite gap; the extreme cases merge into the border line, as the border line merges into the average, with no sudden break or transition. It is the same with moral faults of children; they run in an uninterrupted series, from the most heartless and persistent crimes that could possibly be pictured, upto the mere occasional naughtiness to which the most virtuous will at times give way. The line of demarcation is thus an arbitrary line, not a natural line; delinquency is at bottom, a social rather than a psychological concept. A child is to be regarded as technically a delinquent when his anti-social tendencies appear so grave that he becomes, or ought to become, the subject of social action".

Almost same opinion is forwarded by Merrill Mand (30), when it is said :

" Delinquents are children who are not very sharply differentiated from other, non-delinquent children. They are children who steal things that enhance their prestige in the eyes of their companions - soda pop, cigarettes, money for movies, rides in someone's car; they are children who hate school and stay away; they are children who have nothing to do for a good time at home and seek excitement on the streets; they are children who like to be on the go; they are children who are not secure and happy at home".

To sum up, delinquency is the outcome, less of nature, more of nurture, both earlier and present; to distinguish a delinquent from non-delinquent is

mainly a social concept rather than psychological. To understand the delinquent child and to treat him intelligently everyone must know his biological heritage, his social history and the immediate situation in which he was living at the time the delinquency occurred. Each of these factors has a contributory influence.

During the last century more or less softening attitude towards delinquents has come about. This more human attitude has developed along with the reform movements which have tried to ameliorate the social conditions of modern industrial life. It is unanimously agreed under the impetus of rising humanitarianism that a delinquent child neither deserves nor should be subjected to a capital punishment for the offences committed. The legal and penal codes are modified in theory and in practice to eliminate undue harshness and severities in treatment. During the last third of the nineteenth century separate reformatories for delinquents were erected. Establishment of the juvenile courts in 1899 is considered as crowning step in the process of humanisation. Even the juvenile court soon accepted the procedure different from the adult court. Other



agencies for child welfare came into existence.

Today, we have certified schools and remand homes for the juvenile delinquents, which protect them from further degeneration and which endeavour to provide them educational and vocational opportunities for their betterment. We have up-to-date juvenile courts embodying legal men, psychologists and social reformers all of whom are interested in the welfare of the deviating children. And all the more satisfying, we have a separate government Directorate for Social Welfare looking into the problems of the socially fallen, physically crippled and intellectually backward for whose uplift all possible attempts are undertaken with a zeal for prevention and cure rather than punishment.

To conclude, the problem of delinquency has now been admitted on all hands as a social issue - an accepted or recognised concept that it is not the fault of an individual child or his inherited psychological endowment, but that it is a development from the carelessness or neglect of the home and the pressing influences of the society, and as such the treatment lies in enabling the child to readjust to and relearn what is inevitable and at the same time

changing the old, uncomfortable and providing better  
and more soothing environment wherever it is evitable.

MEANINGFULNESS OF DELINQUENCY  
TO THE INDIVIDUAL

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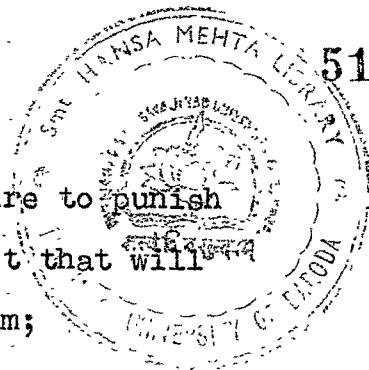
Since delinquency is a reaction to emotional disturbances and discomforts, delinquency itself has some meaning to the individual of whose behaviour it is a part. The frustrations and thwartings of the fundamental urges, desires and wishes are the first bricks on which the foundation of delinquency is laid. On analysing the situation, it will be observed in delinquent cases that the urgings for satisfying human needs, recognition of the personality of an individual, realisation of the social adequacy, opportunity for self-expression and security for independence, and new experiences and yearnings for possessions have somehow been seriously threatened; restrictions and suppressions have torn him and state of suspense and fear have overcome him. Under such circumstances, the individual finds himself blocked in any one or more of his urges or wishes. The threatenings engender feelings of dissatisfaction,

deprivation, inadequacy, jealousy or may result in inner conflicts, which themselves are the discomforts antedating the delinquency. But the reorientation concerns not only with the dynamics antecedent to the delinquency, but also with the essential meaning of the act. The obstructions to fundamental drives, urges and instincts can be easily interpreted in terms of affectional thwartings, ego-deprivations, or threats to ego-satisfaction. But the question remains - why is the reaction that of delinquent behaviour? It might be and often is manifested in other ways too. Delinquency is one result of frustration of the fundamental urges, wishes and desires; but for the individual himself delinquency must have some basic, specific and unverbalizing meaning, i.e. the individual must have some subjective values. William Healy and Augustas Bronner (22) in their book "New Lights on Delinquency and Its Treatment" refer to the following possibilities for the meaningfulness of delinquency to the individual :

Delinquency is -

- (a) an attempt to avoid, even as a temporary measure, the unpleasant situation by escape or flight from it;

- (b) an attempt to achieve substitutive compensatory satisfactions through delinquent activities. (These satisfactions include the thrill of delinquent adventure and the gratification at obtaining special recognition or attention, perhaps even notoriety as a delinquent. In some instances material gains figure as compensation for deprivation);
- (c) an attempt to strengthen or bolster up the ego wounded by feelings of inadequacy or inferiority. To recover from wounded ego is to obtain recognition and status in the delinquent crowd; or if the offender is more solitary in tendencies, the individual may try to prove to himself that he really is courageous and in some way play a spirited role; such masculine protest is a common reaction with some previously effeminate or feminized boys;
- (d) an attempt to get certain ego-satisfactions through direct and conscious or even unconscious expression of revenge attitude,



perhaps through hidden desire to punish parents or others by conduct that will make life difficult for them;

- (e) an attempt to gain maximum of self-satisfaction to inflate the ego, by generally aggressive anti-social attitudes, that is, by the exhibition of definite hostilities and antagonisms to authority;
- (f) a response to instinctual urges felt to be thwarted (while this response may be exhibited in sexual mis-behaviour more notably in their delinquents, the above investigators have discovered the attempt to satisfying the urge for independence and emancipation, which normally flares up as adolescent phenomenon);
- (g) The wish for punishment ( this was clearly discernible in a few instances and suspected in others by the above investigators. This seeking punishment - delinquent behaviour possibly offering an opportunity for being punished - was always a response to a conscious or unconscious sense of guilt).

In short, delinquency in case of all has its root in the mental conflict resulting from the frustration of the fundamental urges that have been somehow threatened and thwarted, but it shoots forth and branches off in specific forms that have a definite relationship and meaningfulness distinct and specific to each delinquent who accordingly needs a distinct treatment in view of that meaning.