

**Overview on Juvenile Justice and its
Intersection with Protection of Children Under Sexual Offences.
Status Report of Tamil Nadu and Puducherry**

By

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LIST OF ABBREVIATIONS

BDO	Block Development Officer
BLCPC	Block Level Child Protection Committee
CCI	Child Care Institutions
CCP	Children in need of Care and Protection
CEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
CH	Children's Home
CICL	Child/ren Alleged or found to be in Conflict with Law
CJM	Chief Judicial Magistrate
CINCP	Children in Need of Care and Protection
CRC	Convention on the Rights of Child
CrPc	Code of Criminal Procedure
CWC	Child Welfare Committee
CWO	Child Welfare Officer
DCPU	District Child Protection Unit
DCPO	District Child Protection Officer
DLSA	District Legal Services Authority
FIR	First Information Record
ICPS	Integrated Child Protection Scheme
IPC	Indian Penal Code
ISPCAN	International Society for the Prevention of Child Abuse and Neglect
JJ	Juvenile Justice
JJ ACT	Juvenile Justice (Care and Protection of Children) Act, 2000 or Juvenile Justice (Care and Protection of Children) Act, 2015, where applicable
JJB	Juvenile Justice Board
POCSO	Protection of Children from Sexual Offences Act, 2012
NCRB	National Crime Records Bureau
SJPU	Special Juvenile Police Unit
SCPS	State Child Protection Society
SCRB	State Crime Record Bureau
UNICEF	United Nations Children's Fund
UNCRC	United Nation Convention on the Rights of the Child

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1. BACKGROUND

Juvenile Justice (Care and Protection of Children) Act 2015 is for two categories of children; children in need of care & protection and children in conflict with law. Children in need of care and protection are dealt with Child Welfare Committee (CWC) whereas children in conflict with law are dealt with Juvenile Justice Board (JJB). Collective responsibility for dealing with both the categories of children lies with the District Child Protection Unit (DCPU). All these three institutions are activated under Integrated Child Protection Scheme which is a centrally sponsored scheme by the Ministry of Social Justice and Empowerment. The state level operation is done through State Child Protection Society (SCPS) under the Department of Social Defense and Empowerment in Tamil Nadu and few other states like Kerala and Gujarat, the SCPS are under the Ministry of Women and Child Development which implemented by the Department of Social Welfare and Development.

According to UNCRC article 19, 'child protection' refers to protection from violations, exploitation, abuse and neglect by their parents or any other who looks after them. For a better understanding of child rights to child protection, it is crucial to adopt both preventive and protective approaches. In 2001, the government of India had submitted the first comprehensive periodic report to the committee on the rights of the child based on the recommendation of UNCRC in 1997, mentioning Juvenile Justice (Care and Protection of Children) Act 2000 as legislative achievement (ISPCAN, 2016).

The real achievement of Child Care and Protection relies upon successful implementation of the JJ act 2000 which was amended in 2006 and again in 2012. Then after reframing the child protection legislations, Juvenile Justice (Care and Protection of Children) Act 2015 (Central Act 2 of 2016) was passed for adopting protective measures for care and protection of children. On the other hand, Indian Parliament Act also has passed Commission for Protection of Child Rights Act 2005 (Central Act 4 of 2006) to ensure the preventive measures for protecting Child Rights.

These acts are implemented by Integrated Child Protection Scheme (ICPS) and National Commission for Protection of Child Rights (NCPCR) respectively. Tamil Nadu Juvenile Justice (Care and Protection of Children) Rules 2017 in Tamil Nadu state is implemented by the Department of Social Defense which facilitates and monitors DCPU. On the whole the state level Child Protection systems like SCPU, all CWCs, JJBs, SJPU and DCPU are framed are now framed under the monitoring and evaluation responsibility of SCPCR (State Commission for Protection of Child Rights)¹

India enacted the Protection of Children from Sexual Offences Act (POCSO Act) in 2012 to plug the legislative gaps concerning sexual violence against children and prescribe child friendly provisions during investigation and trial. This was influenced by civil society efforts, government data on child sexual abuse,² exhortation for a legislation by the Supreme Court,³ as well as obligations under the

¹ Gaps and Challenges in implementing Juvenile Justice (care and Protection Act) 2015 – Acritical Analysis, Selvi Nithya, April 2018, Shanlax International Journal of Art, Science and Humanities, Volume 5, Special Issue No 7

² Ministry of women and Child Development, Study on Child Abuse, India, 2007.

³ Sakshi v Union of India, AIR 2004 SC 3566 para 35.

Constitution and the United Nations Convention on the Rights of the Child, 1989 (UNCRC). The POCSO Act defines “child” to mean “any person below the age of eighteen years”.

2. RATIONALE FOR THE STUDY

There is a huge data gap both quantitative and qualitative data, in public domain to understand the emerging trend of Children in Conflict with Law under Protection of Children under Sexual Offence (POCSO). The lack of reliable and uniform data on children who interact with the justice system makes it impossible to know if children are being denied their rights⁴. As the judgements are not in public domain for any reflection it's difficult to understand how jurisprudence is evolving. The problem becomes acute when both the perpetrator and victim are children. According to JJB as well as Pocso there is a set time frame for the disposition of cases. Yet, the pendency rate is very high thereby reinforcing the fact that “Justice delayed is justice denied” in the case of JJB it applies to both the CCLs as well as CCPs.

Data is one of the most pivotal tools for creating social change, but it can fail to deliver if it lacks rigor or exists in silos. NCRB and SCRB are the prime source of information for the cases in JJB yet, there is discrepancy of data and inferences could become an issue for any research studies. This study has specifically looked at Tamil Nadu and Puducherry data and only to bring stark difference to the fore front other state data has been used.

The study of Tamil Nadu and Puducherry (main) has been undertaken as one is a state and other is a Union Territory thereby administratively, they are different but both share similar culture, language and ethnicity beside judiciary head as Madras High Court.

3. Methodology

India is home to the largest adolescent population in the world with 253 million adolescents,⁵ and any delinquency in this age group is dealt under the special Juvenile Justice (JJ) Act. This study is based on secondary data and has tried to capture an overview on JJ Act along with the eco system in which it operates through various data source available online. The data is gathered for Tamil Nadu and Puducherry from 2017-2021 (5 years) and specifically looked at under 16 years juvenile crime and wherever possible POCSO. The data for 16-18 years has not been explored much due to numerous ambiguities around POCSO in this age group like age identification and consensual/love relationships⁶.

These open-source data are mostly research papers, newspaper articles, government documents, Phd thesis (Shodhganga) and Crime record reports both national and state level. The study searched online from 2017 to 2022 concentrating on India and looked for Tamil Nadu and Puducherry specific study.

⁴ <https://factly.in/review-unicef-report-highlights-the-lack-of-uniform-data-about-children-in-conflict-with-law/>

⁵ Census of India, 2011, able C13, available at http://www.censusindia.gov.in/2011census/Age_level_data/Age_level_data.html

⁶ As per a study done in Maharashtra, 25% of POCSO Act cases were regarding romantic relationships. <https://www.thehindu.com/news/national/kerala/call-for-child-friendly-approach-in-cases-registered-under-juvenile-justice-pocso-acts/article66553196.ece>

Some of the common keyword used for search were JJB, POCSO, Child in Conflict with Law, Sexual Abuse, Bullying and Victim Compensation.

The online data has been used in the report to build the theoretical aspect of the issues. The available data has thrown light on gaps and challenges both at legal as well as administrative aspect of the Acts. The data has helped in reflecting the socio psychological aspect of the issue along with unwinding the complex layering of impact it has on children. The quantitative data source is from NCRB and SCRB and all the diagrams/charts inferred based on it. The Tamil Nadu state crime record for CCLs has been used but district, age, crime head wise data was restricted. Puducherry Union Territory Data was **NOT** available therefore only NCRB data on Puducherry has been used for any analysis and inferences. Many important aspects with respect to juveniles are not captured at any data level like social and psychological support, rehabilitation plans, victim compensation (timeline), pendency of cases (timeline) thereby limiting the analysis.

4. JUVENILE DELINQUENCY

Children commit crimes due to their still-developing brains, which lack fully matured impulse control mechanisms. Several factors contribute to the emergence of criminal tendencies in children, including changes in their lifestyles, inadequate parental supervision, exposure to drugs, peer pressure, financial needs, easy accessibility to crime and explicit content on the internet, increased aggression and sexual activity among teenagers, and the awareness that they won't face criminal charges due to their status as minors⁷.

Types of Juvenile Delinquency⁸

Howard Becker, in 1966, identified four categories of juvenile delinquency, namely, individual, group-supported, organized, and situational delinquency.

- A. Individual Delinquency** This type of delinquent behaviour, known as individual delinquency, involves a single person engaging in delinquent acts, and its root cause lies within the individual themselves. Psychiatrists have provided most of the explanations for this kind of delinquency. Various factors contribute to children's delinquency, including genetic, social, and environmental influences. Changes in these factors can have a significant impact on a child's behaviour. One of the primary causes of these psychological issues is dysfunctional and unhealthy family dynamics. Psychiatrists have compared delinquent siblings to their non-delinquent siblings and have found that the primary reason for committing crimes is their unhappiness and dissatisfaction with their living conditions. They initially engage in delinquent behaviour to seek attention from their family or peers.
- B. Situational/ Circumstantial Delinquency** is one scholar who refers to this type of delinquency. In this context, it is assumed that delinquency is not deeply ingrained, and the motives behind delinquent behaviour and methods of control are often relatively straightforward. A young individual engages in delinquent acts without a strong commitment to delinquency due to factors such as underdeveloped impulse control or weak reinforcement of family boundaries. Additionally, they may feel they have little to lose even if apprehended. This particular type of delinquent behaviour can be more easily managed compared to other forms of delinquency.

⁷ A psycho-social perspective in juvenile delinquency, Ms. Henna Singla and Dr Asha Srivastava, Journal of Humanities and Social Sciences, Vol 28, Issue 6 Series 6 , June 2023- 41-47

⁸ An Analytical Study of Juvenile Delinquency in Ind. pdf , Dr Rahul Sharma, Legal Research Development Vol. 06, Issue-III, March 2022

- C. **Group-Supported / Peer Delinquency** This form of juvenile delinquency involves the participation of a group of children in criminal activities, rather than an individual child. The underlying cause of this specific type of juvenile delinquency is not linked to family problems or the individual characteristics of the child. Instead, it can be attributed to the social structure of the immediate neighbourhood, which influences the prevalence of delinquency within specific ecological areas. Group-supported juvenile delinquency occurs when non-delinquent children associate with peers who engage in delinquent behaviour. These delinquent acts are often influenced by friendship dynamics and peer pressure. The culture of delinquency can be rooted in the neighbourhood environment or within the child's own home.
- D. **Organized Delinquency** This type of delinquency pertains to offenses committed by formally organized groups. During the 1950s, an analysis of these delinquencies took place in the United States, leading to the development of the concept of a "delinquent sub-culture." This concept refers to a system of values and norms that guide the behaviour of group members, promoting the commission of delinquent acts, establishing status based on such behaviours, and outlining expected relationships with individuals outside the group who do not adhere to group norms. The group derives its reputation from engaging in criminal activities.

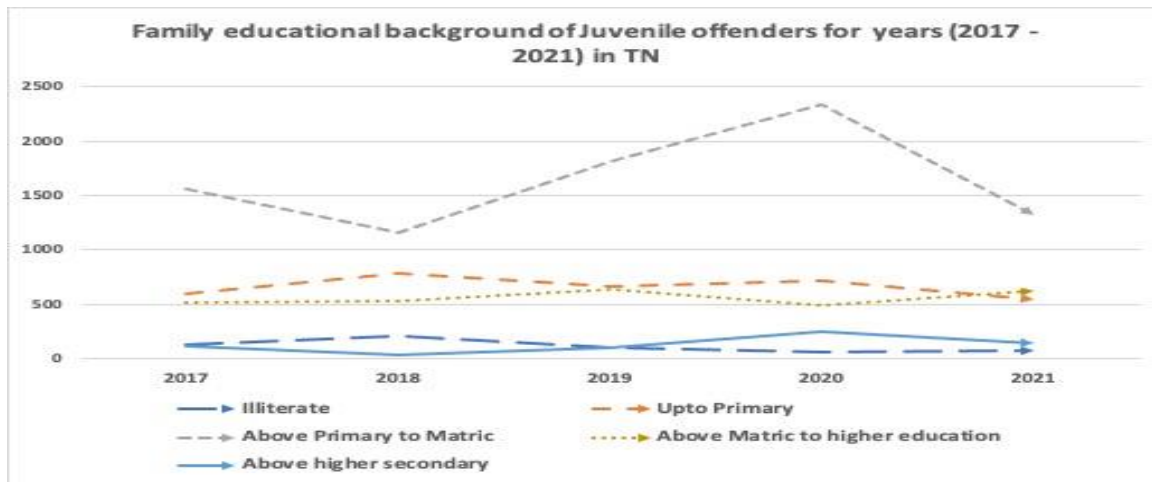
5. CHILD CRIME AND ITS ECO SYSTEM

One of the primary causes of juvenile delinquency in India has been pinned on the socio-economic factors. Poverty, unemployment, and income inequality contribute to an environment of deprivation and lack of opportunities for young individuals⁹. Economic disparities can lead to frustration, desperation, and involvement in criminal activities among disadvantaged youth. Economic hardships, limited access to education, and inadequate healthcare facilities can create a sense of frustration, hopelessness, and social exclusion among young people, increasing the likelihood of engaging in delinquent behaviour¹⁰.

Table 5.1

⁹ Bhalla, G., & Tripathi, A. (2019). Socio-Economic Factors and Juvenile Delinquency: Evidence from India. *Journal of Public Affairs*, 19(1), e1934. <https://doi.org/10.1002/pa.1934>

¹⁰ Dutta, M., & Patel, R. R. (2019). Socioeconomic Factors Contributing to Juvenile Delinquency: A Study Conducted in Gujarat, India. *Journal of Public Mental Health and Safety*, 2(2), 57-66.

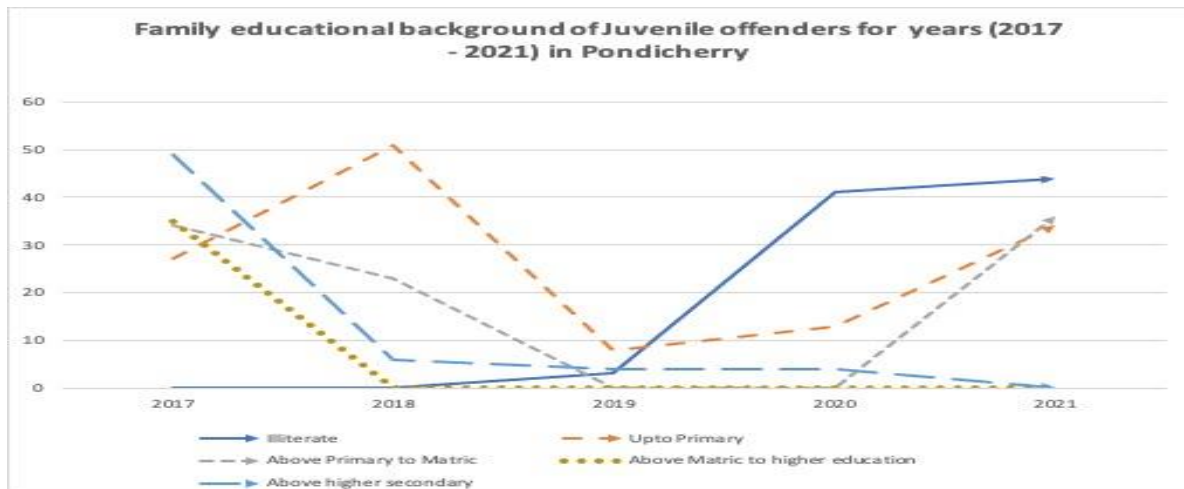


The data show in Table 5.1 gives the cumulative number of 5 years from 2017-2021 about the education background of the juvenile offenders in Tamil Nadu . It can be observed that maximum crime by juveniles were done by those who had education from primary to matric. Under Right To Education (RTE) free and compulsory education is provided to all children under 14 years therefore most of the offender had basic education. The next category under are those children who had education up to primary level interchanging with those children who had studied till High School. The least number of offenders are from the either spectrum of the education that's is those who are illiterate or those who have studied more than Higher secondary.

The above data reinforces the responsibility of educational institutions many a fold. The gradual shift towards more virtual interactions within the society, the school remains as the only corporal body to play a pivotal role in the fabric of the development of a child. The minor children spend a larger part of their time in the school. "School is usually thought as a constructive agency but when it fails to perform its designated functions, it may become by virtue of its negligence, a main contributor to delinquency¹¹.

Table 5.2

¹¹ Shipra Lavania, 'Juvenile Delinquency', (1983) Pub. by Rawat Publications, Jaipur, p.1920.



The data show in Table 5.2 gives the cumulative number of 5 years from 2017- 2021 about the education background of the juvenile offenders in Puducherry. The data shows an inconsistency of pattern and creates a complex understanding of the Juvenile educational background. In 2017 most of the offenders were those who have studied more than higher secondary which drastically drops in 2018 and completely collapse in numbers by 2021. The reverse of this pattern could be observed for the children who are illiterate from non-existence in 2017 it takes a sharp shoot from 2019 covid period and continues to be on rise till 2021. The juvenile offender from those who have studies up to primary and primary to matric somewhat see a similar pattern with hike in 2017 with sudden deep in 2018 and 2019 respectively and then again picking up at post covid period of 2020. Just like Higher secondary the children from matric to higher education also show a similar pattern with high representation in 2017 to a drastic drop in 2018 and completely nil after that till 2021. A drastic rise of illiterate children who are juvenile offender should be correlated to the out of school children's statistics.

Table 5.3

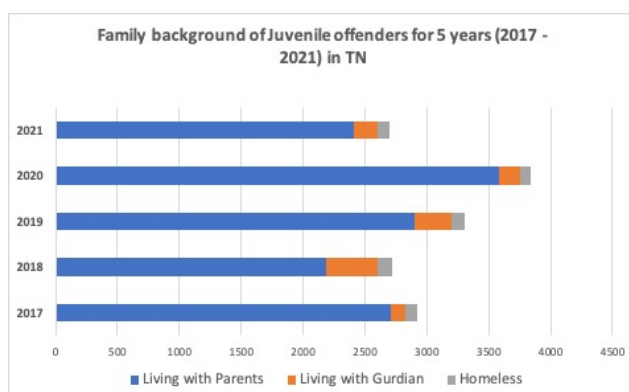
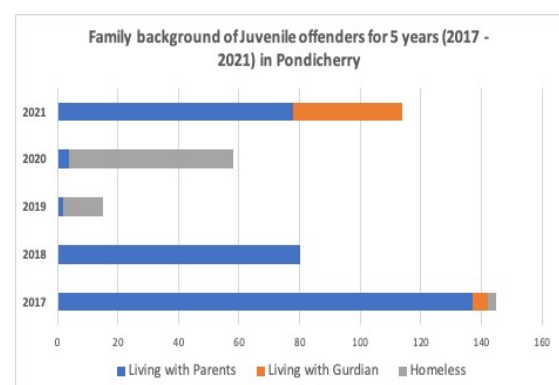


Table 5.4



The data show in Table 5.3 gives the cumulative number of 5 years from 2017- 2021 about the family background of the juvenile offenders in Tamil Nadu. The data clearly shows that most of the juvenile offenders were living with their parents. The family plays a significant role in shaping a child's behaviour and values. In India, the traditional joint family system, where multiple generations live together, provides a support network for children. However, changing family structures, urbanization,

and migration have disrupted this system, potentially leading to a lack of parental supervision and support, which can contribute to delinquency¹².

The data show in Table 5.4 gives the cumulative number of 5 years from 2017- 2021 about the family background of the juvenile offenders in Puducherry. The data shows an inconsistent family background with 2020 showing highest number of homeless children and 2021 showing a significant number as living with guardian. Family influences play a significant role in juvenile delinquency. Dysfunctional family dynamics, parental neglect, domestic violence, and substance abuse within the family can have a detrimental impact on a child's development, increasing the likelihood of delinquent behaviour¹³.

Media plays a vital role in our society today with the advent of mass media, including television and more recently, video and computer games, children and teenagers are exposed to increasingly higher doses of aggressive images¹⁴. According to National Crime Records Bureau, there was a 400% increase in cyber-crimes committed against children from 2019 to 2020. Self-Generated Child Sexual Abuse Material (SG- CSAM) found online. A study conducted by McAfee reported that children in India are among the youngest to reach mobile maturity and report the highest exposure to online risks. Children in India aged 10 to 14 appear to adopt mobile more quickly than nearly all their peers worldwide. They also reported that 48% of the surveyed children regularly or sometimes have private conversations without knowing a person's real identity. 11% above the global average. CSAM is explicit content featuring children, what used to be wrongly referred to as child pornography, is becoming easier to find online and is an issue that impacts most children and adolescents online and the average age of children in these videos is 8 to 13 years¹⁵.

One of the primary consequences of juvenile delinquency is the perpetuation of a cycle of crime. Young individuals who engage in delinquent behaviour are more likely to continue their involvement in criminal activities into adulthood¹⁶. This perpetuation of criminal behaviour poses a long-term challenge to the criminal justice system and society, as it increases the burden of crime and social disorder. Juvenile delinquency also has negative educational outcomes. Involvement in criminal activities can disrupt a young person's education, leading to school dropout and academic underachievement¹⁷. This educational setback further limits their opportunities for future employment and personal development, perpetuating a cycle of disadvantage. Psychological and emotional consequences are prevalent among juvenile delinquents in India.

Involvement in criminal activities can lead to feelings of guilt, shame, and low self-esteem¹⁸. The stigmatization and social exclusion associated with delinquency can contribute to mental health problems and hinder the rehabilitation and reintegration of young offenders into society. Juvenile delinquency also poses a threat to public safety. Offenses committed by juveniles can range from petty

¹² Agarwal, R. (2017). Family and Juvenile Delinquency in India. *Journal of Psychology and Psychotherapy Research*, 1(1), 23-30.

¹³ Mohapatra, A. (2020). Domestic Violence as a Cause of Juvenile Delinquency in India. *Journal of Indian Research*, 8(1), 80-84.

¹⁴ Articulation of Media on Juvenile Delinquency with Special Reference to India, Nandini Chakraborty, *International Journal of Social Sciences and Humanities*, Vol. 5 No. 1, April 2020, pages: 32-44

¹⁵ <https://timesofindia.indiatimes.com/blogs/voices/the-ignored-threat-of-online-child-trafficking-from-urban-homes/>

¹⁶ Srivastava, A., & Kumar, A. (2018). Exploring the Link between Juvenile Delinquency and Recidivism in India. *Indian Journal of Criminology and Criminalistics*, 39(1), 135-152.

¹⁷ Gupta, R., & Patel, K. (2016). Impact of Juvenile Delinquency on Educational Attainment: Evidence from India. *Journal of Education and Practice*, 7(6), 136-140.

¹⁸ Singh, S., & Singh, S. (2019). Emotional Intelligence and Juvenile Delinquency: A Study among Juvenile Delinquents in India. *The Indian Journal of Social Work*, 80(1), 105-118.

theft to violent crimes, putting individuals and communities at risk¹⁹. The fear and insecurity caused by juvenile delinquency can have a detrimental effect on community well-being and social cohesion. The consequences of juvenile delinquency extend beyond the individuals involved and impact the broader society. The burden on the criminal justice system increases as resources are allocated to deal with juvenile offenders, including investigation, prosecution, and rehabilitation efforts²⁰. Moreover, the economic costs associated with juvenile delinquency, such as loss of productivity, medical expenses, and property damage, place a significant burden on society as a whole²¹.

6. JUVENILE and CRIMES

India is home to over 444 million children, which is one of the world's largest child and adolescent populations.²² According to one assumption, 40% of these children are in need of care and protection, which indicates the extent of the problem.²³

Children who break the law do not do so of their own free will, but rather as a result of restricted opportunities available for their development. Juveniles from risk groups that could get in conflict with the law are often victims of abuse and neglect, negligent and poor parenting and economic difficulties. Juvenile delinquency is not a success story, but evidence of the society failing to ensure protective environment for its children.²⁴

Table 6.1

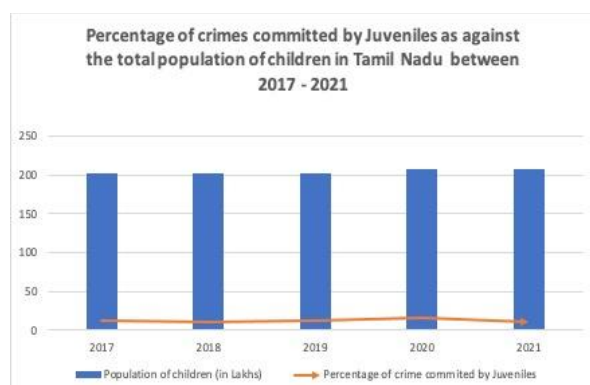
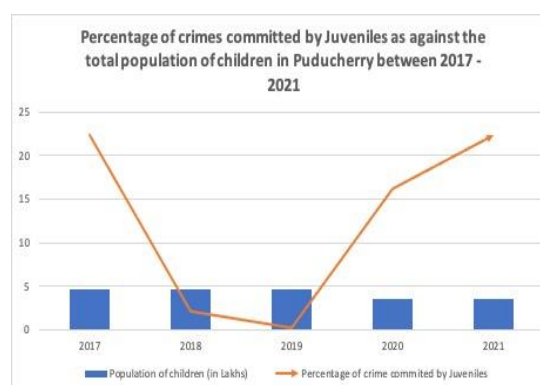


Table 6.2



Tamil Nadu with 5.6% of the country's people accounts for 8.3% of all juvenile crimes in India. Additionally, Tamil Nadu juvenile crime hiked to 26.4% in 2020, who constitute some 30% of people in the state. The above diagram is of vital significance as it reflects the percentage of children involved in Juvenile crimes from its total children population. The Table 6.1 shows the state of Tamil Nadu has a large number of children population yet has been able to maintain the juvenile delinquency at the

¹⁹ Kaur, K., & Thapar, R. (2015). Juvenile Delinquency: A Sociological Analysis. *The International Journal of Indian Psychology*, 2(1), 118-126

²⁰ Choudhary, D. (2020). Economic Impact of Juvenile Delinquency: A Comparative Study. *Journal of Economic Development, Environment, and People*, 9(2), 6-17.

²¹ Dr Shashank Yadav (2023), Comprehensive Approaches for Addressing Juvenile Delinquency in India: Causes, Consequences, Preventive Strategies and Legal Framework. *International Journal of Social Science and Human Research*, Volume 06 Issue 06 June 2023

²² <https://www.statista.com/topics/9677/children-in-india/>

²³ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2738347/>

²⁴ <https://www.unicef.org/montenegro/media/7931/file/MNE-media-MNEpublication391.pdf>

constant rate although increasing every year nevertheless not spiking in an unreasonable manner. Whereas in Table 6.2 shows that Puducherry has been on a constantly higher rate of juvenile delinquency in comparison to its children population especially during and post covid phase from 2019 onwards. There is a need to understand the phenomena in Puducherry with more data variables to draw any kind of definite remarks on the upward trend.

Table 6.3

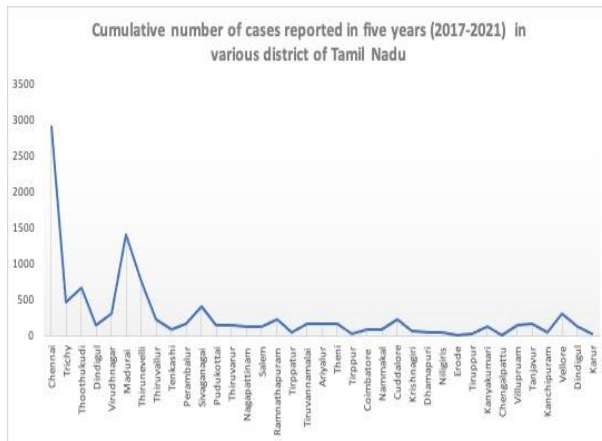
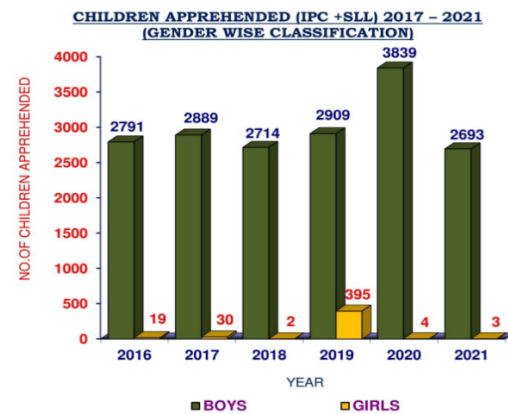


Table 6.4



The Table 6.3 shows that Chennai on a constant increase in juvenile crimes from 596 in 2019 which increased to 773 in 2020 and saw a downward trend with 626 in 2021²⁵. The Table 6.4 shows the year wise cumulative number of juvenile crimes vis a vis gender segregation of the same. The covid period of 2020 see a steep rise in juvenile crimes with 3843 crimes.

Table 6.5

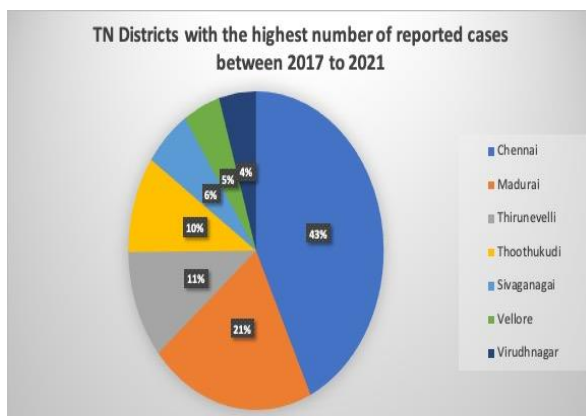
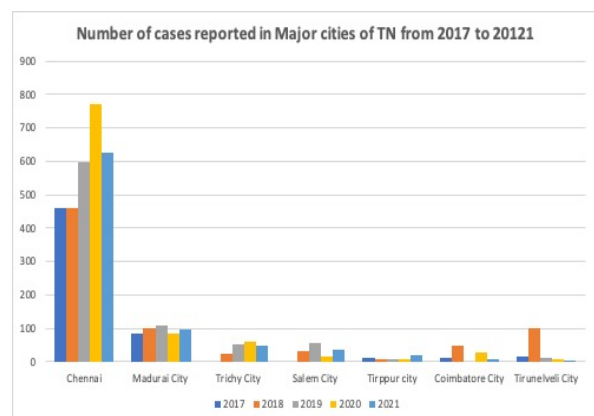


Table 6.6



The cumulative data of as shown in Table 6.5 Tamil Nadu from 2017- 2021 shows an upward trend with Chennai accounting for major portion of crimes by juvenile at 43 % and Madurai following at 21 %. The

²⁵ <https://www.thecitizen.in/index.php/en/NewsDetail/index/9/20347/Tamil-Nadu:-What-Happens-to-Children-in-Conflict-with-the-Law--#:~:text=Additionally%2C%2013.3%25%20of%20crimes%20recorded,were%20sent%20to%20special%20homes>

data as shown in Table 6.6 also reflect a striking high in crimes in Chennai during Covid in 2020. It is also important to notice that beside Chennai a significant number of crimes by the Juveniles are from the southern Tamil Nadu. The Tamil Nadu state crime record is restricted therefore no correlation could be arrived on age, type of crime vis a vis district/city.

Table 6.7

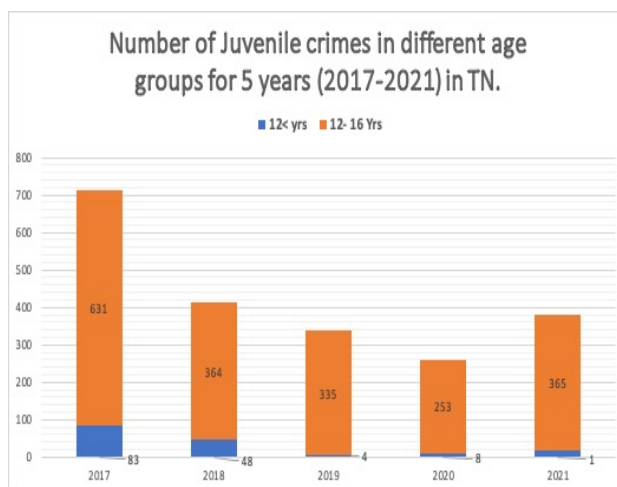
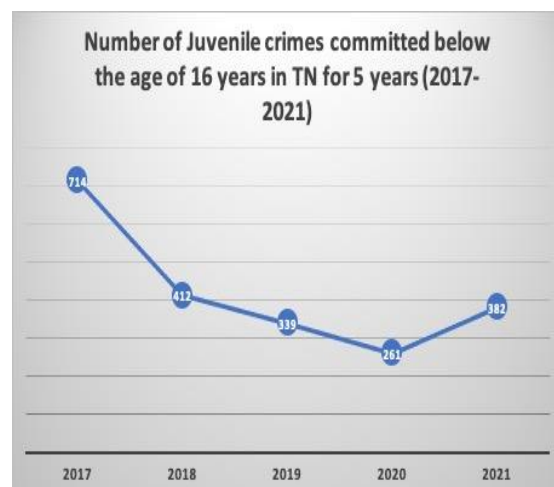
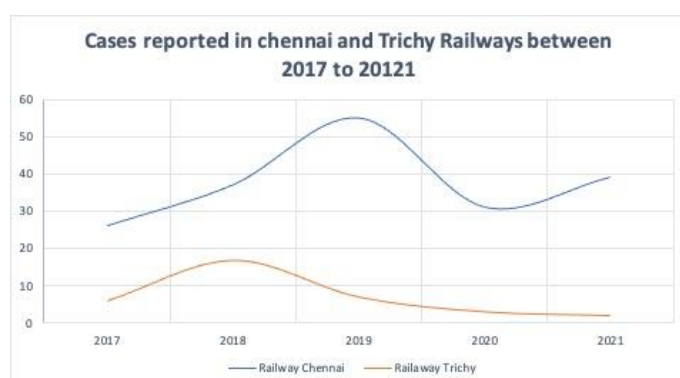


Table 6.8



The data above as shown in Table 6.7 looks at the two categories of age group that is below 12 years and 12- 16 years in Tamil Nadu. The data segregation for this is **not available** for Puducherry. The data shows that there has been a steady decrease in both the age group from 2017 to 2021. This trend needs further cross reference along the lines of education and out of school population. The Table 6.8 shows the cumulative number of juvenile crimes below 16 years and shows a post covid rise in crimes in 2021 in this the larger share of crimes are between 12- 16 years.

Table 6.9



There is a special significance of railway crimes where Juveniles are engaged as shown in Table 6.9 Chennai is the hub of railway crime with Trichy another destination. It is important to talk about railway as it acts as a source point for trafficking, child labour, missing children and exploitation of children. Like most of the data this data too signifies the covid as a tough time for children and the steep rise in crime rate during 2019.

7. Violence Against Women by Juveniles

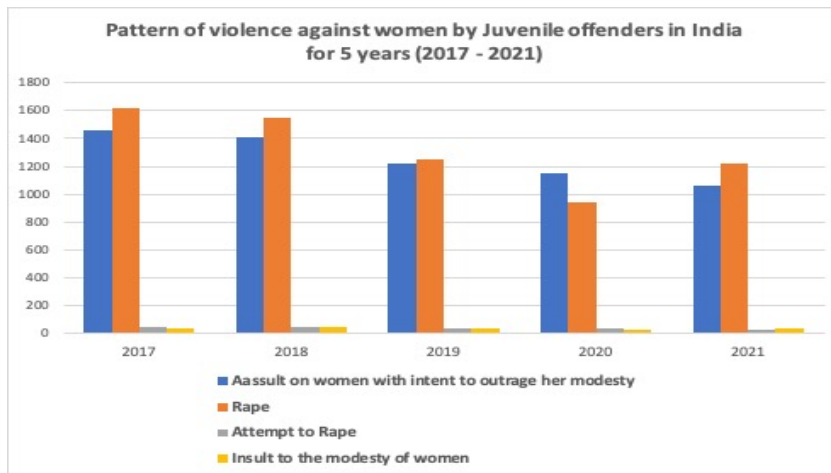
The NCRB report says that 90% of the cases under POCSO in 2020 are rape and sexual assault²⁶. The data further elaborates that rape, attempt to rape and assault on women with intent to outrage her modesty, has been increasing steadily with reported cases of 351 in 2019 to 2124 in 2020 and 2310 in 2021²⁷ especially among juvenile below 16 Years. There are various factors that could be responsible for such steep increase in sexual crimes among juveniles. Another major factor for this rise has been pinned on availability of (unregulated content) information through mobile phones and diffused information on sexuality, gender and regard to human emotions and sensibility²⁸. This factor permeates all layers of the society and seems to even operate independent of it.

Table 7.1

²⁶[POCSO cases increased by 30% in 5 years while pendency rate in Courts crossed 94% \(factly.in\)](https://www.factly.in/news/ncrb-reports-90-of-pocsos-cases-are-rape-sexual-assault)

²⁷[2021 crimes in India.pdf](https://www.punjabkhabar.com/news/2021-crimes-in-india.pdf)

²⁸<https://www.hinducollegegazette.com/post/the-increasing-rate-of-juvenile-sexual-offenders-in-india>



Women seem to be the main victims of heinous crimes by juveniles in the country as the Ministry of Home Affairs data shows that 9,672 crimes²⁹ were committed by juveniles between 2012 to 2014. The Table 7.1 shows the cumulative number of 5 years from 2017 – 2021 and indicate a downward pattern yet, rape is observed as one of the continuous threats for the women.

Table 7.2

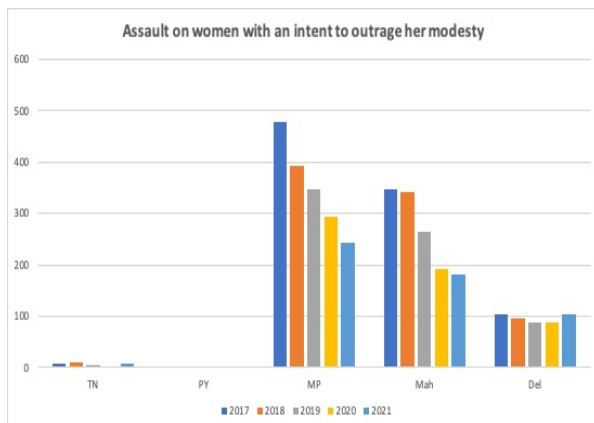
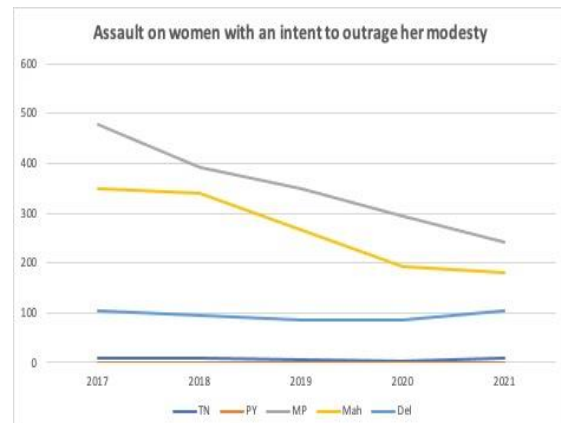
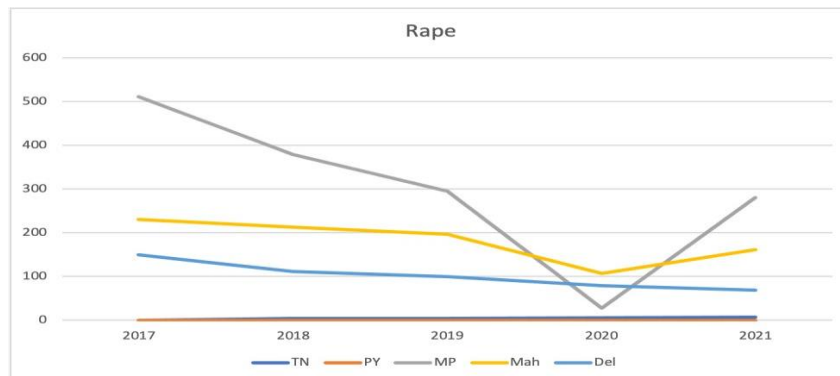


Table 7.3



²⁹ <https://timesofindia.indiatimes.com/city/bengaluru/9600-crimes-against-women-by-juveniles-in-3-years-mha/articleshow/51288613.cms>

Table 7.4



The above diagrams in Table 7.2 and 7.3 clarify that some of the significant variables in terms of understanding the gender-based violation as recorded through NCRB shows that how intra state differences are vast with Madhya Pradesh being highest followed by Maharashtra and Delhi. Similarly, Table 7.4 shows the rape cases by juveniles although Tamil Nadu has a significantly low number in this category and Puducherry has **NO DATA** for inferences. The number is rising in some of the states which has recorded highest number like Madhya Pradesh, Maharashtra and Delhi. The data requires further exploration to give any suggestive remarks especially with respect to age wise categorization.

8. Juvenile and POCSO

The term “Juvenile sex offender” refers to a minor above the age of criminal responsibility who has committed an offence of a sexual nature (whether against another child or against an adult). The term should not be confused with “child sex offender”, which is used to refer to a person (usually an adult) who has committed a sexual offence against a child³⁰. At puberty, when adolescents awaken to sexuality and are most likely to explore and experiment, they stand the highest risk of falling foul of the law. Even as pornography is easy to access, scientific, prejudice-free, sexuality education is not. The stigmatisation and silence around sexuality set the conditions that eventually become fertile breeding grounds for commission of juvenile sex offences³¹.

The notion of presuming minor children as incapable of understanding the nature of their action and consequences of those actions is far-fetched, especially when it is clear that the majority of the accused had **carefully chosen secluded** places to conduct sexual crimes. By this, it is evident that the children do acquire knowledge before the age that is legally prescribed³².

³⁰ <http://aarambhindia.org/wp-content/uploads/2017/01/Juvenile-sex-offender.pdf>

³¹ <https://www.hindustantimes.com/india-news/stigma-silence-make-fertile-ground-for-juvenile-sex-offences/story-fupCjBYnzT1LHvOVqAQAOO.html>

³² <https://www.hinducollegegazette.com/post/the-increasing-rate-of-juvenile-sexual-offenders-in-india>

Offenses can involve as a single event, a few isolated events, or a large number of events with multiple victims. Juvenile sex offenders come from a variety of social and family backgrounds and can either be well functioning or have multiple problems. A number have experienced a high accumulated burden of adversity, including maltreatment or exposure to violence; others have not. In some cases, a history of childhood sexual abuse appears to contribute to later juvenile sex offending³³.

Table 8.1

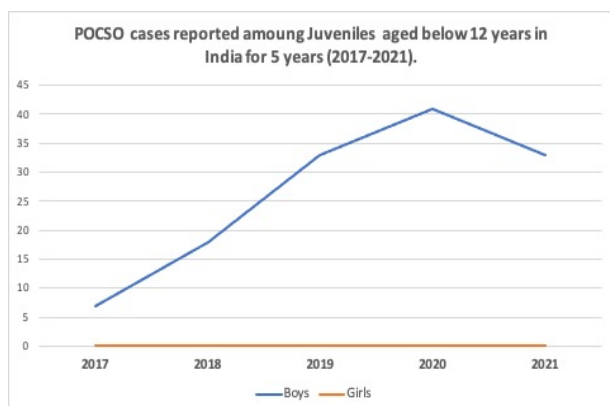
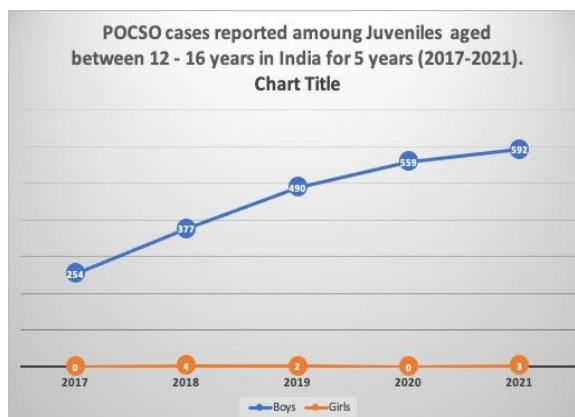
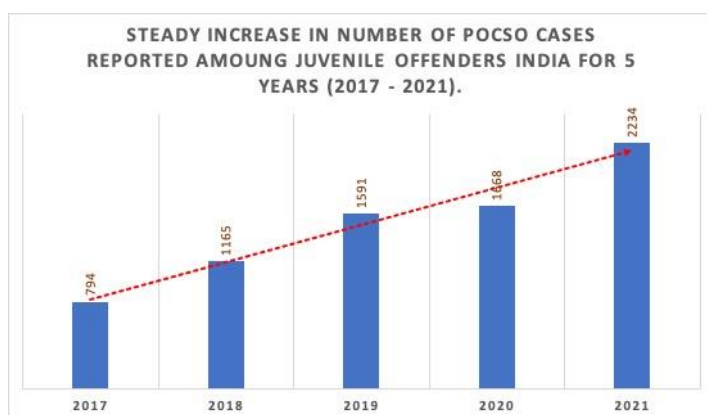


Table 8.2



The data above as shown in Table 8.1 indicates a consistent increase in under 12 years category with 7 cases in 2017 to 41 cases in 2020 and 33 cases in 2021. Similarly, in Table 8.2 the rise of crime under POC SO is even sharper with 254 cases in 2017, 381 in 2018, 492 in 2019, 559 in 2020 and 628 cases in 2021.

Table 8.3



³³ <https://www.ojp.gov/pdffiles1/ojdp/227763.pdf>

The data shown in 8.3 is clearly indicating an upward inclination of Juvenile POCSO cases under 18 Years with 794 cases in 2017 it has increased to 2234 cases in 2021. This pattern of increase needs close observation as under 16 years the Juvenile POCSO cases has been constant in last 5 years from 2017- 2021 at 34% against the overall Juvenile POCSO cases across India.

Table 8.4

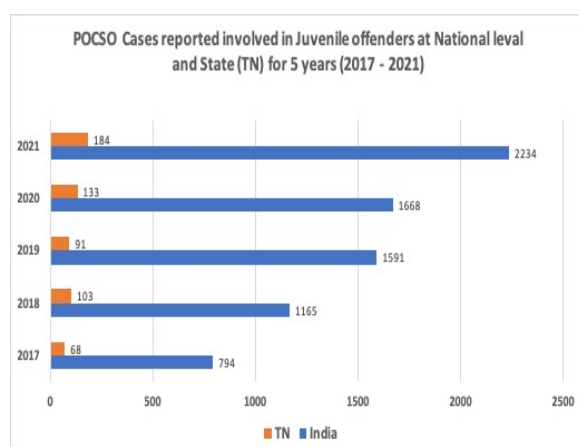
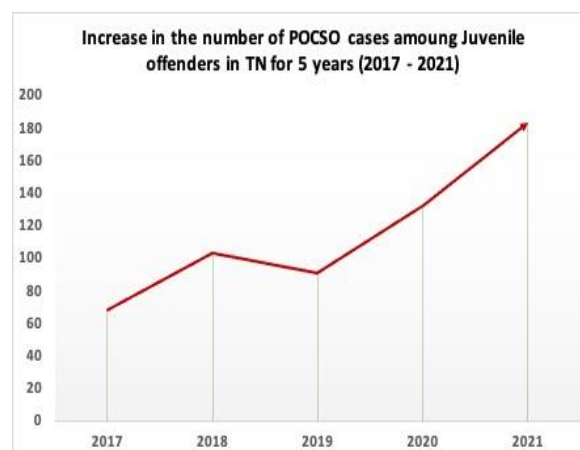


Table 8.5



The data above as shown in Table 8.4 indicated the cumulative number of Juvenile POCSO in Tamil Nadu against India under the age of 18 years. The number of POCSO cases in Tamil Nadu was 68 in 2017 and has increased to 184 in 2021. The Tamil Nadu represent on an average 8.5 % of Juvenile POCSO cases against the overall cases in India in the last 5 years from 2017 -2021, a trend which is constant and may require a different strategy to break the pattern as shown in Table 8.5 it is comparatively less than all India statistics but it is continuous in nature. There were **no data** available for Puducherry to draw any reference.

A study in Tamil Nadu accessed the attitude and awareness of 186 mothers of primary school children revealed that 12.9% of the mothers were aware of the POCSO Act and 32.8% were aware of the child helpline 1098. 76.9% of the mothers were aware of unexplained genital injury as a physical indicator of child sexual abuse. Acute traumatic response (83.9%) and regression in behaviour (82.8%) were the commonly aware behavioural indicators of child sexual abuse. Only 25.3% of the mothers believed that boys can be sexually abused. 75.3% of the mothers believed that the offenders were usually unknown persons. 88.7% of the mothers believed that unaccompanied children were a risk factor. 88.2 % of the mother believed that physical and mental disability in children was a risk factor. Majority of the mothers believed that streets (88.7%) and institutions (80.1%) were the common environment for child sexual abuse. Only 23.7% of the mothers had taught regarding good touch and bad touch to their children. 50.5 % of the mothers believed that the major role in preventing child sexual abuse is played by the parents³⁴.

³⁴ Awareness and attitude of mothers of primary school children towards child sexual abuse in Tamil Nadu, India S. Alph Shirley and S. Santha Kumar, International Journal of Contemporary Paediatrics, 2020 Jan;7(1):191-197

9. Juvenile and Judiciary

Juvenile Justice Care and Protection of Children Act 2015 was designed with the idea that Children in Conflict with Law (CCLs) need socio-legal rehabilitation and reformation and not punishment. The aim is to hold a child culpable for their criminal activity by counselling the child to understand their actions and persuade them away from criminal activities in the future. Similarly, the Children in need of Care and Protection (CCPs) are represented by the state thereby taking care the best interest of the child although justice for victims depends largely on the lawyer's (the public prosecutor) ability as well as sensitivity on part of the judicial system³⁵.

Supreme Court expressed concern over the “rising rate of juvenile delinquency” in the country, adding that this “makes us wonder whether the (Juvenile Justice) Act, 2015 has subserved its object. We have started gathering an impression that the leniency with which juveniles are dealt with in the name of the goal of reformation is making them more and more emboldened in indulging in such heinous crimes.” The indictment is as severe against juveniles as against the State for failing to carve out an effective reform and rehabilitation policy for young offenders³⁶.

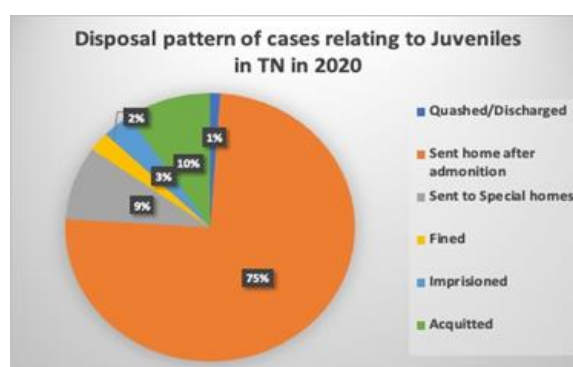
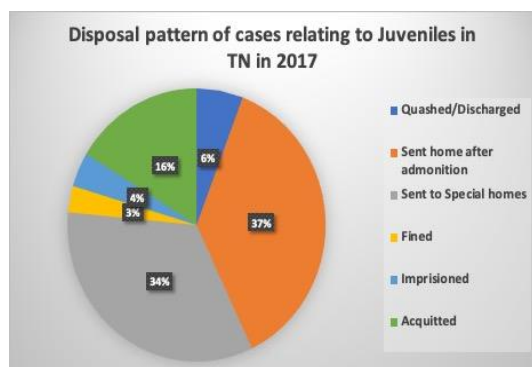
Enacting a law is often insufficient to ensure justice as the number of juveniles arrested for sexual crimes have been steadily increasing. Innately there is a limitation for the existing laws to quickly adapt to the rapid changes in human interaction. Even so, the legal framework with respect to Juvenile Justice was considerate enough to theoretically prescribe a time period within which effective closures are to be arrived at. However, the entropy of the legal systems in practical reality puts a heavy burden on the children, both the CCLs and the CCPs.

Table 9.1

Table 9.2

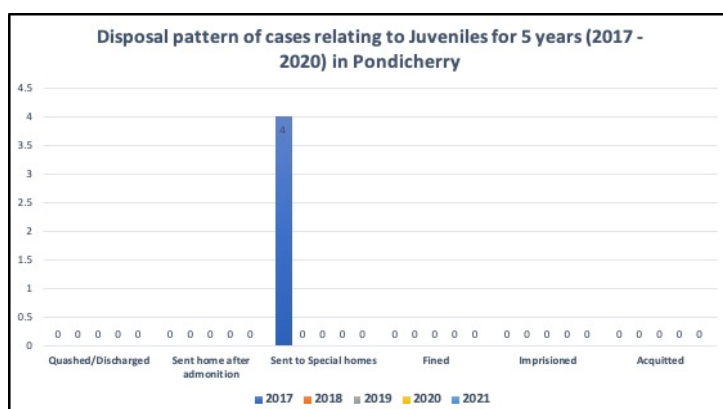
³⁵ <https://www.idrc.ca/en/research-in-action/highlight-need-victim-support-services-indias-criminal-justice-system>

³⁶ <https://www.newindianexpress.com/opinions/2022/dec/24/why-children-conflict-with-law-and-order-2531149.html#:~:text=The%20figures%20from%20the%20National,2020%20when%2029%2C768%20were%20registered.>



As the data above shown in Table 9.1 and Table 9.2 suggest that in Tamil Nadu in last 5 years the number of cases who were sent home after admonition has increased from 37% in 2017 to 75% in 2021 as. This clearly reflect that system believes in giving second chance to the CCLs but without any counselling inputs. The data further reinforces that sending the juvenile to special homes should be the last option as from 34 % in 2017 it decreases to 9% in 2021. Although, the low conviction rate³⁷ has made a larger number of the CCLs go off the limit. The socio psychological inputs for all the children should be the need of time.

Table 9.3



The similar data from Puducherry as shown in Table 9.3 could not establish any significant pattern due to **inconsistency of data** from Puducherry. Except for 2017 where 4 Juveniles were sent to Special homes all the other years the value remains Zero. Therefore, reflecting on non-participation of judiciary in the apprehended juvenile cases thereby increasing the number of pendency rate which one can observe in the later sections/Tables.

³⁷ <https://satyarthi.org.in/wp-content/uploads/2021/04/Status-of-POCSO-Cases-2017-2019.pdf>

Table 9.4

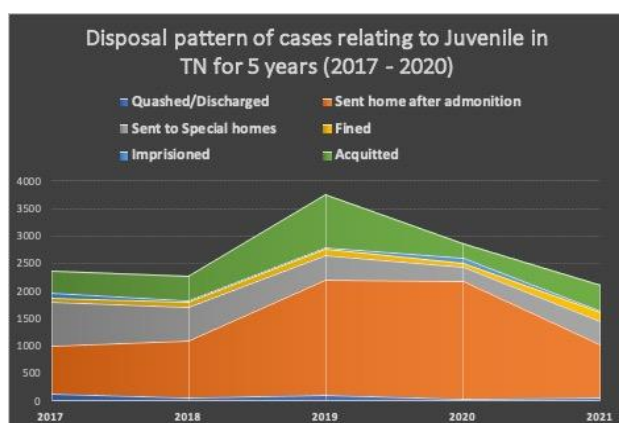
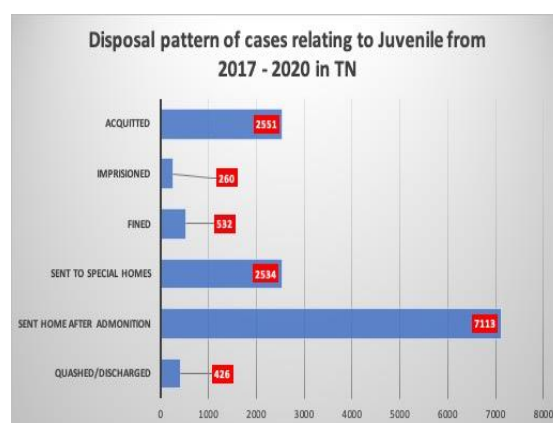


Table 9.5



The data above as shown in 9.4 the cumulative numbers from Tamil Nadu clearly reflects the 5 years pattern of the apprehended Juveniles where the maximum number of children were sent home after admonition. As shown in Table 9.5 the cumulative number of children acquitted were 2551 and number of children sent to special homes were 2534 and an insignificant number of 260 juveniles were sent to imprisonment. The disposal rate of Juveniles still does not capture data on how many children were given socio psychological support, qualification or expertise of the counsellors, timeline and kind of support and follow up which are some of the aspects require immediate attention and acceptance from the system. A similar capturing of data in terms of support mechanism should also be devised and captured for the victims is missing.

Table 9.6

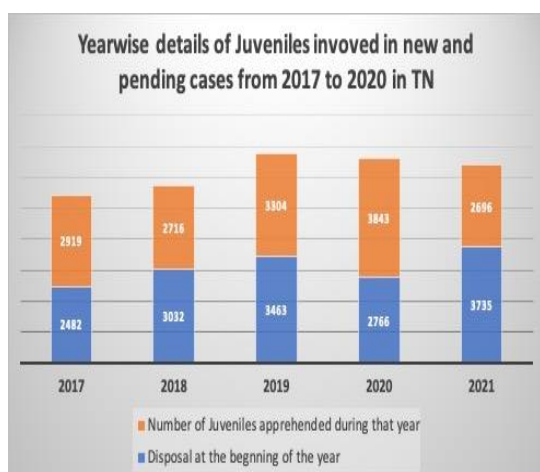


Table 9.7

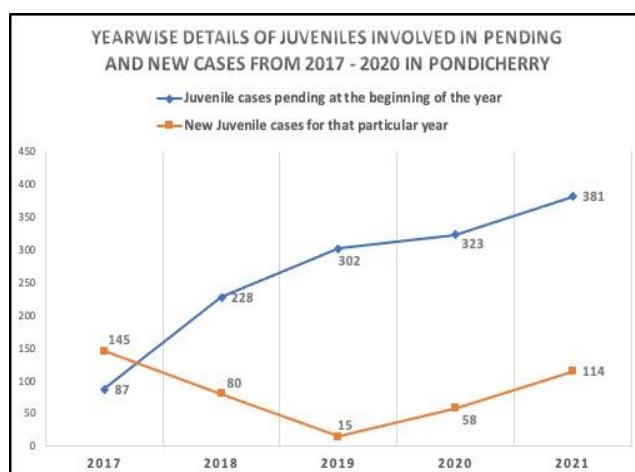
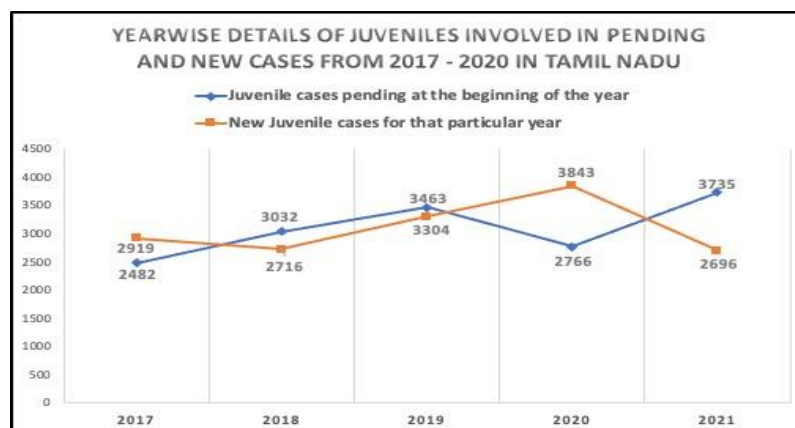


Table 9.8



The above diagram explains that in both Tamil Nadu as well as Puducherry the number of pending cases in JJB is significantly increasing. As shown in Table 9.8 in Tamil Nadu the gap between new and pending cases almost merged in 2019 at the onset of the Covid and becomes more during Covid at 2020 where the judicial proceedings shifted to online as shown in Table 9.6. The same inferences could not be drawn from Puducherry as the year wise gap is majorly increasing and case load is significantly increasing as shown in Table 9.7 making “Justice delayed, is Justice Denied” a reality.

Institutional memory about the development of Jurisprudence with regard to Juvenile justice is sporadic, with the meagre functioning of the JJBs (usually two post lunch sessions in a week), with frayed continuity of the judges and the prosecutors, with absolutely no psycho social support (one counsellor of JJB only during FIR registration) to both the CCLs and the CCPs, the State abysmally falls short in its duty as the custodian and protector of child rights.

10. CONCLUSION

Reliability of data has always been an issue in India. Evidence based research is the key for any policy level changes. Research on Juvenile sex offenders, tracing the victim trajectory, pattern tracing of data where minor to minor incidences is more, differentiating between exploration and exploitation and rehabilitation are some of the issues which require more attention especially qualitative data which is completely absent. The number of child sex offences are increasing at a rapid speed and we might be sitting on a timebomb ready to be explode with little or no studies on the eco system in which these children have to find justice and reintegration, some of the avenues need to be explored with more in depth primary research are:

- Challenges in JJ Act -POCSO Act interlinkages are based on several systemic, operational and attitudinal challenges that hindered linkages between the JJ system and the criminal justice system especially lack of coordination amongst stakeholders (training and interpretation of law) a review of the same is vague and need further research exploration is required.
- There is a need for specific studies in identifying the gaps and problems to conflicting laws like inquiry verses trial, alternative to warrant for juveniles, bail restrictions etc.
- There is void of studies in understanding the rehabilitation (child compensation funds/JJ funds/Nirbhaya fund budgetary allocations) and re-integration of child victims as well as children alleged and found to be in conflict with law require much more investment in terms of human resources and individualized attention. The Social Psychological rebound and allocation of funds.

- Scope for restorative justice especially in sexual offences require offender to take responsibility for his/her actions and that is one of the key requirements for their implementation is voluntary acceptance. A review of restorative justice with respect to sexual offences where both the victim and perpetrator is a child need impact based longitudinal studies.
- Similarly talking about issues openly at the school level evaluating the effect of government measures like GO 83 in Tamil Nadu³⁸ leads to preventive side of the issues with regular monitoring can bring effective change in longer run. The attitude, perception and understanding the mind of children in the digital word of influencers need exploration.
- NCRB and SCRB are the foremost agencies to capture data on Juvenile crimes yet some of the data fields are completely missing like data on children with disability or any similar vulnerable group.

³⁸ The Government Order refers to forming School Safety Committee in all schools with members from the parents group.