

“Justice for Delinquents -‘A Contrasting Conflict’”

Damini Singh
Jaipur National University

“The only effective way to reduce and prevent juvenile crime is to balance tough enforcement measures with targeted, effective and intervention initiatives.”

-Janet Reno

The children are the asset to a nation. The mental and physical development of young children has a direct effect on what kind of adults will they become. Well who’s a juvenile? Juvenile is a child who has not completed 18 years of age and juvenile criminals are children below 18 years of age who have committed a crime. There arises some questions like why would a child not mature enough to take decisions and unaware of the circumstances would do odious activities? Well there are many causes behind this which are:-

Circumstances which make the juveniles to commit crime

A child is not born as a criminal; there arises some a situation or circumstances which leads this raw mind towards the path of crime. Therefore their actions must be intervened at an early stage in order to restrain these children from putting themselves in dangerous and inevitable situations.

Some of the main causes are:-

- Negligent Parents
When our mind is raw and undeveloped during childhood it the duty of our parents to teach us the difference between moral and immoral acts that’s how a civilized society is formed, but when a child’s parents are negligent towards his acts and does not teach him the difference between moral and immoral acts, moral values are not infused in them then the child is likely to commit any act without caring about its repercussions.
- Peer Pressure
When children reach the age of adolescence they wish to become popular and accepted in their peer groups. This sometimes leads to doing immoral and dangerous acts by a teen without having any knowledge of the consequences. Many a times teens want to try adventurous things which could be proved both positive as well as negative for them, due to their curiosity in immoral things teens often find themselves in substance abuse, teen sex, teen gangs, burglary and what not.
- Substance Abuse

Drugs and alcohol are proven to be the biggest contributors of juvenile crime. The children on drugs are more likely not interested in attending school classes which leads to fall in their grades. These situations degrade the morale of the students.

When they couldn't get money from home to buy drugs, they start to embezzle and many a times they put themselves in dangerous situations..

Juvenile court

Juvenile court also known as children's court is a special court which tries matters related to delinquents, neglected children and abused children.

The statutes provides that cases concerning children below 18 years of age should be tried in juvenile courts and if no juvenile court is present in the area then the ordinary court should act as one. In India the juvenile courts deal with mainly two types of categories:- the first comprising of children in conflict with law and the second children in need of protection and care.

The children in conflict with law are handled by special judicial boards in India, known as juvenile justice boards which guide the offenders during their hearing. The main objective of establishing these special courts is to provide rehabilitation and reformation rather than punishing them.

Juvenile justice act of 1986 set forth the establishment of:-

- Juvenile Homes – For the neglected children
- Special Homes – For delinquent juveniles
- Observation Homes – For under enquiry delinquents
- After Care Home – For overall care of children

Unlike adult courts, the proceedings of a juvenile court are restricted for public with proper sealing of the files, for protecting the future of the juveniles.

As in our country, India has the highest number of children in the world. More than 1/3rd of the Indian population is below 18 years of age. Hence many a times these children are exploited and abused sometimes which leads them to criminal path, therefore the government of India introduced an act named - **Juvenile Justice (Care and Protection of Children) Act, 2000**. This act was introduced to prevent and treat juvenile delinquency, by providing protection, treatment and rehabilitation in the child criminals.

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

This act was brought in conformity to 1989 UN Convention on the Rights of the Child (UNCRC), repealed the earlier Juvenile Justice Act of 1986 after India signed and sanctioned the UNCRC in 1992. The juvenile justice act addresses both the children who need care and who are in conflict with the law.

When the Juvenile Justice Act of 2000 came it was introduced for better protection of the delinquents because they were exploited in many situations. It established norms for better administration of juvenile justice. It was then the need of the hour to bring in some norms for the protection of juveniles.

Delhi Gang Rape Case' effect on juvenile law

A huge complication came into notice after the 2012 Delhi Gang Rape Case (Nirbhaya Case) where a juvenile of 17 and a half year old boy was involved in rape and brutal murder of a paramedical student in Delhi. Amongst the six offenders the most brutal perpetrator was the minor itself. But according to the law, the minor was not mature enough to reason his actions and therefore wasn't punished¹, which triggered the nation for justice. The increased pressure after the Delhi case led to the amendment in juvenile law that the juveniles from age 16-18 involved in heinous crimes should be tried as adults, in such cases juvenile justice board will have the total discretion to decide whether to try that offender as a juvenile or as an adult.

But here the question arises that is it just to limit the age to 16 years?

The amendment has limited the age to 16 but what about a 15 year old accused of rape or a 14 year old accused of murder? What if a child aged 15 years and 10 months commits a crime? Should he be freed just because he did not attain 16 years? A child of 15 years and 10 months has developed the brain and decision making capacity as same as the child of 16 years. But the amendment restricts the age to 16 years, this leads to the question that 'isn't the criminality as far more important criterion than just age?'

Though we know the amendment was made after the nirbhaya case and couldn't be applied retrospectively but why do we have to wait for crimes like these to happen and then we rectify our laws? Its better we should totally rectify the juvenile justice act and prepare our laws as per to provide justice to the victim and punishment to the offender according to what he deserves rather than waiting for another atrocious crime to happen!

Why can't we be like UK who is also a signatory to UN Convention of Rights of the Child and has kept heinous crimes like rape and murder outside the ambit of Youth Justice System? We must follow other countries for the betterment of our justice system. Being too lenient on the minors isn't the need of the hour instead making an effort to teach society that everyone has to

¹ State v Ram Singh & Ors, SC: 114/2013

pay for the crime he/she committed is required. Because once a criminal like one in the Delhi gang rape case (minor) is set free then who assures that he won't repeat it again if he's not punished for the offence he has done.

Conclusion

What the need of the hour is that we must judge juveniles by their maturity and capacity to make decisions with proper process involving psychologist and mental health specialists so that the mental capacity of the juveniles can be concluded precisely.

The solution is not to totally change the law but to enforce it effectively. Like proper juvenile homes with better infrastructure and quality counseling for delinquents is requisite. There are total 815 juvenile homes in India, with the capacity of 35,000 offenders but what's appalling is that these 815 homes are overcrowded with 1.7 million juveniles far more than their original capacity. We can definitely not expect the delinquents to reform at this situation where no proper infrastructure and counseling is provided for every individual.

40% of Indian children are vulnerable to complexity of living standard life. Therefore the country must now be ready for such position to handle such cases. The main objective must be to bring down the rate of juvenile delinquency.

As India can only become better tomorrow if there's a quality youth groomed today!

“We are guilty of many errors and faults; But our worst crime is abandoning the children, Neglecting the foundation of life, many of the things we need can wait, The child cannot wait; Right now is the time, His bones are being formed, His blood is being made and his senses are being developed, To him, we cannot answer ‘tomorrow’; His name is ‘today.’”

- Gabriel Mistral (Nobel prize winner)