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A comprehensive review of Indian Juvenile Justice System and neighboring Asian countries reflecting effectiveness of Life skills Education as an intervention for Juvenile Delinquents

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ABSTRACT

The United Nations Convention of Child Rights has long been a guideline for issues related to children and their rights all over world. This brief review reflects the problems and issues of system involved in the applicability of the Juvenile Justice System all over Asia. It throws a light on the recommended changes and improvements in the policy implementation of juvenile justice in Asian countries by UNICEF and Beijing Rules. The Indian juvenile Justice system has been explained in the light of policy implications and their effectiveness in reality. The paper also discusses implications of life skills education with reference to the renewed juvenile justice act 2015. This article puts forth better indicators of dealing with issues of juvenile delinquents within the framework of convention of child rights. The paper provides for a definitive solution in form of life skills based interventions for Juvenile Delinquents.

Key Words: *Juvenile Delinquency, Convention of Child Rights, Juvenile Rehabilitation, Restorative Justice, Life Skills Education Training*

Introduction

The Second United Nations Congress, on the Prevention of Crime and Treatment of Offenders held in London in August 1950 defined the term 'juvenile delinquency' as all violations of criminal law and maladjusted behaviors of minors which society disapproves. These days the most debatable issue in the circuits of social policies and their application is of children in conflict with the law. It has gained an increasing concern for countries all over the world. Specific reformative measures are being sorted and initiatives are under construction in most countries. Looking into the Asian countries scenario, it is evident that all these countries have taken up a wide range of procedures for children who commit crimes, still there is not even one country in the region that has completely defined the structure of the laws and system that separately deal with the issues and problems related to Juvenile

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delinquents and treats these young offenders in a different manner than adults at every stage of the proceedings (UNICEF, 2007).

The causes and conditions for juvenile crime are usually found at each level of the social structure, including society as a whole, social institutions, social groups and organizations, and interpersonal relations (Goonsekere, 1997). The study 'Root Causes of Juvenile Crimes', carried out in collaboration with the Department of Women and Child Development and the UNICEF, analyzed the cause for juvenile crimes. The study revealed that a majority 94 per cent of the boys were not under parental care. Also, about 89 per cent of them came from poor economic background. The study states that those facing economic stress in their day-to-day lives are forced to work at a young age where they get in touch with anti-social groups. Most of the juveniles are school dropouts and come from families below the poverty line (United Nations Publications, 2004). There are a number of factors that can be held responsible for delinquent behavior in children in Asian countries like poverty, broken homes, emotional abuse, rural urban migration, break down of social values, faulty education system, atrocities and abuse by parents or guardians, negative influence of media and unhealthy living conditions. The neglect of these factors by parents and care givers and the nation creates detrimental effect on their physical, mental and overall growth of these children.

Juvenile Delinquency in Asian Countries

Juvenile crime and delinquency in a large part of Asian countries is evidently an urban phenomenon. Youngster's population comprises of a large segment of criminally active population in the Asian countries. There has been an evident increase in drug-related offenses along with growth in female juvenile delinquency. The financial crisis of 19th century has created a stagnancy of economies and large scale unemployment, which can be considered partially responsible for juvenile crimes (Dijk, 2013). In a report by UNICEF on East Asian countries scenario of juvenile justice system, it suggests that alternative measures based on restorative justice approaches may be considered appropriate for children in conflict with law. Deprivation of liberty should be used as a last resort for a shorter period of time (UNICEF, 2017). There should always be a balance between punishment and rehabilitation. Prime focus is to look at the aspect that in Asian countries mostly children's cases are often processed through justice system that is meant for proceedings of adults. It is need of the hour to adapt the system in accordance to rights and specific needs of children in conflict with law (UNICEF, 2018). In accordance to a report presented by the Raoul Wallenberg Institute states that, juveniles who are institutionalized are deprived of their independence in ASEAN (Association of Southeast Asian Nations) countries. This problem can be reduced to a significant level, with alternatives that specifically address the causes and implications of delinquent behavior in children (The Raoul Wallenberg Institute, 2015).

Guidelines of Convention of Child rights on Juvenile Justice System

The Convention on the Rights of the Child (CRC) has given the core guidelines for the treatment of children in conflict with the law, it states that every country and region should treat every alleged or accused child in the sense of dignity and worth of their rights. This way reinforcing the child's respect for human rights. By taking into account a child's age and promoting the reintegration process, the child is lead to reformation and a constructive role in society (UNICEF, 1989). The Convention on the Rights of the Child (CRC) and UN guidelines encourage good practices which ensure the dignity of the child and promotes reintegration and mainstreaming of these children into the community. As the present scenario reflects most of the children in Asian countries are deprived of liberty because institutionalization has always been prioritized as a remedial measure to eradicate juvenile delinquency. Every Asian country requires to actively analyze the juvenile justice system, in order to introduce positive changes in the trial and justice system. The juvenile delinquents

suffer and get stuck into the vicious cycle of crime as they become victims of outdated policies and theoretical laws (Khanam & Bhadra, 2016).

Issues of Juvenile Justice System in Asian countries

The UN committee on the Rights of the Child has expressed its concern about the issue of juvenile delinquents rights in Asian countries. All children under the age of 18 are put under the category of juveniles in Afghanistan, Bhutan, India, Maldives and Pakistan. In Nepal, Sri Lanka and Bangladesh a juvenile is defined as a person under the age of 16 (SCF-UK, 2004). In most countries there are many clauses that restrict a complete applicability of juvenile laws and therefore lack in providing the special status and protection to children alleged to have committed criminal offenses. India has passed an amendment to its Juvenile justice act that places children of ages 16 to 18 to be tried as adults if have committed a heinous offense, that lays imprisonment of 7 years or more under Indian Penal Code (Ministry of Women and Child development, 2014). In Pakistan, the federally administered tribal areas or the provincially administered tribal areas do not come under the provisions of the juvenile laws of the country. The provisions like that of the Hudood Ordinances still imply on basis of sharia laws, if the child has reached puberty (Pakistan Juvenile Justice Systems Ordinance 2000, Section 247; Hudood Laws, 1979). Sri Lanka and Nepal, jointly charge children with adults if they are found guilty with adults and are subject to adult proceeding. Bangladesh overlooks the juvenile justice protections and children above 16 years and allows life imprisonment and death penalty (UNICEF, 2007).

In accordance to the Beijing Rules, most of the Asian countries favor bail over punitive reforms. At the same time the grounds of refusal of bail are also many including moral danger and reverting to adult criminality. Many children are at greater risk of pretrial detention, as their parents cannot be located or they cannot afford to pay for release. As a result these children remain in closed facilities like observation homes and in adult prisons (UNICEF, 2005). Delays in criminal justice system due to failure of police, prosecutors and judges in common in all Asian countries (UNICEF, 2005). Generally countries throughout have been ignorant towards executing the separate legislation for Juveniles, which results in treatment of these children as no different from adults (School of law and centre for legal research and development, 2002). Except Bhutan all the countries have a legislation to establish separate juvenile courts, designating observation or remand homes. Depriving Juveniles of their liberty can be used as the last resort and it would be for the shortest period as stated in convention of child rights and Beijing rule (UNICEF, 1989).

Problems at the observation and rehabilitation homes in Asian countries

All the Asian countries take up special considerations like child's background and reason for the criminal offense while giving sentencing options like care, supervision, guidance, foster care, probation, educational training and institutionalizing children as the last resort (United Nations, 1989). A special Juvenile Rehabilitation center is established by most of the countries. Ones in Pakistan, Sri Lanka, and Bangladesh follow a strict regime based on the brostal model to rehabilitate delinquent children. In countries like Bangladesh, India, Pakistan, Sri Lanka and Bhutan the institutional care comes up for a big concern (SCF-UK, 2004). As most of these institutes lack basic infrastructure and display a decrepit standard of health and hygiene. Sanjay Gupta from the NGO, Childhood Enhancement through Training & Action (CHETNA), said the real challenge begins now. An evaluation of all types of juvenile institutions shows that lifestyle in these institutions is not at all satisfactory and inmates enjoy little freedom. The institutions are mostly over-crowded, management is centralized with a low budget allocated to them and training programs are very traditional, individualized attention is not paid. Inmates lead a monotonous, aimless life that nowhere relates to rehabilitating them. The observation homes prove as breeding grounds of adult criminality. (Bura, 2012). To reform the juvenile, the authorities must

proactively work to put systems in place for proper counseling and activities for development of these children so that when they come out they can be mainstreamed (Pandit, 2013). The juvenile delinquents that enter the system should be provided utmost care and protection. The observation homes are meant as rehabilitation facilities, where children in conflict with law are kept to bring positive changes in their lives (Khanam & Bhadra, 2016). On the contrary such observation homes act as breeding grounds of criminality for these children. Problems like overcrowding, failure of authorities to meet all the guidelines in the justice system lay a negative effect on the children that are inmates there (Dhar, 2016)

Current scenario of the Juvenile Justice System in India

As per the current definition, the term 'Juvenile Delinquents' or 'Children In Conflict With The Law' refers to any person below the age of 18 who has come in contact with the justice system as a result of committing a crime or being suspected of committing a crime (Ministry of Law and Justice, 2015). The Juvenile Justice (Care and Protection of Children) Bill, 2014 was introduced by the Minister of Women and Child Development, Menaka Gandhi, in the Lok Sabha on August 12, 2014. It repeals the Juvenile Justice (Care and Protection of Children) Act, 2000 (Ministry of Women and Child Development, 2014). The Bill defines a child as anyone less than 18 years of age. A special provision has been inserted for the possibility of trying 16-18 year olds committing heinous offences, as adults (Ministry of Law and Justice, 2015). A heinous offence is defined as one for which the minimum punishment under the Indian Penal Code is seven years (PRS Legislative Research, 2015).

Life Skills Education Training-a positive behavioral intervention for juvenile delinquents

The behavioral problem of adolescents, in relation to violence and drugs misuse has been a root cause of delinquent behavior (Barnardos, 2018). Poor decision making and getting engaged into high risk behavior increases proneness towards maladaptive behaviours. Life skills as defined by UNICEF is an approach that focuses on behavior change and development. It addresses the areas of knowledge, skills and attitudes (UNICEF for India, 2018). Research evidence as provided by UNICEF states that life skills as abilities help the adolescents to promote mental well being, make safer choices and enhance decision making and problem solving abilities (UNICEF for India, 2018). Worldwide development professionals have considered life skills in their general application to health and social context. Life skills can be of great utility in addressing issues like prevention of drug and alcohol use, violent behaviors, suicide prevention (Barnardos, 2018). It is evident that life skills education based intervention plan if applied in the juvenile observation homes can successfully address issues like conduct and behavioral problems, low self esteem, poor decision making and communication skills (Khanam & Bhadra, 2016). The environment at the observation and correctional homes at most of the Asian countries needs to be flexible and rehabilitative in nature (Bura, 2012). Punitive approaches should be replaced with supportive and experiential learning approaches like life skills education (J. M. Kretschmar, 2014).

Conclusion

Beijing Rule has guided most countries to incorporate professional education, life skills training, vocational guidance and development of appropriate intervention and correctional models within the institutional set ups (Wernham, 2004). Besides the changes in system, there is also a need of public awareness activities on child rights convention. Many NGO's in South Asian countries like Maldives, India, Pakistan conduct public campaigns with active participation of media on child rights, numerous training programs, seminars and workshops on police sensitization, capacity building to deal with juvenile delinquents issues and problems, for children in conflict with law (UNICEF, 2005). Establishment of measures of diversions and restorative justice is the need of hour. Maldives is the only country that has established alternate forms of restoration and resolution methods. Establishment of high level

inter agency task force was recommended in the report on juvenile justice system by UNICEF (UNICEF, 2007) This would bring in these reforms from single agencies to inclusion of government structures as a part of these efforts to create a holistic strategic approach that will address all aspects of a juvenile justice system.

There is an ongoing reform on juvenile justice initiative in all countries. Afghanistan, Bangladesh and Nepal have established high level juvenile justice task forces. India, Pakistan and Bhutan are also in line to develop effective mechanisms based on global indicators (UNICEF, 2006). An evaluation of Ohio's Behavioral Health/Juvenile Justice initiative in 11 counties found the various intervention program benefits most young offenders diverted from detention centers to community-based agencies to treat mental health issues, drug problems (J. M. Kretschmar, 2014). Life skills education Training as a format establishes its effectiveness in promoting positive behavior in juvenile delinquents (Singh & Bhadra, 2015). In accordance to the guidelines by Beijing rules and UNICEF, life skills is an effective training methodology of restoration and rehabilitation of juvenile delinquents (UNICEF for India, 2018).

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