



NEWSLETTER

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Message from the CEO

In this edition of the newsletter, we share with you reports on juvenile delinquency, which, according to newspaper reports, appear to be on the rise. From petty theft to heinous murders, many children are found to be guilty of committing the offence. Whether to punish the delinquent juvenile or to take a lenient view, is a matter of public debate.

But it is equally important to deliberate whether punishment or retribution has really helped in eliminating crime in the society. Does it serve as a lesson for the juveniles to stop indulging in crime, or it simply perpetuates the idea of retribution in the young minds? Have vengeance and retaliation, 'an eye for an eye', served as compensation for a hurt soul? Has it lessened the pain of the victim and empowered the offender? Has it helped in making our society less violent? By getting even, does the offender feel contented and satisfied?

If not, then would it not be better that we look into the psychology and circumstances of the perpetrator of the crime, and eliminate the causes that led to the crime? Poverty, greed, jealousy, lust, desperation, anger, unemployment, homelessness are some reasons for the commission of the crime. There may be many more.

It is time we worked towards making our society a better place to live, so that we are able to bring out the best in every human being. Transformation can happen not with retribution, but with love, compassion, mercy and equality for all. It might seem unusual to see beauty and spiritual qualities in an offender, but with detached observation we realize that each one of us do possess divine qualities.

Anupama Jha
CEO

Rehabilitation not Retribution should be the way forward -Priya Mathur, Program Associate, FRNV

The events of 16th December, 2012 triggered a nationwide debate on the issue of heinous crimes committed by juvenile offenders. Release of the convicted juvenile after completion of his term, led to uproar in the state. Media frenzy was subsequently created by news channels who declared the juvenile as the most heinous of the rapists. Some channels even declared him a monster and a beast; supporting eight petitions that were filed in the Supreme Court to interfere with the Juvenile Justice Act to stop his release. Eyebrows were even raised regarding Delhi government's rehabilitation plan for the juvenile which included a monetary grant of Rs 10,000 and a sewing machine along with additional help to set up a tailoring business. Those outraged by the juvenile release found this rehabilitation package unjust in the context of the crime he committed. Sensing the public mood and the media hysteria Parliament swiftly passed The Juvenile Justice (Care and Protection of Children) Bill, 2014 on December 22, 2015. The bill permits juveniles between the ages of 16-18 years to be tried as adults for heinous offenses. Now, the question is, "Should the focus of Juvenile Justice be retributive or rehabilitative?"

In political circles there have been contrasting views on this. While leaders like Shashi Tharoor considers the provisions of the bill violative of our constitution and United Nations Convention on the Rights of Child, others like KTS Tulsi, senior advocate in the Supreme Court of India, felt otherwise. He does not think that the bill compromises the rights of the child in any way. However, amidst this, focus on rehabilitation of the Juvenile offenders was neglected. Media substantially focused on quantitative figures from the National Crime Records Bureau (NCRB) and PRS legislative Research which suggests that percentage of crimes committed by children, have risen from 1.0% to 2% and 75% of the accused juveniles were in the age group of 16-18 years.

This extensive focus on facts and figures created a renewed demand for retributive justice, forgetting that the essential meaning of the juvenile justice system is not only to make juvenile offenders understand that they have committed an offence, but because they are underage, also provide them a chance to reform and reintegrate into the society as responsible citizens. The neglect of this important aspect is evident from the fact there was rarely a discussion on how the juvenile offender is created in our society. It is important to note that 40% of marginalized children in India do not benefit from the various policy initiatives taken by the government. Some even suffer deep parental neglect and therefore are devoid of any education and family support. They are even forced to treat footpaths as their home and therefore become vulnerable to suffer abuse. Living in such conditions, devoid of any guidance, it becomes easy for a child to walk the path of crime. Here we must note that India's national policy for children does provide provisions for rehabilitation of delinquent, neglected and exploited children. It has established Child Welfare Committees to address the needs of 'children in need of care' and Juvenile Justice Board to deal with 'children in conflict with the law'. The new rules, recently drafted to be incorporated in the Juvenile Justice Act (2015), also provides for a detailed focus on rehabilitation and reformation of juvenile offenders. It has provisions like establishment of the required infrastructure to house children, establishment of state, district and city level inspection committees to check this infrastructure as well as check any incidents of abuse. The rules also provide for cancellation of registration of child care homes in case they do not comply with the standards expected out of them.

News and Events

The first meeting for the joint project between FRNV and CHRI on Police Reforms was conducted with Criminal lawyers of Delhi in YMCA, New Delhi on 17.05.2016 under the Chairmanship of Anupama Jha, CEO of Foundation for Restoration of National Values and Maja Daruwala, Director of Commonwealth Human Rights Initiative. The purpose of this interaction was to familiarize respective lawyers with the problem of police personnel as well encourage them to share their own experiences with the Police.

Ms. Anupama Jha and Ms. Khushboo Srivastava undertook a field visit to conduct a baseline survey on how the VBE project is being implemented at the Shri Ram Global School at Gurgaon and Dehradun.

Dear readers,

FRNV invites stories from its readers on deep-rooted values that have helped us in our everyday lives. Some of these stories will be featured in the next issue of our newsletter. So put your thinking caps on, recall the values integral to your life which you cherish and write to us at khushboo@valuefoundation.in



The socio-economic profile of juveniles apprehended under both IPC and Special and Local Laws in 2014 shows that 90 per cent of them have received no or very little education. Child rights lawyer, Anant Asthana, said that the oft-cited increase in crime rate among juveniles is simply the result of "loosely playing around with data without putting it in perspective". An article by the NCBI on child delinquency categorises delinquency into: overt and covert delinquency. Overt delinquency includes violent offences like rape, murder, an attack using a weapon. Covert delinquency refers to non-aggressive acts like selling drugs, pick-pocketing and shoplifting. The reason for this bifurcation is to form a better understanding of the juvenile's background. While overt delinquency is an early onset symptom, it indicates a disturbed psychology of a child.

Gender also plays a key role in delinquent behaviour. It is because children tend to model the parent with the same sex as theirs. To elaborate, if a son looks upto his father, who beats his wife on a regular basis, is likely to leave a negative impact on the child's mind. It could lead him to believe that is the norm and hence carries legitimacy. Another aspect to education that most curriculums tend to strike off is sex education among kids. Lack of sex education obstructs the child's understanding of its own anatomy, creating a sense of unawareness. This in turn leads a child turn a blind eye to child sexual abuse also as the child can't comprehend and differentiate between a 'good touch' and a 'bad touch'.

There is definite need for intervention at a young age to prevent juvenile crimes. It is the psychology that breeds action. The point of focus should be to understand and work on the signs that a child gives out in case of a mental trauma. It is not an adult or a child who commits crime; intention does.

In spite of having such a comprehensive guideline to ensure the welfare of children, there is an inherent feeling among child rights advocates that the rights of juveniles will continue to be violated under the juvenile justice system. Child Rights advocates argue that the bill fails to define 'heinous offence' leaving the most crucial part of the amendment vague. Therefore, the definition of the heinous offenses should be restricted to the category of rape, murder, kidnapping, trafficking and terrorism. They also point out that there is no guarantee that trial of juvenile culprits in heinous offenses will deter the occurrence of these crimes. For instance, the policy of "Adult crime for Adult time" in the U.S tried children as young as 12 in the adult courts only led to sharp rise in the number of prisoners behind the bars (that included a large percentage of gangsters) without any scope for reform or rehabilitation.

Concerns are also raised in terms of lack of proper implementation of the legislation. For example, it is often argued that police are rarely sensitive in their treatment of child offenders. Whether it is a 'child in need of care' or 'child in conflict with the law', both are languished in poorly managed institutions and are treated as criminals. Therefore, we need a 'child friendly police system' which can be ensured through compassionate and sensitivity trainings. The state must also ensure that the problem of acute shortage of skill and trained staff in the corrective homes is also immediately solved. We must not forget that many officers appointed for child welfare schemes have little to no domain expertise. Therefore, for these new rules to be properly implemented, we need to adequately address operational issues like training of child welfare officials, building a skill base as well as providing proper funding for the same.

Therefore, it is important for us, as a society, to reflect on the reasons because of which children turns to crime and take immediate steps, both at policy and individual level, to solve these. We must understand that not every child has access to his/her rights and therefore are not fully developed to understand the difference between right and wrong and comprehend consequences of their actions. In a country where the majority of the population lives below the poverty line, the issue of 'juvenile offenders' cannot be simply reduced to the frenzy of retributive justice. Rather, it is important is for the state to ensure that every child has, at the minimum, access to his/ her rights so that a hungry child do not become an angry delinquent child. Thus we must provide them a chance to undergo reformation by proper implementation of the rehabilitation policy so that they can live a normal healthy adult life.

Understanding the psychology of a Juvenile criminal - Shristhi Patra, Volunteer, FRNV

On June 6, 2016, a 3 year old was allegedly sexually assaulted by a 10- year old boy in outer Delhi's Mangolpuri area. The boy lured her away to a park on the pretext of giving her sweets. A case for the same has been registered under the POCSO Act. In 2013, a 22-year old photojournalist was gang raped by five men, including a minor, in the Shakti Mill, Mumbai. While three men were awarded death penalty, one received life imprisonment, and the juvenile was tried by the Juvenile Justice board and later sent to reform school for three years.

Over the years, cases involving juvenile offenders have been rampant. To substantiate, according to the National Crime Records Bureau, the number of juvenile crimes went up from 35,465 in 2012 to 42,566 in 2014 under the IPC. In case of juveniles, a total of 48,230 boys and girls in the age group of 0-18 years were arrested for various crimes. Of these 2,609 were found to be repeat offenders. Among all crimes committed, rape comprises the highest percentage of occurrence. According to an article by the Times of India, data accessed by the Ministry of home affairs, pertaining to crimes like murder, attempt to murder, attempt to murder, homicide not amounting to murder, rape and abduction. A striking figure of 3,182 cases was registered against juvenile's committing rape. There were 2,073 and 2,061 cases involving juveniles in kidnapping and abduction respectively.

Why it happens? Before deliberating on the occurrence of a crime and its consequent punishment, a number of factors ignored that carry psychological significance. No person is a born criminal. It is the society, norms, inter-personal relations that frames individual perception and action. It breeds from a host of reasons including: poverty, drug abuse, illiteracy, child sexual abuse, family violence etc. "Something is fundamentally wrong in the way we socialize. It seems flawed, allowing people to view women in a way that encourages them to hurt or even destroy them," said Sudha Sitaram, a Bangalore-based sociologist.