

Juvenile Justice System –For Juvenile Offenders below the Age of Sixteen ‘16’ – An Indian Perspective

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Abstract:

The court's duty and responsibility lies in the determination of ages of people who commit or are involved in crimes. The determination aims to discern whether or not the individual is a juvenile. Also, court's specifications demonstrate that children who are very young ought not to be imprisoned. From the guidelines in the JJ Act of 1986, juveniles constitute girls aged below 18 and boys aged below 16. The 200 Act of Care and Protection suggests that the difference in the ages of boys and girls categorized as juveniles is worth eliminating. Hence, the Act's sections 2(12) and 2(35) treat 18 as the year that determines whether or not one is a juvenile. From the 2015 Act 2(13) regarding the conflict of children with the law, it reflects juveniles perceived to have committed crimes, yet they have not attained the age of 18. In such a case, the role of the court is expected to involve determining the offender's age based on certain documents, upon which it would discern if the offender is a juvenile. The implication is that the role of inquiry lies in verifying the documents at hand in court, especially when the case is pending. In the wake of this controversy, however, the 2015 Juvenile Justice Act has addressed the dilemma by ensuring that children are specifically referred to as those who, at the time of offence, are aged 18 or above. Despite this provision, many judgments continue to contravene the provision, reflecting an inconclusive debate.

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I. INTRODUCTION

One of the current research issues involves the criticality of involving NGOs and families in rehabilitating juvenile offenders. Notably, juvenile delinquency refers to the engagement in offenses or crimes among young people. In particular, the crimes are committed by persons aged below 18. Mostly, teenagers engage in the crimes, raising concern in society. In particular, the increasing rate of crime commitment among juveniles is worrying because this population cohort reflects an otherwise future generation that will determine societal progress and success.

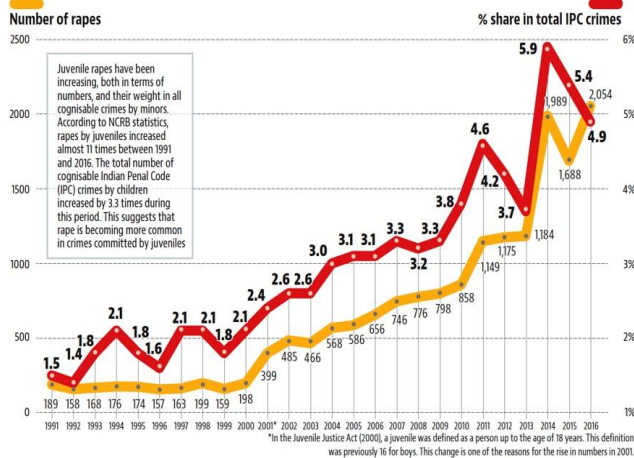
STATISTICS: CRIMES BY JUVNILES

MURDERS 2.5% RAPES 5.4%

REPEAT OFFENDERS

	2011	2012	2013	2014
ADULTS	6.9%	6.9%	7.2%	7.8%
JUVENILES	11.5%	11%	9.5%	5.4%

Losing their way at a young age



16-18: The tough ages, according to statistics

The share of sex related crimes in all cognisable IPC crimes committed by juveniles is the highest among 16 to 18-year-olds

% of crime	Below 12	12-16 years	16-18 years	Total
Cognisable IPC Crimes	1.5	24.7	73.8	41,826
Assault on woman with intent to outrage her modesty	0.6	20.2	79.2	1,627
Insult to the modesty of women	1.1	29.8	69.1	94
Rape	1.4	22.6	76.0	2,054
Attempt to rape	2.7	24.7	72.6	73
Unnatural offences	3.7	42.2	54.1	218
Total sexual crimes	1.2	22.9	75.9	4,066

SOURCE: NATIONAL CRIME RECORDS BUREAU

II. CRIMES BY JUVENILES:

The justice system, crime prevention, and law enforcement are extremely complex elements. The elements are sophisticated to such an extent that they draw on broader bodies of knowledge such as law, physical fitness education, human factors, medical sciences, business and administration, systems theory, and psychology. The nature of activities in criminal justice calls for multidisciplinary perspectives to integrate efforts emphasizing education and education, service activities, and research. The judgments, knowledge bases, and skills made by individuals who administer programs in criminal justice require high level of expertise and sophistication (Griffiths & Hamilton, 2010). For years, laws who represent

juveniles struggled about ethical dilemmas that surround decision-making processes for the juvenile clients. The dilemmas emerged from criminal and delinquency proceedings. Sometimes, debates regarding ethical dilemmas in juvenile jurisdictions divided and separated professionals working in the same field, resulting from vigorous representations of similar groups of clients (Pollock, 2011). Juveniles apply to both delinquency cases where judgment occurs generally before the judges and, in cases deemed more serious whereby criminal trials occur in the adult courts. In either case, ethical dilemmas arise from juvenile corrections, leading to significant consequences on the outcome of judgments. This paper examines ethical dilemmas arising in juvenile corrections, upon which recommendations result from the need to explore the causes, consequences and effects of dilemmas in juvenile corrections.

Definitions of a youth offender vary from one part of the world to another. For instance, in Canada, criminal responsibility begins at the age of twelve. On the other hand, the age for criminal responsibility in the US varies from age six to age twelve; determined by the state of the individual and the offense. However, the common phenomenon is that the age of criminal responsibility reaches adulthood, before which the offenders remain juvenile. For minor offenses, a juvenile detention center remains ideal, in comparison with an adult correction facility. A juvenile correction center is a residential facility, short-term and meant to house the youths as they await placement in a lengthy program or, a court hearing. In order to ensure public safety, the judges send juveniles to juvenile halls, encouraging their well-being.

In the corrections system, the case of adults differs from that of juveniles. The facility for convicting the juveniles enables them to spend time while

undergoing rehabilitation. The process of administering rehabilitation to the juveniles is called juvenile correction. The juvenile correction system comprises of the social workers and probation officers. Indeed, The courts concerned have several options while determining the course of action for the youthful offenders and related punishment. However, it is worth highlighting that the punishment practice for the youths aims at rehabilitating them to ensure that they do not begin crime lives. According to Griffiths and Hamilton (2010), the role of rehabilitation through juvenile corrections is to ensure that the offenders learn new social skills and ways of coping. The outcome leads to the betterment of handling situations among the juveniles, besides avoiding a repeat of offenses.

Majority of the legal systems presume that judgments regarding juveniles align with criminal or delinquent misconduct. The systems presume further that the judgments remain competent to stand trial. However, the accused juveniles become competent only if they have adequate present abilities to consult with their lawyers to a reasonable degree, considered rational in understanding. The juveniles are also expected to possess factual as well as rational factual understanding regarding the proceedings against them. In the case of *Ram singh and others v. State of Delhi* also known as Nirbhaya or the Delhi Gang Rape case, 2012 created huge havoc regarding punishments given to the juvenile convict should be same as given to other convicts. Therefore, given that legal presumptions of competency exist, affirmative challenges of the issues in juvenile competency arise. Furthermore, the affirmative challenging of juvenile competencies arise from the court itself, the defense, or the prosecution. Therefore, the unusual criminal process regarding juvenile corrections calls for the need to exercise high level of importance that not only tries

competent individuals who can appreciate the perceived consequences of their conduct but also understand the system design and its workability. Furthermore, ideal juvenile corrections require that the competent individuals tried have the ability to recognize their legal rights and assist the counsel in defense preparation.

III. CLAIM OF JUVENILITY:

In the use of authority, ethical dilemmas include authoritative promotion of personal laws, application of one's authority to avoid accountability towards wrong doing, and, discount on purchases, free meals and police gratuities. On the other hand, ethical problems regarding the relationship between professional and personal interests arise from the use of professional status towards the promotion of one's interests (financial, philosophical, or religious). Additionally, the relationship between professional and personal interests yield ethical dilemmas through the use of institutional materials and time for one's gain, unrelated to the juvenile case at hand. The dilemma arises further through the promotion or engagement of professional activities in contrast to personal values, besides engaging in private or public activities that are contrary to professional values. In case of *KulaiIbrahim v. State of Coimbatore*¹ it was observed by the Court that accused has right to raise the question of juvenility at any point of time during trial or even after the disposal of the case under the Section 9 of Juvenile Justice Act , 2015.

In case of *DeokiNandanDayma v. State of Uttar Pradesh*² the court held that entry in the register of school mentioning the date of birth of student is admissible evidence in determining the age of juvenile or to show that whether the accused is juvenile or child.

Again in the case of *Satbir Singh & others v. State of Haryana*³, Supreme Court again reiterated that for the purpose of determination whether accused is juvenile or not, the date of birth which is recorded in the school records shall be taken into consideration by Juvenile Justice Board.

In case of *Krishna Bhagwan v. State of Bihar*⁴ the court stated that for the purpose of trial under Juvenile Justice Board, the relevant date for the considering the age of juvenile should be on which the offence has been committed.

But later in case of *Arnit Das v. State of Bihar*⁵, the Supreme Court overruled its previous decision and held that date to decide in claim of juvenility should be the date on which the accused is brought before the competent authority.

IV. MAIN POINTS OF THE JUVENILE JUSTICE ACT:

THE JUVENILE JUSTICE BOARD:

It is also crucial to understand the fact that in juvenile corrections, the policing policies yield ethical issues related to racial profiling, use of force, improper adherence to the policing policy about cases in domestic violence, and the use of police discretion. Additionally, ethical problems arise in juvenile corrections because of information sharing and human rights issues. The latter category includes matters related to the use of unusual and cruel punishment, violation of human rights against the juveniles, and capital punishment. Lastly, ethical dilemmas in juvenile correction arise from the media's approach to reporting crimes. For instance, the media may report juvenile crimes as entertainment, eliciting public opinion at the expense of victim anonymity. The media may also represent particular groups of offenders, such as the

girl offenders. Indeed, ethical dilemmas in matters relating to juvenile corrections emanate from the courts to the families, lawyers and friends of the offenders, besides the media.

An inquiry may satisfy a Board that a child, irrespective of age, has committed a petty offence, or a serious offence, or a child below the age of 16 has committed a heinous offence. In such a case, it may:

- Allow the child to go home after advice or admonition.
- Direct the child to participate in group counseling and similar activities.
- Order the child to perform community service.
- Order the child, or parents of the child, to pay a fine.
- Release the child on probation of good conduct.
- Direct the child to a special home for a period not exceeding three years.

First, it is worth noting that the subject of addressing justice from universal point of view has been a subject of debate. In particular, central to this debate has been the heated debate pertaining to cultural relativism versus universalism, which has questions whether human rights should be understood as a universal or culture-relativity concept. Additionally, the differences in the perception of international law is subject various types of laws. The two types of legal systems include the common laws and civil laws. These laws are founded on religious systems and morals. Islamic laws are one of a few of the remaining laws that are strictly inclined on religion. Besides, international justice system is a subject of legal traditions, which include civil law traditions, Islamic law tradition and socialist traditions. Socialism traditions are increasingly losing popularity to other traditions. Therefore, unethical

behaviors such as the use of gifts affect juvenile corrections. The situation becomes dilemmatic because of the fact that the gifts originate from clients in most cases. Cases involving juvenile corrections are also inclusive.

Therefore, concerned parties such as lawyers face dilemma situations of whether to accept the gifts or not. Other parties include the judges in charge of the juvenile procedures. The arising dilemma is whether the client or the receiving end is to blame. For instance, the blame to the clients arises from the fact that they tend to bribe the lawyers and/or judges in the form of gifts, with the intention of gaining favors at the decision-making stage. However, whereas the juveniles may be blamed for bribing the judges and lawyers, their age betrays the blame; prompting considerations of client competency. On the other hand, the lawyers or judges who receive the gifts face blame because of their ability to make independent decisions, yet some of them end up accepting the gifts and favor the clients or offenders in the eventuality.

OBSERVATION HOMES FOR JUVENILE OFFENDERS:

The recent escape of 33 juvenile offenders from an observation home in Chennai has raised questions on the efficacy of the juvenile justice system in the country. Indeed, the National Human Rights Commission has issued notice to the government in this regard.

JUVENILE OFFENDER HOMES AND FACILITATION

The distribution of justice is an issue that is more significant within nations than between nations. This position has been opposed by cosmopolitanisms. Not all these points have been overlooked, but universalism, which is reinforced by cosmopolitanism, has been particularly heeded.

It is notable that there have been tremendous developments in the last couple of decades, as far as juvenile corrections are concerned. In the past, violation of humanitarian laws, as well as international war laws were addressed as an affair that concern the involved parties only. It has only been until recent, saving the notable exceptions pertaining to World War II, that the international community began to understand the violation of international humanitarian and war laws as individual responsibilities of implicated persons. At the same time, the trend has been accompanied by the establishment of international justice tribunals and hybrid courts across the world. Here, common examples that could be cited include the Rwanda and Yugoslavian international justice tribunals. These have not only paved way for the prosecution of war crimes and humanitarian crimes based on the international laws, but also reflect the growing popularity of roles of internal law institutions. What adds to its feasibility is the fact that international system is popularized by the fact that it addresses substantive issues ranging from self-representation, sentencing of genocide criminals and prisoner-of-war protection, to the roles and responsibilities of international jurists.

CRIMINAL JUSTICE (REFORMATIVE OR PUNITIVE) AND JUVENILE:

After the recent identification of cases regarding mental illness, aspects of developmental immaturity and mental retardation impact significantly on the competence of juveniles. As such, the affected juveniles fail to stand trial in the face of delinquency cases. Indeed, a new ethical challenge concerning resolution and debate arises when counsels usurp the autonomous decision-making process among the clients. Furthermore, ethical dilemma arises when the counsels seek to raise the competency of the clients, especially when the

implementation defies the client's explicit objection. The eventuality is that, on one hand, the counsel seeks to improve client competencies towards sound decision-making in the proceedings. On the other hand, the concern becomes ethically dilemmatic when the counsel strives to raise competencies in the client, against the latter's explicit objection. Indeed, client autonomy becomes comprised if the counsel proceeds to raise their competency against their expectations.

The ethically dilemmatic matter becomes more complex regarding autonomy when the clients express their desire. The term "autonomy's" etymology originates from the early Greek "nomos" and "auto", which mean self-legislating or self-governing. Therefore, as free will comes from God, the decision by counsels to improve client competencies defy the concept of free will, promoting purely political paradigms that incapacitate competencies and improved creativity or character change among the juveniles. It is also worth highlighting that autonomy in juvenile corrections fails when the client's concerned parties fail to allow the clients to exercise independence in decision-making. The process comprises efforts that seek to minimize future likelihoods of repeating the offense, as the lawyers and other persons such as family members make decisions or respond on behalf of the juveniles.

V. CONCLUSION:

In conclusion, the role of ethics towards shaping decisions is crucial. Globalization accompanies the evolution, drawing the world into a village. The eventuality has been increased interactions between various groups of people, cultures and regions. Various technological advancements facilitate the trend of globalization, including communication and transport technology. Globalization has resulted to a shift of approaches and paradigms, which touch

on various areas. The trending development in the international and comparative justice has been one of conspicuous areas shaped by the trending globalization. In the attempt to foster harmony within the globe, policy makers have been assertive in advocating for the acceptance and adoption of the international criminal justice system. Of course, this position has often been met with a mixture of reactions.

Whereas cases regarding juvenile corrections reveal substantial respect to ethical adherence, some of the parties violate the rights of the juveniles. Indeed, ethics addresses the standards of conduct but the standard of conduct vary from one society to another. Through investigation of sources of ethical standards, the natural laws and religion influence ethical standards that guide decisions regarding juvenile corrections. Therefore, all the parties involved in cases concerning juvenile corrections ought to understand the essential role of ethics towards competent decision-making processes. Furthermore, ethical standards remain critical in guiding proper works achieved by the criminal justice system towards juvenile corrections. The elimination or minimization of ethical dilemmas in juvenile corrections owes to the practice of standardizing the laws and policies regarding justice system for the juveniles. Furthermore, the role of family members and friends remains critical towards crime reduction among the juveniles. In so doing, reduced crime rates might lead to reductions in ethical dilemmas in juvenile corrections, initiated by the limited or absence of cases.

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