JUVENILE RIGHTS OF INDIVIDUALS IN MENTAL HEALTH SETUP

Nazish Fatima

Research scholar Under the Supervision of Kiran M.
Ranchi Institute Of Neuro-Psychiatry And Allied Sciences (RINPAS)
Contact details: RINPAS, Kanke, Ranchi-834006 (Jharkhand), India

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Abstracts:

Juvenile Delinquency which is widely prevalent in various parts of India with different gear is now a major problem in the study of criminology and sociology. This paper is a summary of thorough investigation into the different causes and law of juvenile delinquency in India with reference to human right and socio- psychological perspective.

Keywords: *Juvenile, Delinquecy, Psychology, Rights, Children*

Juvenile delinquency[1] is an integral part of criminology. The two cannot be separated since one of the reasons for crime and its continuance into adult life is the ineffective control and treatment of juveniles. Juvenile delinquency is a big breading centre of criminals.

Section 2 (l) of the Juvenile Justice Act, 2000 has defined- *"juvenile in conflict with law" as a juvenile who is alleged to have committed an offence and has not completed eighteenth year of age as on the date of commission of such offence"*

Physical, mental, moral and spiritual development of the children makes them capable of realizing his/her fullest potential. On the contrary, harmful surroundings, negligence of basic needs, wrong company and other abuses may turn a child to a delinquent. Children constitute about 40% of India's population and India has a National Policy for Children declaring children to be a national asset. Even so majority of India's children continue to be in difficult circumstances. India has signed the UN Convention on the Rights of the Child and obligated itself to work towards ensuring all the rights enshrined therein to all its children. India has witnessed an increase both in crimes committed by children and those committed against them. There has been 97.9% increase in crimes committed by children between 2003 and 2004, with more children being appeared for arson, theft and cheating.

Over 33,000 juveniles, mostly between the age group of 16 to 18, have been arrested for crimes like rape and murder across Indian states in 2011, the highest in last decade. A juvenile and five others were arrested by Delhi Police for brutally raping

[1] The word juvenile has been derived from the Latin term juvenis, which means young. In the year 1484, **William Coxton** used the word delinquent to describe a person who was found guilty. Juvenile delinquency refers to the involvement by the teenagers in an unlawful behavior who is usually under the age of 18 and commits an act which would be considered as a crime. A child is known as a delinquent when he/she commits a mistake which is against the law and which is not accepted by the society. Thus a "juvenile" or "child" means a person who has not completed eighteenth years of age and violates the law and commits an offence under the legal age of maturity (United Nations Convention on the Rights of the Child (UNCRC).

and assaulting a 23-year-old girl in the national capital on December 16, 2012. Lowering the age limit for juvenile delinquents from 18 years to 16 years is not the answer to the city's crime spiral, women and child rights activists said on Wednesday after getting together to demand a dialogue with the Centre on the draft Juvenile Justice (Care & Protection of Children) Bill, 2014.

The campaign follows Union minister for women and child development Maneka Gandhi's recent statement that juveniles involved in serious crimes like rape should be tried as adults. Her statement has revived the debate on the juvenile age issue that was first raked up after the **Nirbhaya gang rape in December 2012. (TOI)**

According to the latest National Crime Record Bureau (NCRB) report 2012, crimes involving children have increased from 0.8 % (2001) to 11.8 % (2011). This report also shows the data on juvenile delinquency that children apprehended under both Indian Penal Code (IPC) and Special and Local Law (SLL) has increased from 30,303 (2010) to 33,887 (2011). In addition to other crime heads, kidnapping and abduction committed by juveniles have also registered a noticeable increase from 2008 to 2011. While kidnapping and abduction committed by a juvenile was recorded at 354 in 2008 and it inflated to 823 during 2011. NCRB data also shows that there are a growing number of girl children in criminal activities and it estimated that from 5.1 % (2010) which increased to 5.8 % (2011). NCRB data points out that a majority of juveniles are mostly involved in the crimes such as theft, hurting, burglary, and riots. As a child rights worker Nicole Manezes pointed out that only 1.1 % of all I.P.C crimes were committed by the juveniles in the year 2011. It has been claimed by the news channels that children who are under 18 years of age are committing heinous crimes and day by day it is rising. According to the NCRB (2011), only 1.1 % of all I.P.C were committed by the juveniles, and 4.5 % of all crimes committed by the juveniles were rape and only 3.5 % of all rapes were committed by the juveniles. In a National Study on child abuse (2007), the Ministry of Women and Child Development found that two out of every three children had been physically abused, and 53.22 % of children reported that they faced sexual abuse.

Due to the immaturity of the child, he/she easily gets motivated by what he/she sees around him/her. It is the environment and social context that provokes his actions. In a developing country like India, juvenile crimes are steadily rising due to the persistent poverty, unemployment, inequalities and changing values, etc. in spite of these factors there are some more factors such as crimes shows that are shown on the television, media, increasing population, adverse effects of peer pressure, lavish lifestyle, too much freedom from the parents, social maladjustment, and family disintegration.

1. Human rights and mentally ill patient:

Every human body and mind has an integrity which is inviolable. Every human being has certain irreducible barest minimum needs such as right to air, potable water, food, clothing, health, medical care and treatment, clean and hygienic conditions for living accommodation, environmental sanitation, personal hygiene and so on. Deprivation of any one of these amounts to violence to the person. Every human being is entitled to be treated with dignity, decency, equality and freedom regardless of the fact that we are born differently, grow differently, and are different in our mental makeup, thought processes and life-style. Negation of this would mean negation of human rights.

A person with mental illness is entitled to treatment with the same dignity and decency as any other human being. A mentally ill person does not become a non person merely on account of certain disabilities. His human rights flow from the fundamental right to life as in Article 21 of the Constitution which includes:

• Right to living accommodation, food, potable water, education, health, medical treatment, decent livelihood, income, a clean and congenial existence

• Right to privacy, speedy trial (if involved in any criminal offence), information and means of communication.

Correctional mental health refers to the provision of mental health assessment and clinical treatment in a correctional setting.

The term corrections include both the management and treatment of offenders and imply efforts to "**correct**" the persons and his and her misbehavior, presumably through some sort of rehabilitation.

Treatment team members: it includes psychiatrist, social workers, psychologist and nurses working together are called as multidisciplinary model.

Psychiatrist: the psychiatrist plays an active role in the monitoring, evaluation and treatment of the inmates. They educate the nursing and correction staff about the medications, compliance issues and patient care risks.

Social workers: social workers in correctional psychiatric settings have a variety of roles that range from direct patient care to liaison with outside agencies on behalf of their clients. Social workers direct care delivery is most commonly done through counseling and other therapeutic modalities, such as individual and group therapy. In addition, social worker can mobilize appropriate resources to aid inmates with community reinsertion in appropriate discharge planning.

Psychologists: jail and prison employ psychologist more frequently than any other mental health professionals. They are working in jails and prisons conduct crisis, individual and group psychotherapy as well as perform psychological evaluations for the courts or for classification purposes.

Nursing staff: as in other environment nurses are in correctional setting are the frontline staff when it comes to inmate contact (Weinstein et al 2005). Nurses have a variety of essential duties, including dispensing medication, patient education and identification of signs and symptoms of mental illness.

2. Correctional roles in mental health setting:

- Identifying the social as well as psychological strains effective in the causation of offending behavior. Modifying the offender's environment, so that strains toward conformity are substituted by those, which press toward criminal deviance?
- Acceptance of delinquent and criminal deviants without condoning anti-social behavior.
- Scientific interest in the contributions of social structure to causation and treatment as well as in psychological determinants.
- Readiness to work experimentally and without undue discouragement in a field where present knowledge is limited, prognosis is uncertain, and failures frequent.
- These roles help the professional social worker to deal more effectively with the offender, i.e., for the reformation and rehabilitation of the offender.
- Social worker helps to strengthen motivation of delinquents and criminals. Through talking with them sympathetically and understandingly, the social worker aids them.
- The correctional social worker allows the offenders to ventilate their feelings. Most offenders need to share with someone, in confidence, their inner feelings, their fear and frustrations, as well as their hopes and aspirations.
- In correctional settings, the social worker provides a safe emotional climate in

which offenders can express and verbalize them.

- The social worker provides needed information to offenders in correctional settings. By giving information, the probation and parole officer can help offenders to make decisions. The probation officer does not make decisions for the probationers, but he helps them to consider rationally, their problems and the alternatives which they have. By defining situations and problems, the social worker helps the offender.
- He assists the offender not only in thinking about a problem, but also in feeling about the situation.
- The social worker also assists the offender in modifying his environment. With his knowledge of community resources, the social worker is able to help the offender and his family to tap different kinds of financial and social resources to meet their needs.

3. Prevalence of psychiatric disorder in correctional setting:

Psychotic disorders-Both the lifetime and current prevalence rates of psychotic disorders in correctional setting appear to be significantly higher than those found in large epidemiological studies conducted in the community. Individuals with the diagnosis of schizophrenia, for example are more likely to be arrested for trespassing, theft, property destruction, assault, drug possession, or drug sales (Prince et al. 2007)

Substance use disorders-The term substance use disorders refers to either substance abuse or dependence. Substance use increases the risk of criminal involvement, re offence and poor institutional adjustment. Inmates with a history of substance abuse tend to have increased numbers of disciplinary sanctions and suicide attempts (peters et al. 1998).

Mood disorders-Major depressive disorder, bipolar disorder and other affective disorder are more prevalent in sample of incarcerated individuals than in general population samples. This information is relavent given the relationship between some affective disorders, such as bipolar disorder and incarceration. For example men with bipolar disorder tend to have a higher prevalence of criminal behavior than do men with unipolar depression or psychiatrically healthy matched control (Modestin et al. 1997)

Anxiety disorders-The prevalence of anxiety disorder including post traumatic stress disorder (PTSD), is higher among incarcerated individuals than among their community counterparts. this fact is relevant for mental health professionals working correctional setting given the association between specific anxiety disorder such as PTSD in men, and suicidal ideation(Cougle et al. 2009)

Personality disorders-Maladaptive and pervasive patterns of behavior that interfere with one's function are highly prevalent in correctional setting. Impulsivity proneness to anger irritability and disregard for societal norms not only can have a negative impact on an individual's life but also can result in arrest and incarceration (Trestman 2000). In addition, antisocial and borderline personality disorders show a high degree of co morbidity with substance abuse, which further increase the likelihood of criminal behavior (Zlotnicket al. 2008). Given this findings, the fact that the prevalence rate of some personality disorders are significantly higher in jails and prisons than in community setting.

4. Elaboration of Main Causes

Psychological causes

It is commonly observed that intelligent persons in teenagers perform delinquent acts in rather refined manner. Early studies by Goring (1913), Goddard (1921), found low intelligence as the single factor influencing juvenile delinquency. In India, Kundu (1969) found delinquents to be of inferior intelligence. In contrast, some researchers have found delinquents to be more intelligent. Muthayya and Bhaskaran (1964) found delinquents to be slightly more intelligent than normals.

Social causes

Mobility-This factor is responsible for crime causation in the society. The rapid growth of industrialization and urbanization has led to expansion of means to communication, travel facilities and propagations of views through press and platform. Migration of persons to new places where they are strangers offers them opportunity for crime as chances of detection are minimized considerably.

Cultural conflict -In a dynamic society, social change is an inevitable phenomenon. The impact of modernization urbanization and industrialization in a rapidly changing society may sometimes result in social disorganization and this may led to culture conflicts between different valves of different sections of society. India has faced this problem during Indo-Pak partition days in 1947 and Bangladesh in 1971. There was in flood of 'Refugees' from Sindh and North West frontiers region in 1947, which broke down their traditional social structure of Indian Society and resulted into enormous increase in crime.

Family background-Sutherland said that the family background has greatest influence on the criminal behavior of offender or Juvenile. The Children are apt to imbibe criminal tendencies, if they find their parents or members of the family behaving in the similar manner. A child who is brought up in a broken family is likely to face an easy prey to criminality. The lack of parental control over children due to death, divorce, or desertion of parent or their ignorance or illness may furnish soothing ground for children to resort to criminal acts.

Family structure-Family is considered to be the most effective variable in socializing the child and also in serving as a source for learning various types of behavior. The nature and structure of the family are largely responsible for carving out the personality make-up of the children. A functionally adequate family encourages growth, confidence, frankness and ability to face reality. Delinquents mostly come from functionally inadequate homes (Carr and Srivastava).

Broken homes-means a home where either of the parents is dead or living separately or is divorced or that parents are drug addicts or the parents or any other member of the family often fights with each other. In such circumstances, the child feels disowned and insecure. He is exposed to the anti-social activities, which he adopts to satisfy himself and in the process, he is led towards delinquency.

Family size and type- family size has also been cited as a factor in causation of delinquent behavior in juveniles. Delinquents are found more likely to come from larger families as compared to the smaller families. Glueck (1950) found delinquent boys were more often from larger families. Andrew (1976) and Fisher (1984) also found similar results in their studies on juvenile delinquents. The type of family joint or nuclear may also cause juvenile delinquent behavior but studies in this area are still wanting. Similarly, several studies are seen here and there, emphasizing upon the large size of population to be a contributing factor to the growth of juvenile delinquency, but systematic studies are required to be done in India to investigate into this phenomenon.

Parent child relationship-The most important single factor in the developmental picture of children is relationship with their parents including parental behavior. The pattern of interpersonal relationship with a family is important in shaping the inter-personal behavior and cognition of the child (Glueck and Glueck, 1950 and Nye, 1958). According to Desai (1979), "the child needs to feel that there is at least one solid dependable fact in the changing confusion of his social relationships, that he need never doubt his parent's affection for him". But in many cases, misunderstandings, hard feelings and open conflicts occur between parent and the child.

Step parents-The behavior of step-parents is also the main cause of delinquency. When step motherly treatment is given to the child by the step parents the child tries to run away and loiter in street and other places and this also leads the child to commit offence.

Alcoholic parents-It is fact that the behavior of such parents also influences the children's behavior. When behavior of parents is not good and meaningful, behavior of child would also be biased because the mind of child is impressionable. The children of the alcoholic parents are mostly found indulging in the delinquent activities. The children also become addict to alcohol which results in their going out of control of their parents.

Excessive punishment-Excessive punishment given to the children by their parents many a time spoils the child instead of disciplining him because he may feel dejected and frustrated leading to his involvement in anti social activities for the purpose of bringing shame to the parents.

Peer group-The behavior of an individual largely depends on his peers. Some of the individuals (mostly in teen ages) form gangs in which a number of individuals associate together in group activity which often emerges into criminal tendency (Rogers, 1960).

Society-The nature of society whether democratic or authoritarian, also determines the incidence of delinquent behavior of the children in that society. Moreover, the habitat of people in society is also one of the aspects of society which tends to affect juvenile delinquency. For instance, the rural and urban settings in India are much different in terms of occupation, education and interpersonal relationship. These differences seem to have differentially affected the incidence of delinquency in these two populations and this aspect needs to be further studied.

Alcohol -It is also another major cause of crime. After consumption of alcohol one looses self-control. In families, it results in quarrel between husband, wife and children and assault on them. It creates disgusting atmosphere at home.

5. Mental health intervention models:

1. Wellness and recovery model- Mental health interventions in prisons have primarily targeted symptom reduction. Medication compliance, insight development, and behavior change are the most common objectives of treatment. Some federal court cases regarding the adequacy of treatment for inmates with severe mental illness in state hospitals have required a shift from a traditional medical symptom management model to a broader focus on wellness and recovery. Wellness is defined as" an active process through which people become aware of, and make choice towards, a more successful existence."(National wellness institute 2009). Wellness is the process through which a person in recovery is empowered to make purposeful choices that lead to a more satisfying and healthy lifestyle. It includes physical emotional intellectual social environmental occupational leisure and spiritual dimensions and incorporates disease prevention and health promotion approaches. A wellness lifestyle leads to positive outcomes that can be measured in terms of improved health status, greater productivity, enhanced social relationship, and participation in purposeful

activity- all of which provide meaningful opportunities for healing, personal growth and an improved quality of life (Swarbrick 1997, 2006)

2. Rehabilitation model

This model focus on academic classes, vocational training, substance abuse prevention and a set of core curricula relates to reduction of criminal behaviors. Individuals with severe mental illness may have difficulty participating in traditional rehabilitation programs because of psychotic and mood symptoms that lead to problem with attention, concentration or logical thinking. for individual's with severe mental illness who are returning to their communities after incarceration, effective rehabilitation programming, at minimum, needs to incorporate continuity of mental health care and address any connection between the individual's mental illness and his or her criminal behavior. They may require disability benefits, supportive housing and assistance with food and other basic needs.

Group therapy

Group therapy in the correctional setting is to provide information and build life skills. Another proposes is to opportunities for recreation and development of appropriate social interaction. In the community group therapy is usually for the purpose of peer support and for development of insight through shared experience.

Individual psychotherapy-

Individual meeting with the mental health clinicians are an established part of the standard of care for treatment of severe mental illness. Many patients in correctional setting have experienced few relationships with people who are consistent, honest, direct and caring. Patient in jail or prison often perceive mental health staff as part of bureaucracy of the correctional setting. Here the task of the therapist is to differentiate himself or herself from custody staff, correctional counselors, legal consultants and other mental health personnel. The role of mental health clinicians is to recognize and strengthen the challenges of the individual person.

Person centered approach

The person centered approach recognizes that under adverse conditions, individuals do no fulfill their own potential for growth. The model maintains the following three conditions are necessary to provide a climate conductive to growth and therapeutic change:

- ✓ Unconditional positive regard
- ✓ Empathic understanding
- ✓ Congruence (authentic, genuine presentation of the clinicians).

Therapeutic community treatment

Therapeutic community treatment is used successfully with incarcerated individuals who tend to value peer influence over advice from those in position of power, including treatment providers. TC is originally used as treatment specifically for substance abuse disorders; the perspective of TC treatment has expanded to include difficult behaviors in all aspect of life. Here participates learn through interaction with peers in the community setting, designed to promote wellness, how to change dysfunctional behaviors and acquire positive life skills.

Cognitive behavior therapy

The focus of CBT is on the interaction of the three domain of human behavior: Thought, Emotion & Behavior. Simply put, because thinking affects behavior by modifying thoughts, long term behavior changes can be affected. CBT can be delivered by trained practitioners in either group or individual settings, is a mainstay of treatment in various correctional setting because it is useful in targeting problem

behaviors and maladaptive patterns of thinking.

Dialectical behavioral therapy

DBT is cognitive behavioral approach to treatment that includes perspectives akin to eastern philosophy. (Linehan 2003) It is used in treating the serious problem of the behavior for examples self injurious behavior, violence toward others etc. this form of therapy has particularly targeted inmates with borderline disorder, who constitute a significant minority of jail and prison population. (Chaiken et al. 2005)

Behavioral incentive programs

Behavioral incentive programs and token economies have a long been used to help mental health patients change maladaptive behaviors. Here inmates are given opportunities to earn privileges by exhibiting appropriate behavior and participating in beneficial activities designed by their treatment teams.

Vocational training

It is an important part of a comprehensive program of treatment. It teaches those skills and information necessary to perform a job after release and allows them to work in a sheltered environment before entry into the community (Santamour and West 1982). Vocational training also provides opportunity to engage in meaningful, productive work that decreases behavioral issues and increases feelings of self worth (Shivey 2004). (Haley 1996) advocated for multistage vocational training that deals with vocational training before and after release from prison.

6. Conclusion

An incarcerated individual have a right to quality mental health treatment. Quality mental health requires collaboration between mental health care providers, family members and agencies. Treatment intervention should meet the need of these individuals especially reentry into their communities. Treatment planning extends beyond the reduction of symptoms to include spiritual, social, educational, and vocational and reentry needs of the population.

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