

THE JUVENILES PROSECUTED FOR THE HEINOUS CRIME COMMITTED BY THEM?

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ABSTRACT

A juvenile is a person, who is stated as below 18 years and above 10 years in India and is considered as an immature, young person, who is bound to make mistakes, thus 18 years or above is stated as the legal age for the punishment to a person, thus the law takes into consideration the age and not the crime committed by him/her, In any nation, delinquency is a serious crime that harms the social order, the number of juvenile offenses is on the rise everywhere, and young people are becoming more and more involved in violent crimes., Nirbhaya case is often referred, to in the Indian context, where there were six culprits, including a minor at the time of the incident, while the other culprit was hanged, there was a disability in the system, which did not provide for the heinous crime committed by the minor. For a better understanding, that how severe, this limitation of law is, a similar case but a more brutal one, which was committed in Japan, in the year 1988, named as 'Murder of Junko Furuta', also referring to the Korean case of 'Gimhae high school' which also shook the countries juvenile system. This article begins by discussing the Juvenile, and relevant statutes and tries to understand the problems and amendments made up after the case of 'Nirbhaya' at the level of a country as well as at a global level due to similar cases and should there be some changes as to avoid misuse of it.

Keywords: Juvenile Justice, Nirbhaya, Gimhae High School, Furuta Junko, Heinous Crime.

INTRODUCTION

A juvenile is a person, who is stated as below 18 years and above 10 years in India and is considered as an immature, young person, who is bound to make mistakes, thus 18 years or above is stated as the legal age for the punishment to a person, thus the law takes into consideration the age and not the crime committed by him/her, therefore if two individual commit the same crime, so, in this case, the age of the person will be considered and not the brutality, or nature of the offense committed, in our society, juvenile crime is like a disease,

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the number of juvenile criminals is rising across the nation despite the existence of that welfare statute for such children. Therefore, a crucial question—whether juvenile offenders who commit horrible crimes should be prosecuted as adults—rose in our minds.

When juveniles and their punishment are discussed, the infamous 2012, Nirbhaya case is often referred, to in the Indian context, where there were six culprits, including a minor at the time of the incident, while the other culprit was hanged, there was a disability in the system, which did not provide for the heinous crime committed by the minor. For a better understanding, that how severe, this limitation of law is, I would refer similar case but a more brutal one, which was committed in Japan, in the year 1988, named ‘Murder of Junko Furuta’, also referring to the Korean case of ‘Gimhae high school’ which also shook the countries juvenile system. which if our lawmakers, would have taken into consideration, we would have avoided the disability caused at the time of ‘Nirbhaya’.

In any nation, delinquency is a serious crime that harms the social order, the number of juvenile offenses is on the rise everywhere, and young people are becoming more and more involved in violent crimes. Similar patterns of rising violent crime are seen in India, which are committed by young people, it is a very significant issue for the country, and solutions must be carefully researched to put an end to the issue. In response to these trends, the Indian legal system and the court have amended several of the country's statutes governing juvenile justice, Children under the age of 15 might get separate trials and treatment in reformatories rather than jails due to the 1861 Code of Criminal Procedure. Additionally, it established guidelines for young offenders' probation. Such endeavors served as a marker for the state's shifting perspective toward juvenile offenders, which moved from punitive to reformatory. The Reformatory School Acts of 1876 and 1897¹ served as precursors to such laws in this regard. The Act established guidelines for placing offenders in reformatory schools for a duration of two to seven years, when they turned 18, though, they were transferred to adult prisons, and arrangements for the treatment and rehabilitation of juvenile offenders.

THE DISTURBING CASE OF JUNKO

Junko Furuta was a high school student, was liked by many of her classmates, had a part-time job, was good at academics, and use to score high grades in her school and was expected to live a very successful life in future but on November 25th, 1988, she was, on her bike going

¹ The Reformatory School Acts of 1876

back home, four teenage boys spotted her and kicked her off her bike and fled the scene they wanted to make it look like that they had just come to the scene and was offering to help her go back home, unfortunately, this was the start of their plot to kidnap her and begin what is called as the '44 days of hell'.

The 44 days of hell for Junko Furuta were the grotesque offenses such as abduction, rape, torture, and murder, which those boys committed on her when she was reported missing by her parents, the boys forced her to call her parents to tell them that she had run away and that she was safe with some friends they even forced her to try and stop the police investigation looking for her, there was a point at the time of investigation where the police did arrive at the boy's house where Junko Furuta was being kept but the group insisted that they had no idea where she was and the cops left with no clue that if they would have done a thorough examination of the house, they could have saved her.

During those 44 days of hell, Junko was quite literally at the mercy of these four boys, who sometimes would vent their anger by beating her, and other times they would just beat her for the fun of it, eventually, due to her severe wounds were dead and this was the end of her 44 days of hell in the house, once the leader was notified by his brother that Junko had passed away the four boys gathered together and dumped Junko's body into a barrel and filled it with concrete and hid it, afterward another case was brought up that happened way before the kidnapping of Junko Furuta and the police began their investigation by questioning the boys, they were paranoid that Junko was the girl that they were looking for they revealed the body location which surprised the police considering this isn't the person that they were looking for in the first place and the other woman from the original case was never closed now.

As far as the prosecution goes, unfortunately, these four boys are still walking around today because at the time of the Junko Furuta case, they were underage and many laws were protecting them so they were released but they were under a very heavy microscope under the government and three out of four of the boys were arrested for other illegal activities, once they turned 18. while they did serve some time they were all eventually released and are still living and breathing today, in fact, in one of the cases regarding the illegal activities after Junko Furuta, one of the culprits was boasting about what he had done to the girl, another incident that happened was one of the boy's mother vandalized Junko's grave blaming her for ruining her son's life a funeral and memorial for Junko Furuta was taken place where all her high school classmates and her principal came where she was gifted her high school diploma and buried

with her school uniform her mother had a very severe mental breakdown in the court as the trial was going on and there's no news about the father's whereabouts since then the media has portrayed this case in exploitative films and manga.

While Japanese societies have the lowest reported crime, the Japanese juvenile justice system, had to face such cases and developed in tandem with the American system, the aim of the system is the “sound development of Juveniles” as it focuses on applying “protective measures to correct their personality traits and modify their environment”, so the juveniles are governed by a two-tiered system, the first of which is the juvenile law, whose major goal is to safeguard both society and the lawbreakers and the second is ‘Child Welfare Law’, which encourages healthy development into maturity.

THE DISTURBING CASE OF GIMHAE HIGH SCHOOL

A 15-year-old girl with the last name Yoon ran away from home on March 15, 2014. At the time, when she was a high school student and had been adjusting to her new environment for around 10 days, Yoon had met Kim, a 24-year-old man, online. Yoon, who was naive, accepted this. Then, she met three girls with the last names Ha, Yang, and Chong, as well as one girl who was approximately 16 years old. These four teenage girls hung out with Kim and his friends who were also in their 20s, Yoon and Kim are said to have fled their home together on March 15th and remained at a motel in Busan. From there, Kim and his friends forced Yoon to prostitute herself with men she met on online chat; these men used the money for living expenses as well as for entertainment; Yoon had been intimidated by them and was compelled to do so.

Yoon's father asked his daughter, who had returned home after 14 days with a haggard complexion, what had happened. She cried and detailed how these older guys forced her into prostitution, Kim, who was worried he would be discovered in some way, urged Yoon not to tell her family or anyone else that they had forced her into prostitution, the following Sunday, Yoon and her father, both devout Christians, attended different worship services because they are divided by age. Around noon, after the services were over, Yoon's father realized his daughter was missing. He went to the police station and reported her disappearance, the police reformed their search team and looked for Yoon, however, during the 20 days that the police searched for her, Yoon was dragged around by Kim, who was once more forced into prostitution; they hooked up her to men who paid for sex, and Yoon sold her body four to eight

times a day, on April 4, they began indiscriminately beating Yoon; this was because she had logged onto Facebook at 10:30 pm that night at a motel in Ursan. When they discovered this, they began punching Yoon; they were afraid that their location had been discovered, as the days went by their attacks and abuse got worse, they poured two bottles of Soju into a bowl and made Yoon drink it all at once if she threw up, they made her lick up her vomit and eat it, three of the guys made four girls students fight with Yoon one by one telling Yoon that she would be allowed out if she won.

among the four men, the oldest member of the group, Lee, who was 25, forced Yoon to bend her head back and repeatedly slapped her larynx with the edge of his hand. He then repeatedly struck her chest with an electric fan. Yoon was hit so hard by the furniture that she begged the girl's students to pour some water on it. One of them then boiled water in a saucepan and poured it all over Yoon's arms and legs, causing burns and causing her skin to start peeling, Yoon died from a sudden cardiac arrest on April 10th in the backseat of a car parked outside a hotel in Tegu. When the group discovered her body, they were afraid they would be caught. So, they drove to Chang Young County in South Kyungson province, parked the car along a random street, dunked Yoon in gasoline, and set her face ablaze. They did this to make her face unrecognizable so that if she was discovered, their arrest would be delayed, On April 11, two of the men traveled to an orchard in Chang Young County with a girl's student accomplice to dispose of Yoon's body. They dug a hole there with a shovel and a pickaxe and pushed her body into it. Yoon's face had been blackened by gasoline being poured on it and set on fire to make it unrecognizable, and her body had been covered in dirt, but the group was concerned about the location where they had buried Yoon across a random street, so they returned three days afterward and dug up the body at two in the morning., on April 14th they took the body to a hill near the Juan gu bridge in Chang Young County they reburied Yoon and poured cement all over her body then they covered it with dirt and added rocks and grass to better conceal the body surprisingly a few days later the group traveled to Dejan and carried out another murder One of the girl's students is said to have returned home and told her friend, "I killed Yoon and we secretly buried her body." Her friend took what she had heard seriously and informed the police. The three men who killed Yoon were ex-cons; one of them had committed over 20 crimes, when the police asked the girl students where Yoon was, she claimed, she didn't know anything and pretended not to know, the Kime police station was in charge of this investigation said he had never seen such heinous crimes involving young students the detective is said to

have simply told Yoon's father that his daughter had died without giving him all the details as it could have been a shock to him.

INDIAN LAWS ON JUVENILE PUNISHMENT

The juvenile justice act ² was constituted in the year 2000 but after the case of the 'Nirbhaya', the reform in the law was, to consider juveniles who are between the ages of 16 and 18 who are involved in a serious crime as adults and will be prosecuted as an adult for heinous offence, for which a punishment of at least 7 years is given but the amendment made in the year 2015, does not make it mandatory that the offender or alleged offender to be considered as an adult but can only be called offender, if he has mental and physical capacity, understand the consequence and the child knew about the circumstance, at the time of commencement of the crime, while the juvenile justice amendment bill 2021³, made so many more amendments in the act, first being the serious offenses, serious offenses are actually those offense which under the Indian penal code or any other law is punishable within the time frame of three to seven years, according to this new amendment any crime which is or any offence which is punishable for more than seven years is also a serious offense.

It also talks about non-cognitive offenses cognizable offenses are those offenses for which arrest can take place without any warrant so if there is an offense that falls within the ambit of punishment for three to seven years will be non-cognizable and not cognizable, then comes adoption earlier any code used to the courts had the power to sanction adoption but now under article if we talk about under section 61 of the juvenile justice act now the district magistrates and the additional district magistrates, they had the powers to sanction adoption.

The act also discusses appeals, if the orders or any decision has been passed by the district magistrate or the additional district magistrate, any aggrieved party can go to the divisional commissioner, to have a look at that passage and the grievance would be settled but that should be filed within the 30 days from the passage of the decision and it also talks about additional functions for district magistrates such as reviewing the quarterly reports of child welfare committees and working in tandem with many boards such as juvenile justice boards such as a special juvenile protection unit, district child protection unit.

² The Juvenile Justice (Care and Protection of Children) Act, 2000.

³ Juvenile Justice Amendment Bill, 2021

It also included that there will be a designated court, which will be where any offenses now will be tried by the designated courts like the children's court and if we talk about child welfare committees, there are certain provisions related to it such as it provides that a person will not be eligible to be a member if he or she has any record of violation of human rights or child rights has been convicted of an offense involving moral turpitude has been removed or dismissed from the services of the central government or any state government or a government undertaken is a part of the management of a child care institution in the district.

CONCLUSION

Hence the system to deal with the revolving door of juvenile justice in India is problematic, many of the juveniles have been the subject of some type of abuse, some type of neglect, or some type of trauma. That's why it's so important to have the right type of mental health professionals, in place when you're dealing with juveniles who are engaged in the criminal justice system, while the new amendment in the juvenile act, will have a positive impact on the future, it is required to have proper attention to the juvenile, that they deserve and has to divert and rehabilitate young people, so that we won't have so many people in the criminal justice system, even if a juvenile has to be prosecuted for the crime committed by him/her, it should be done to restrict it at an early stage.