A Critical Comparison Of The Youth Justice Service In UK And The Juvenile Justice System In Pakistan

Youth Justice System in the UK

The Youth Justice System in the UK was established in 1998 in order to address the issue of youth offending not being dealt with adequately, and within different areas, no responsibility was taken for children committing crimes. The government's response in all of this was to introduce the Crime and Disorder Act 1988 which made it compulsory for all the local authorities to form a Youth Offending Team that would compromise members from organisations like the police, social services, probation and the health and education services. The legislation includes specifications that have to be used by the Youth Offending Teams, some of the specifications include; that the police should arrange for an appropriate adult to be present if a child is being questioned by the police, young people who are to serve a community sentence should be supervised etc. the overall model was made to ensure that a consistent approach was being implemented in order to deal with young offending.

- (https://www.yjlc.uk/wp-content/uploads/2016/12/Review-of-the-Youth-Justice-System.pdf)

Welfare vs Justice UK

Youth Justice System in Pakistan

The Juvenile Justice System Ordinance 2000 was ratified on the 1st of July 2000 by the General Musharaf Government. The JJSO was introduced in order to protect the rights that children who are involved in crime and is an extension that was very much needed to add in addition to the child-centred laws that were already in place, however, there were no legislations that were based on this area at a federal level.

The JJS conveys improvement in two main areas; the first is that it provides a clear definition that the age of a child is at 18 years which has risen as previously it was 15 and 16 years, this led to the finish of the ambiguity around age. The second area is that the death penalty is prohibited for convicts who are under the age of 18. The legislation makes it compulsory that in all stages of trials of offenders the criteria that has been set must be followed.

- (http://www.sparcpk.org/2015/Other-Publications/JJ-2000-ENG.pdf)

Welfare vs Justice Pakistan

There is a concept of welfare vs Justice both in the UK and Pakistan where over time there has been a shift from treating prisoners harshly because of justice or treating them well in a welfare approach.

In the UK under the Thatchers government, the youth were portrayed as deviants and labelled

as the enemies within, and there was more of a focus on crime control rather than rehabilitation. From the 1990s onwards a more positive approach was emerging. The death of 15-year-old Philip Knight in prison was also a major reason for the change (International, 2016).

In Pakistan, although Amnesty International 2004 have said children rights are still being denied, there is much more awareness now of youth being treated well in the justice system, and the JJSO has bought about a change in some areas in comparison to the past where children's age was not a factor when sentencing (Muncie 2005).

Theories of Welfare and Justice

Welfare approach

- Delinquency is pathological, and there are many other deeper explanations to explain why young people may commit crimes.

Criminal theory of positivism

There are various factors explaining the cause of criminality (Pickford and Dugmore, 2012)

- Biological/genetics of the young person, Lombroso investigated the Biological perspective, where peoples brains were prone to respond a certain way, their body shape and other characteristics like a crooked nose also determined whether they would commit a crime.
- Psychological
- Lombroso's student Ferri focused on the theory and developed social and environmental factors that would cause criminality.
- Social factors like family conditions, educational opportunities
- Environmental factors also influenced crime. Like the climate, season, what time of year it was (Publications, 2014).

Justice approach

- When young people commit crime they do this out of their own choice, so no factors come into play as they had a choice to choose to do it or not and they chose to do it as well as opportunity.

Criminological theory of classicism

- As crime committed in the justice approach out of the young persons own choice they made a rational choice and so they should be punished for this (Bruinsma, 2016).

The UNRC

The United Nations Convention on the Rights of the Child which was bought into power in 1992 across the UK, contains 54 articles which covers all aspects of a child's life. Politically, economically, socially and culturally areas that include rights that every child is entitled to. This all links in with the youth justice system as the convention goes into detail how adults, as well as

the government, have to merge together in order to ensure that the children are able to have full access to their rights.

The convention also explains that no matter what background, what language they speak, what they believe in religiously or any other societal group, is irrelevant when it comes to the rights of a child. Every aspect of the convention should not be looked at individually but rather as one, as all the rights that are stated are all interlinked with each other and there is no presence of one right over another. For example the right for a child to feely express themselves (article 13) is no more important hat a child's right to education (article 28)

Within the convention four of the articles are seen to be special and are also known as the general principles, they are seen as special because they aid in interpreting the other articles and are vital in apprehending all the rights in this convention are for all the children. The four articles are; non-discrimination which is article 2, best interest of the child, and this is article 3. The third is the right to survival and development in article 6, and lastly the right to be heard which is article 12.

- (https://www.unicef.org.uk/what-we-do/un-convention-child-rights/)
- Equality Act and Children's Act
- Punjab Law 1952

Age of Criminal Responsibility UK

The age of criminal responsibility in the UK is at the age of 10 years old and any child who commits a crime between the age of 10 and 17 can be arrested and be taken to court. a chid who is taken in for an offence would not b treated the same way as an adult as they will go to a youth court rather than the normal one like magistrates or crown court, the sentence would also be different and if they are sentenced then they wold be placed in a special secure unit for young people rather than an adult prison.

- (https://www.gov.uk/age-of-criminal-responsibility)

Any child who is under the age of 10 and has committed crime, will not be charged as committing an offence, however they can be given a Local Child Curfew or a Child Safety Order. A Local Child Curfew is where the police ban a child from being in public places around the time of 9pm and 6am unless they are escorted by an adult and this can last up to 90 days. If this curfew is broken then the child may be given a Child Safety Order.

A Child Safety Order is when a child has committed an offence or as mentioned above broken a Local Child Curfew then they will be supervised by a youth offending team to monitor their behaviour or take any action if needed. The order can last up to 3 months, however in some cases it has lasted up to 12 months. If the rules of the order or not abided by the child then the court can make the decision of placing the child into care.

- (https://www.gov.uk/child-under-10-breaks-law)

Any offences committed by offenders between the ages of 18 to 25, they will be treated as an adult and if they are sentences they would be sent to prison specially for 18 to 25 year olds,

which is different to a full adult prison

Age of Criminal Responsibility Pakistan

The age of criminal responsibility in Pakistan is 7 years and above, any child under the age of 7 commits a crime, it wont be counted as an offence. If a child between the age of 7 and 12 years commits an offence, but has not reached an age of maturity to be able to understand or judge the nature of the actions nor the consequences, this will not be counted as an offence.

- (http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html)

Just like the UK an individual is classed as an adult at the age of 18, and if the crime falls under a death penalty then that too would be applied, however, in many reports in Pakistan, they've found that amongst the many people that were sentenced to death many of them were children. Although it is not allowed under the law to sentence a child to death however in some areas the law is not fully implemented.

In a report, it was dound that 10% of the prisoners that were sentenced to death were children, and it has been estimated that more than 800 children were sentenced to death and this could possibly be underestimated.

Shafqat Hussain a 14-year-old was one of the children sent into the gallows, when he was arrested he was tortured until he confessed to a crime that he had not committed, and because of this he was sentenced to death and he is not the only child that his happened to according to the Justice Project Pakistan.

- (https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/PAK/INT_CRC_NGO_PAK_21444_E.pdf)

Theoretical Approaches

Merton's strain theory explains that because of a lack of integration of the young person in society, whether that may be at school, at home or a different social setting, it results in 4 deviant adaptations, an example of one of the adaptions is rebellion, where children may rebel, like committing a crime so that they are able to attain their means (Newburn, 2017).

Braitwaite and d' Costa, discuss that as a response to strain children may graffiti places or stone pelt and this is also a way showing their identity. This could be interpreted as the innovation part of the 4 adoptions.

In a comparison of Pakistan and the UK Ali (2012) poses that children who commit criminal offences in Pakistan in time will develop into hardened criminals rather than being rehabilitated like children in the UK are. This eventually becomes the theory of the self fulfilling prophecy where a child is labelled as a criminal for so long in this context that they eventually live up to the label whether they have committed crime in the past or not, and for those who have offended because they are not rehabilitated they live up to their label (Child Rights International Network, 2018).

There are many cases in Pakistan where many children have not been given citizenship and because of this they may not be able to work or access other things that the other citizens can, and this results to the children living in poverty and as a last report children turn towards crime as a means to live or are subject to exploitation by others as they know they are desperate (Sarfaraz, 2008).

In some areas it is the norm to commit crime or even be involved in crime, which is explained in Sutherland's Theory of Differential Association (Newburn, 2017).

Rehabilitation UK

Within the UK a Youth Rehabilitation Order also known as a YRO can be levied on a young person under the age of 18 by the court when they are to be sentenced for a criminal offence, and the YRO has a lasting period of up to three years.

As part of the order the offender can be made to go to an attendance centre in which they have to spend a certain number of hours and they are instructed by the officer who manages the centre. Furthermore they young person may be required to go to take part in a specific activity which could last up to 90 days.

They could be asked to undertake a drug test at certain times to make sure they don't have drugs in their system, drug treatment is sometimes another feature of the program in which the young person is put on to a treatment plan by a specific provider who will help to reduce or completely halt the dependency of the offender on drugs.

- (https://www.inbrief.co.uk/court-judgements/youth-rehabilitation-order/)
- Effective: youth orders are more effective for young person than an actual sentence (HM inspectorate of probation, 2016)

Rehabilitation in Pakistan

Ultimately in Pakistan in many places there isn't any rehabilitation for the youth, and rather when a young person is sentenced for a crime it is seen as an effective method to deter other in society from offending.

The minister for Prisons in Punjab Malik Hanjra has said the government in Punjab is trying to transform the jails into rehabilitation centres, in order to help prisoners for when they come out of jail to be able to live as law-abiding citizens and slowly merge back into a role of working in society. As part of the transformation, prisoners will be given an education and training, and the environment is being reformed too.

In order to make sure these developments happen budget was given for 2017 to 2018 and the minister also said the funds were of an ample amount. He also spoke about the various steps that have been taken to make the facilities of better quality and this includes things like a balanced diet and clean water to drink.

The juvenile offenders in the prisons have been given free education and the prisoners that are female are being kept in a secure environment. The prisons are working with organisations like

TEVTA who provide beneficial courses from which the prisoners will benefit by being equipped with the necessary skills to be able to work when they are released from prison.

To make the atmosphere of the prison better, arrangements had been made so that in the month of Ramadhan when Muslims fast, special arrangements were made for this and also on Eid at the end of Ramadhan so that they are able to celebrate Eid in the best way possible.

- (https://www.pakistantoday.com.pk/2017/06/09/punjab-govt-has-converted-jails-into-rehabilitation-centres-hanjra/)

Although above there are many positive changes being implemented in Pakistan, many prisons around Pakistan wether they are for young people or adults are not in good conditions. The Prisons Act 1894, local governments have a responsibility to accommodate prisoners. Across many provinces, overcrowding was seen as a recurring issue.

In the annual report from the Human Rights Commission of Pakistan, that in many prison quarters some prisoners had to stand while the others would sleep, and also some convicts would not be able to use the washroom during the night as there was too many prisoners on the floor. These conditions are seen as a form of punishment that the prisoners have to go through which should not be the case as well as increasing health concerns like skin diseases and general hygiene at a low because of the proximity of all the prisoners, where they aren’t getting any sunlight.

- (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/566233/PAK_Prison_conditions.pdf)