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## CAN A MINOR BE PUNISHED FOR A CRIME IN INDIA?

~ *Kshema Sangam*

When a minor related crime gets into the news, it always generates a heated response. The question always comes why the law is not harsh enough or whether justice is being dispatched. It might sound simple when a person does something wrong he/she should be punished. However, with minors in India, the solution is more complex

In legal terms, a minor is any individual under the legal age of 18. Such people are not treated similarly to adults in India law, and there is a definite rationale of such treatment. Children are still in their childhood stage. Their cognition, reasoning and emotional restraint have not reached full maturity. Due to this fact, the law is not only concerned with punishment, but with reform.

On the simplest level, the Indian Penal Code itself acknowledges that exceptionally young children cannot bear responsibility. A child under the age of 7 years cannot be punished in any way<sup>1</sup>. The ages 7 to 12 years also vary on the maturity of the child to be responsible enough to realize the impacts of his/her action<sup>2</sup>. This shows that the law considers the aspect of mental development in making decisions about criminal liability.

In the case of minors between 12 and 18 years, the situation is more structured. They are answerable when they commit a crime, but they are handled by another legal system- Juvenile Justice system. It is a system that is more child friendly and is aimed at correction and not punitive.

Juvenile Justice Boards serve such cases, as opposed to ordinary courts. The aim of these boards is to provide the child with an environment in which the child is not a hardened

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<sup>1</sup> Indian Penal Code, 1860, § 82 (India)

<sup>2</sup> Indian Penal Code, 1860, § 83 (India).

criminal. The underlying idea is simple that a mistake made in childhood should not define the character or future of an individual.

But what does happen when a minor commits a crime?

There are a number of options to punishments in the law. These are counselling, community services, placement at special homes temporarily, in some instances. It is always aimed at making the child realize what they have done and be reintegrated into the society. This, however, does not imply that juvenile crime is uncommon and not a big concern in India.

There are several cases of minors reported per year according to the recent statistics. Indicatively, it is estimated in some states such as Maharashtra and Madhya Pradesh alone, that there are a number of several thousand cases of juvenile crime each year and Andhra Pradesh with about 800 cases. These figures indicate that the issue of juvenile crime is a fact and an ongoing one.

The other trend that is of importance is the character of crimes committed by minors. Although the general juvenile crime rates have decreased slightly with time, the percentage of serious crimes has risen. Indeed, the proportion of juveniles arrested in 2022 who committed violent offenses was approximately 49.5 per cent as compared to approximately 32.5 per cent in 2016. This change has brought up several grave questions on what the legal system should do in response<sup>3</sup>.

Due to such progressions, the law has changed. Among the most controversial changes, there is the provision according to which minors between the age of 16 and 18 years can be put to trial as adults under some circumstances.<sup>4</sup> This is only applicable to heinous crimes, including serious violent crimes.

The decision is carefully evaluated before making it. The Juvenile Justice Board also determines whether the minor was mentally capable of understanding the character and impact of the offense. Such considerations as psychological state, past and motive are considered. The case is only handed over to a regular court should the board be convinced that the minor did so with adequate knowledge. This is an exception, even at that time.

Mostly, focus is on rehabilitation. This is not a purely idealistic method, it is feasible. Studies show that social and economic factors play a key role in juvenile crime. Such problems as poverty, unemployment, insufficient education, and dysfunctional families have a severe impact on criminal behavior in minors. The other significant issue is how the system works. It has been reported that, over 50,000 of the children at conflict with law are yet to see their cases being disposed of yet, out of the cases, over

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<sup>3</sup> National Crime Records Bureau, Crime in India 2022 (Ministry of Home Affairs, Government of India, 2023).

<sup>4</sup> Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2 of 2016, §§ 15–18 (India).

half are still waiting in Juvenile Justice Boards. This may cause a delay in the victims and the minors involved, which makes one ask whether the system is efficient.

Nonetheless, the essential philosophy of Indian juvenile justice has stayed the same. This is not targeting to declare children as criminals but an opportunity to reform them. Treating them as adults would only drive them deeper into the crime instead of trying to reform them. Meanwhile, responsibility is also a requirement of the law, particularly in grave cases. It tries to balance both the demand of the society to have the justice and the need to protect young people by letting some of the minors be tried as adults.

Thus, coming back to the question whether a minor really be punished in India? Yes, but the sense of punishment is otherwise. It does not deal with severe punishment or retribution. It is responsibility, correction and giving the individual a chance to better. The Indian legal system is founded on a significant principle, namely, that despite going astray, children can change and instead of shutting the door on them, the law is trying to help them have a brighter future. Such a strategy might not address the emotions of the people all the time particularly in severe situations, but it reflects a deeper principle that justice is not merely about present retribution, but about shaping a better future.