

## Prospects and Challenges of Rehabilitation and Reintegration of Young Offenders in Polokwane, South Africa

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**Abstract:** An effective juvenile justice system attempts to hold the young offender accountable, ensure the safety of the community whilst time enabling the young offender to become capable, productive and responsible citizens. The objective of the study was to evaluate the role and significance the juvenile justice system plays in rehabilitating and reintegrating young offenders. The study was qualitative in nature with in depth interviews and thematic analysis used to collect and analyse the data. The study revealed that diversion programmes had helped to effectively reduce reoffending. The study recommends that youth development centres collaborate with relevant stakeholders to reintegrate young offenders back into school.

**Key words:** Young offenders, promotion of justice, restorative justice, rehabilitation, relevant stakeholders, development

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### INTRODUCTION

The youth constitute a significantly higher percentage of the South African population. Their needs warrant serious attention in order to ensure that they become productive citizens. Their families, communities and government have to create a conducive environment which can help them to become the best they can. However, there are many young people who engage in anti-social behaviour which may lead them into conflict with the law. Juvenile justice has always been a thorny problem in South Africa. Legislation dealing with the issue of children and young people in conflict with the law includes the Child Justice Act of 2008. The government realised that transformation from a punitive system to a restorative system is of paramount importance.

The 1985 Beijing rules describe the juvenile justice system as a system that emphasizes on the well-being of the juveniles and also ensures that any response juvenile offending is always in line with the circumstances of both the offender and the offence. The main focus of the juvenile justice system is to rehabilitate rather than to imprison and punish young offenders. The rules further place an emphasis on the fact that the detention, arrest and imprisonment of a young person should be used as a measure of last resort and other options should be made available. This means that juveniles are to be kept in separate institutions or a separate part of the institution holding adult offenders. This is meant to protect the young offenders from abuse or exploitation by adult

offenders. Exploitation comes in the form of mental, emotional or physical abuse. In 1989, the focus on safeguarding the human rights of children and young people was strengthened by the Convention on the Rights of the Child (UNCRC) (UNHROHC, 1989). This convention highlights the rights of young people in conflict with the law (Anonymous, 1977).

The 1990 guidelines for the Prevention of Juvenile Delinquency which is also referred to as “The Riyadh Guidelines” (UNHR, 1990), established a basic plan for preventing young people from engaging in criminal activities as well as to protect the human rights of the young people in conflict with the law. These rules played a major role in promoting and implementing juvenile justice system globally. These rules recognize the importance of guaranteeing inclusive policies in juvenile justice systems that prevent and respond to juvenile delinquency while protecting the child in conflict with the law (WCJJ, 2015). The main question that is often posed is why should there be preventive policies and programmes for children? The Riyadh guidelines answers this question by stating that youthful behaviour does not conform to the overall social norms and values that it is part of the developing process and tends to disappear spontaneously in most individuals as they grow older (UNICEF, 2013).

The passing of the children’s Act 38 of 2005 whose aim was to put the best interests of the child at all times made a provision for the establishment of children’s court. In terms of the Criminal Procedure Act 51 of 1977 when a young person is convicted the court may place the

convicted juvenile under supervision of a probation officer in custody of a suitable person or that he or she is sent to a reformatory school (Act, 51 of 1977). This means that a young person should be sent to a place suitable for young people in conflict with the law. In view of this, it can be argued that both the children's act and criminal procedure act require that young people in conflict with the law should be dealt with differently from the adult criminals. These Acts and United Nations children and youth policy documents and the African Youth Charter emphasise the need to have special arrangements and programmes for the purpose of handling the cases of young offenders. Subsequently, governments and courts were obliged to develop programmes to be used for the rehabilitation of young offenders.

Juvenile justice is different from the criminal justice system. Juvenile justice system is different from criminal justice system because a child in conflict with the law should bear no connection to a criminal. This implies that a justice system designed for children and young people should not resemble an adult criminal court (Skelton and Tshehla, 2008). Grisso *et al.* (2005) maintain that juvenile justice recognizes a young offender as a person in need of help. In this sense juvenile justice system involves the process of rehabilitation and reintegration of the young offender.

There are a number of principles that should be adhered to for the juvenile justice system to be effective. The principles are in place to promote the well-being of young people. Juvenile justice principles include, among others, the best interests of the child, proportionality principle, detention as a measure of last resort and the age of criminal responsibility. The proportionality principle is premised on Rule 5 of the Beijing Rules which states that any reaction to juvenile offenders shall always be in proportion to the circumstances of both offenders and the offence (UNHR, 1985). This calls for individual situations of the offender to be taken into consideration in any action concerning the offender (Kariuki, 2010).

The second principle is premised under Section 28 of the Constitution of South Africa which prescribes that the best interests of the child are of paramount importance in every matter concerning the child (Act 108 of 1996). The best interest's principle is opposed to focus on punishment. It instead stresses rehabilitation and restoration in order to instil positive behaviour on young offenders.

The third principle of detention as a measure of last resort is of paramount importance for the functioning of the juvenile justice system. This principle embeds the principle of protection. In terms of the juvenile justice system a child or young person should be freed from lock

up into the care of parents or appropriate adult prior sentencing (Skelton and Tshehla, 2008). The aim is to prevent arbitrary and unlawful detention provided for in numerous international legal instruments (Kariuki, 2010).

Within the general principles, the Beijing Rules require that the minimum age of criminal responsibility should not be fixed too low bearing in mind the emotional, state of mind and the ability of the child to be rational (Skelton and Tshehla, 2008). This is important because the aim of juvenile justice is not to imprison and punish young offenders. Young people below the age of majority should never be held accountable for any criminal offences. This is because criminalizing young people subvert from the goal of the juvenile justice system which is to rehabilitate. It should be avoided at all costs. Children and young people are entitled to special rights and protections.

Diversion is used as a strategy to promote juvenile justice. Diversion is premised on the notion that while a child may have carried out actions against the law it is more damaging if young offenders are taken through the criminal justice system (PRI, 2013). According to Skelton (2007), diversion is the channelling of young people away from the formal court system into rehabilitation for their subsequent reintegration back into the community. Diversion aims to involve and strengthen support networks of the child including the family and community. National Institute for Crime Prevention and Reintegration of Offenders defines diversion as a process before trial used by the courts to dispose of court cases and ensure that individuals are channelled out of the criminal justice system into intervention programmes that will contribute to correcting their offensive behaviour. This gives young offenders a second chance and avoids them being labelled criminals.

There are many theories that underpin guidelines, policies, programmes and strategies for effective crime reduction and delinquency prevention. The rehabilitative model was applied for the purpose of this study. The rehabilitative model focuses on the treatment of the offender with the thought that interventions such as management of the day to day life of the offender, work readiness training, cognitive skills and therapy on how to conduct oneself will change behaviour and reduce the frequency of juvenile offenses (Bradshaw and Rosenborough, 2005). The advocates of the rehabilitation model maintain that juvenile offenders are likely to become adult criminals if they are not properly rehabilitated. According to Simpson (1976), the rehabilitative model requires that state intervention should further the offender's best interests rather than

punishing him or her. According to this model, youth offenders are not supposed to be regarded as criminals but must be seen as wayward children in need of help.

The rehabilitation model is preferred over the retributive model because the latter is not effective, since it lays much emphasis on punishment as a way of deterring criminal behaviour. The rehabilitative model is preferred because its methods address the individual needs of the offender. It gives juvenile delinquents reasonable options to make it in society without having to re-offend and re-enter the juvenile justice system (Bradshaw and Rosenborough, 2005).

**Objective of the study:** The objective of this study was to determine the role and significance of the juvenile justice system in South Africa for the rehabilitation and reintegration of the youth back into their communities.

**Research question:** The research question being addressed was: what is the role and significance of the juvenile justice system in South Africa in the rehabilitation and reintegration of the youth back into their communities?

## MATERIALS AND METHODS

The study was qualitative in nature. This research method was appropriate for the study because it leads to thorough understanding of the role and significance of the juvenile justice system in the rehabilitation and the reintegration of young offenders. In addition, qualitative method has been defined as using methods such as participant observation, case studies and in depth interviews which result in a narrative and descriptive account of a setting or practice. In light of this, content analysis approach was used to uncover detailed, descriptive and explanatory analysis of the effectiveness of the juvenile justice system in rehabilitating the youth.

**Research design:** A case study research design was used for the purposes of this study. According to Baxter and Jack (2008), a case study design is an approach to research that explores a particular setting using detailed data systems. This process involves detailed in-depth data collection methods which may include interviews, documents, observations and archives (Vos, 2011).

**Study population and location:** The target population of this study was young male and female offenders between the ages of 14-18 years who had spent time in youth

development centres. The population also included social workers who had worked with the young offenders. This population was appropriate as the purpose of the study is to evaluate the role and significance of the juvenile justice system in rehabilitating young offenders hence they can furnish with required data. The study was undertaken in Polokwane in Limpopo Province.

**Sampling procedure:** In order to obtain a suitable sample for young offenders for the study, non-probability sampling was used. The study used purposive sampling. The sampling is a sub-type of non-probability sampling. According to Palys (2008), purposive sampling is a series of strategic choices about who participates in the study. Purposive sampling is ideal in that people who are unsuitable will have already been eliminated, hence it becomes less time consuming and costs are greatly reduced. A sample of 18 (12 young offenders and 6 social workers) was selected for the purposes of this study.

**Data collection:** The main data collection instrument for this study as the semi-structured interview. The interview allows the researcher to interact with the respondents on a one-to-one basis unlike in a self-administered questionnaire where the interaction between the researcher and the respondents is not available. The interview schedule had questions which sought to understand the role and significance of the juvenile justice system in rehabilitating and reintegrating young offenders back into their communities. Edwards and Holland (2013) argue that with semi-structured interviews, the interviewer is also free to follow up on particular points to explore that may emerge during the interview.

**Data analysis:** Data was analysed through the use of thematic coding. Thematic analysis is a method of analysing, identifying and exposing patterns (themes) contained in the data; it helps the researcher to determine the relationship between the concepts (Alhojailan, 2012). The reason for using themes is that they are best suitable for analysis of an in-depth individual interviews or group interviews.

## RESULTS AND DISCUSSION

The social workers were asked to indicate their views on how juvenile justice system helps in reducing reoffending. They indicated how the juvenile justice system helps to reduce reoffending by youth in South Africa. The following is an extract from the response of one of the social workers. The juvenile justice

system does a better job of holding young people responsible and reinforcing parental involvement within the young offender's behaviour. This includes that the young offender is more likely to be mandated to attend school, try to right the wrong that they have done to victims and participate in rehabilitative programmes.

The above statement shows that the juvenile justice system is aimed at rehabilitating the offending youth. It provides an opportunity to the offending youth to correct the wrongs they committed. The offending youth have to take part in rehabilitative programmes to help them change. The offending youth are made to take responsibility for wrongs they committed. However, this is not done in a punitive manner. Since, the offending youth are of school going age, they are also expected to attend school so that they do not miss while still participating in the rehabilitation programme.

Rehabilitation is an ensuing factor of a process that seeks to correct offensive behaviour and development of the offender's humanity while promoting the offenders responsibility. The experts were asked give an opinion on whether the diversion programmes addresses the rehabilitative aspect all of them answered affirmatively. One respondent attested that.

It ensures that the offender is equipped with appropriate practical and social skills for their reintegration back into the community.

This response above might imply that the programmes seek the reintegration of the young offenders by redoing the wrong made by the offender through participation in the various programmes. According to Roper, the purpose of rehabilitative interventions is that young people in conflict with the law return to family and life and contribute positively towards socio-economic development of their communities and society. The diversion programmes cover the rehabilitative aspect which is the main aim of the juvenile justice system using restorative justice principles. This is in line with Article 40 of the United Nations Convention on the Rights of the Child that a child in conflict with the law should be treated in a manner that takes into account the importance of the child assuming a constructive role in society (UNICEF, 2013).

Social workers and project managers interviewed also noted how the juvenile justice system plays a critical in ensuring that the offending youth get appropriate and adequate support. The programmes facilitate taking personal responsibility, increasing self-discipline and motivation to embrace a new way of being in the world which is being a responsible citizen. It also identifies interest and talents and develops practical job finding skills. This is helpful in ensuring that the offending youth

are exposed to rehabilitative programmes that will help influence the youth to change their behaviour. Once they participate in these rehabilitative programmes the offending youth are bound to change and develop positive behaviour. In other words, juvenile justice system helps to reduce reoffending by addressing some of the causes of anti-social behaviour amongst the youth. This argument is aptly captured in the following statement.

The juvenile justice system helps in reducing offending in that it works with the young person to provide support by a qualified person like social workers.

The juvenile justice system is the most suitable intervention which is crucial in handling youth's risk of re-offending. The effective intervention addresses dynamic risk factors such as anti-social attitudes and association with criminal peers.

Social workers also stated that the juvenile justice system helps to avoid the offending youth from having a criminal record which may stigmatize the youth. The youth with a criminal record will most certainly have many problems. For example, they may find it difficult to go on with their high school education or even have problems when searching for employment. The youth with a criminal record may experience challenges when trying to secure student financial aid to further their studies at tertiary level. The juvenile justice system provides the offending youth with a 'second chance' to start their lives all over as responsible citizens.

The data collected further shows the significance of diverting young people away from the criminal justice system. This diversion has helped to effectively reduce re-offending. This is clearly expressed in the following response from one of the young offenders.

Being at a youth development centre was an eye opener it made me realize that I had to change my lifestyle. I realized that I could be a better person who does not inflict harm on others and that it's possible to abstain from crime. I learned how to live peacefully with others.

According to NICRO young offenders run the risk of becoming hardened criminals and graduating with even more criminal skills if sent to prisons. This is the case because youth offenders will be in contact with the hardened adult criminals who may influence them negatively. This is likely to happen because many facilities for adult prisoners do not separate young offenders from the adult offenders. Ward supports this notion and states that rather than limiting these young people's violent tendencies, the environment in prison is likely to strengthen their socialization into aggression. Unlike restorative justice, retributive justice is not

premised on the notion of rehabilitation which is aimed at putting an end to violent behaviour. This is in keeping with the findings by Pinheiro (2006) who reports that young people subjected to detention are more likely to commit offences in the future than those placed in diversion programmes. Simply punishing young people is not the solution. This brings into light another limitation of retributive justice that locking up young offenders is a short term way of fixing a problem that may not have any long term benefits (Clark, 2012).

Retributive justice does not provide rehabilitation. It fails to equip the offending youth with concrete skills. Despite the clear evidence of how important quality education is in prison during incarceration, the education is inferior to that which is received by the youth offender's peers in the community. Correctional programmes fail to provide the high quality education services that are often necessary for the incarcerated youths and without education the risk of recidivism increases (Leone *et al.*, 2005).

### **CONCLUSION**

The incidences of cases of youth who engage in unlawful or criminal activities are of great concern for the criminal justice system and South Africa government. CRSA (1996). The juvenile justice system in South Africa is meant to address challenges caused by under-age young people and simultaneously protect and rehabilitate them so that they also become productive members of the society. This juvenile justice system is not supposed to be punitive but restorative.

### **RECOMMENDATIONS**

Based on the findings, the study recommends that youth development centres be in partnership with the education department and advocate on behalf of the youth offenders to find ways to actively get the young offenders back into school system as well as providing the necessary support to teachers in dealing with these offenders in order to ensure their successful rehabilitation. Mentoring programmes should also be implemented in schools, communities and religious institutions which deal with adolescents wherein they can be mentored by possible role models so that they are moulded into productive citizen at grassroots level thereby eliminating any possibility of falling into the justice system.

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