

OF MICE AND MEN

By Hafizur Rahman

ONE OF the most painful facts of life with regard to young people is the presence of children in the country's prisons. Equally painful is the question (to which I don't know if anyone has the answer) about the reasons for their being in jail.

Why do little boys and girls have to commit crimes that take them to these terrible institutions? I say little boys because the youngest of the jail inmates in Pakistan is just nine years old.

I am sure nobody will dispute the use of the adjective "terrible" for our penitentiaries. I wish there were someone to say, "No, things are not as bad as this word makes them out to be." Even jail officials do not say that — they just make excuses for conditions in their place of work by blaming either the law, the jail rules or society, or end up by saying, "where else, in which government department, will you find only angels? Prisons are only as bad as other official agencies."

The public too is not fully aware of the situation about child convicts and under-trials. For instance, how many of our educated people know that while the main purpose of the adult justice system is to punish the guilty, the primary purpose of juvenile procedures is protection and rehabilitation? The UN Convention on the Rights of the Child (the CRC) places great emphasis on the criminally inclined children's early re-integration into the community, and that too in a way that protects their fundamental rights and promotes in

them a sense of self-worth.

Reports of children committing crimes capture headlines, but far less attention is given to these children's background, the factors that bring them into conflict with the law, and the treatment and prison conditions they encounter after arrest. The world accepts the thesis that offenders are not born but are created by society. In Pakistan, common characteristics of such children are poverty, illiteracy, unstable family lives, large families without adequate means and criminal tendency in the family.

After arrest their plight is worsened by ignorance of their rights, lack of counselling services, special juvenile homes and legal representation. While there is a large district jail in every district HQ and numerous sub-jails for adult prisoners, there are only three Borstal Institutions in the entire country for corrective treatment of juvenile offenders. Money is always there for the shenanigans of cabinet ministers and protection of VIPs but not enough to open more institutions, or even to equip the existing ones adequately. Children committing crimes are in a world by themselves of which the rest of Pakistan is woefully unaware.

In the rather bleak scenario of the law coming down heavily on criminals of tender age a bright ray of hope was provided in the year 2002 when the Juvenile Justice System Ordinance (JJSO) was promulgated, providing for Juvenile Courts and defining for the first time a child as a person who has not attained the age of 18 years. If a question about age arises the court is required to record a finding after a medical report. But before I say more about the JJSO, I must tell you about a booklet called "Waiting for the Sunrise", published by the Society for the Protection of the Rights of the Child (SPARC)

Children in jails

based in Islamabad.

SPARC is an independent NGO working since 1992 exclusively on child-related issues, drawing inspiration from the UN's CRC. It is an advocacy group for child rights, focusing on child labour, breastfeeding, education, violence against children and juvenile justice. A significant feature of its latter activity is that it works directly with children in prisons in Punjab and the Frontier, not an easy task when you keep bureaucratic attitudes in mind.

"Waiting for the Sunrise" tells you everything that you could ever want to know about juvenile justice and children in custody. It is the result of two researches conducted by SPARC. For the first one, the Society's Zafar Iqbal travelled all over the country on a limited budget to collect data about the state of our prisons and their inmates. For the second indepth interviews were held with 42 children between the age of six and 17 years in five jails in Sindh, the Frontier and Punjab. The research is very revealing despite the fact that the interviews were not conducted in a free atmosphere, as even the juveniles were selected by the authorities.

At the end of 2002, according to prison authorities, the number of juveniles serving sentences was 936, but the biggest misfortune of all is that the number of under-trials was 4,043. The 936 who had been convicted at least knew what their fate was, but, considering the delays at courts, no under-trial can say how long he will be in suspense before his case is decided. Although the Juvenile Justice System lays stress on early trials, that is easily said than done, and a child might have to remain in prison for months, and even a couple of years, before he is either found guilty or set free. Can you imagine anything more traumatic?

Promulgation of the JJSO

was the first major step taken by Pakistan in this field, although it had ratified the UN Convention on the Rights of the Child, with regard to making national laws on the subject, 13 years earlier. But better late than never. The ordinance lays down procedures for arrest of a juvenile, informing his family immediately about the juvenile court where he will be produced, easy bail, designating a probation officer, and other connected matters.

If the offence is non-bailable, the child must be produced before the court within 24 hours. There is considerable ground for improvement in the ordinance. The provinces have formulated their own, more or less similar, rules under the ordinance, though, surprisingly, the Balochistan rules are the only ones that include the facility of parole.

The separation of juveniles from adult prisoners is mandatory, but is not totally observed. In some prisons in the interior of Sindh there is no separation. The evil practice is so well entrenched that an attempt in Sindhkur jail some years ago to separate the children led to riots by adult prisoners. You can imagine the implications of this incident.

It is not possible for me to cull all the salient points from "Waiting for the Sunrise". Interested readers may obtain a copy from SPARC, P.O. Box 301, Islamabad, for Rs 100. Children in prison is such a pathetic subject that I must quote a few words from the UN Convention that need to be dinned into everyone in Pakistan, including the government: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be the primary consideration."