

Indians debate role of juvenile crime laws in gang-rape case

By Rama Lakshmi, January 17, 2013



A boy places a candle as demonstrators hold placards during a candlelight... (ADNAN ABIDI/REUTERS)

NEW DELHI — The gang rape of a young woman and her resulting death last month sparked a national outcry and calls for harsh punishment for the five people charged with the crime. Now the case of another suspect, a young man who police say is 17, is generating a divisive new debate about whether India’s juvenile crime laws should apply to particularly brutal offenses.

Police have charged five adults with rape, murder, abduction and robbery in the assault. The case of the teenager — who investigators say participated in the rape and wielded the metal rod that caused the young woman’s fatal internal injuries — is being pursued separately.

Yet although police have said they will seek the death penalty for the adults, the teenager, if charged, would face a maximum sentence of three years in a juvenile correctional facility. Police say he claimed to be six months shy of his 18th birthday when the assault occurred.

Those differences have made his case the source of intense controversy.

The public outcry after the rape and anger over poor public safety for women have reignited qualms about a law passed in 2000 that raised the age at which teenagers are charged as adults from 16 to 18. At a conference of India’s police chiefs and top bureaucrats in New Delhi this month, participants unanimously called for a reversal of that law.

But child rights activists, who campaigned for the age change more than 12 years ago, say that would do little to help troubled youths who turn to crime. They argue that the teenage suspect’s biography — a sad but not uncommon history as a trafficked child laborer — proves their point.

According to police, the suspect dropped out of his village school in the northern state of Uttar Pradesh and was taken six years ago by a relative to New Delhi to work as a child laborer in a streetside restaurant. For a time, he sent money to his family. But the payments stopped, and police said his mother assumed he might have died in the city.

He later found work as a helper and cleaner for the bus on which the 23-year-old woman was gang-raped in December. It was the teenager’s job to attract passengers by calling out to them in a singsong voice — a tone police said he used to beckon the woman, whom he called “sister.”

“This case has exposed our failure as a society in protecting our children and women,” said Bhuwan Ribhu, a child rights activist. “First a boy is trafficked and exploited — later he turns to crime to

change the power equation by finding a weaker person to dominate and control. We must stop this vicious cycle.”

But workers at the New Delhi juvenile observation home where the teenager is being detained say they have little sympathy for him. They say other youths held there feel the same.

“Here is the boy that the whole country hates. I feel guilty that I am even looking after him,” said a senior official at the home who was not authorized to speak publicly. The official, who said he had participated in street demonstrations last month after the rape, added: “He had crossed all the limits of humanity. The staff feels deeply conflicted here. Our blood boils when we think of what he did.”

A welfare officer at the juvenile home said the teenager is frail and rarely speaks. He is being kept in a separate room for his safety.

“All the other inmates in the home watch television news daily, and they know about the gang-rape case and its horror,” the welfare officer said. “They keep begging me to just hand the accused over to them for a few minutes. They will finish him, they are so angry.”

According to the National Crime Records Bureau, there were 25,125 juvenile crimes last year, up from 16,509 in 2001. That does not signal an increase in juvenile crimes, said child rights activist Minna Kabir, but rather indicates that many youths were “masked as adults” because of slow implementation of the age change.

Even if the legal definition of a juvenile were lowered back to 16 — an unlikely prospect in the short term — lawyers said the change would not apply retroactively to the youth accused in the gang rape. Instead, his case is poised to serve as a high-profile test “to see if the juvenile justice system can work in extreme cases of rape and murder,” said lawyer Karuna Nundy, who has conducted juvenile justice training in some South Asia countries.

“They will have to use strategies to make him truly realize what he did to that girl, make him accountable for his crime, and apply the best psychological and criminological methods to see if he can be rehabilitated in three years,” Nundy said.

Some Indians who thronged New Delhi’s streets to protest the gang rape, however, said that prescription sounded far too gentle.

The teen’s case has spurred conversations among the demonstrators, some of whom gathered in New Delhi on Wednesday to mark one month since the attack. One participant held up a sign reading: “17½ year olds have the right to rape and kill and walk free?”

“There is nothing juvenile or childlike about what he did,” said Zainab R. Haque, 20, a university student who said she opposes capital punishment. “Try him in a separate court if you must, but do not let him get away with just three years. He will do it again if he is freed.”