



## Democracy, law and juveniles

Dr. RP Saini

Associate Professor, SD (PG) College Panipat, Haryana, India

### Abstract

Juvenile Justice System is most progressive and enlightened system adopted by the world citizenry with all round growth of children. The prime focus is to reform the deviants and provide care to the unprotected child. As far as practicable, a child to be rehabilitated and restored to the family. The special court to adopt the doctrine of parents patria while adjudicating the matter of child in conflict with the law. The article evaluated the JJS in India in the light of constitutional philosophy and International parameters.

**Keywords:** rights of the child, parent's patria, natural justice, rehabilitation

### Introduction

When the voting age was lowered from 21 to 18 in India, it mounted an added responsibility on the voter to choose and create a Government that could sustain the democratic values as has been enshrined in the our constitution. Similarly, the Government on its part was expected to frame certain laws and policies so that the children, who are its future hopes and nation builders, are given a healthy and protective environment to thrive and live. One hundred fifty years ago, Adolphe Quetelet, the eminent social statistician observed that adolescents, particularly the young males are prone to crime, disorder and delinquency because of their childish impulsiveness and mental conflicts. A child is born innocent and if nourished with tender care and attention, he or she will blossom with faculties physical, mental, moral and spiritual, into a person of stature and excellence. On the other hand, noxious surroundings, neglect of basic needs, bad company and other abuses and temptations would spoil the child and which in turn will mar the future of the nation. Expressing his concerns for child care and development, the noted Nobel Laureate Gabriel Mistral, long ago observed:

We are guilty of many errors and many faults, but our worst crime is abandoning the children, neglecting the foundation of life. Many of the things we need can wait, the child cannot, right now is the time his bones are being formed, his blood is being made and his senses are being developed. To him, we cannot answer tomorrow. His name is Today (Aiyer).

Governments have devised various ways so that the future of its budding youth can be saved and protected. The Juvenile Justice System is one of them which conceived by the legislation aims at providing care, protection, treatment, development and rehabilitation of delinquent and neglected juveniles. During the seventh UN congress on the prevention of crime and the treatment of offenders, three approaches to juvenile justice and reforms were identified, namely, the due process model, the welfare or *parens patriae* model and the participatory model. Like most of the other Juvenile justice systems,

the Juvenile justice system in India too cannot be described entirely in terms of one of these models but rather in terms of a combination of them, with features from the taken from all the three models.

The Juvenile Justice System in India, after traversing a long, arduous and challenging path has matured itself today to take care of children who are in need of care, protection and welfare services on the strength of its conviction that the State has a special obligation to children as they are the future of the society. The Constitution of India, under Article 15(3) enables the State to make special provisions for women and children. Article 39 specifically mentions that the health and strength of workers, men and women, and children of tender age are not abused and children are given opportunities and facilities to develop in a healthy manner. The National Policy for children adopted by the Government of India in 1974 also reinforces this spirit by proclaiming that "the Nation's children are a supremely important asset. Their nurture and solicitude are our responsibility". The juvenile justice System, therefore, brings within its ambit not only the children coming in conflict with the Law, but all those who are vulnerable to be indulged in criminogenic culture under the pressure of many situational compulsions.

The legislation incorporating the Juvenile Justice System has been making provisions for the care, protection, treatment, development, and rehabilitation of neglected or delinquent juveniles, and for the adjudication of certain matters relating to and disposition of delinquent juveniles. Its provisions govern the relationship between children and the police, adjudicatory bodies, correctional homes, probation services, community participation and after care programmes.

The Juvenile Justice Act has removed many difficulties that had arisen due to lack of uniformity, thereby improving the situation considerably. The Juvenile Justice (Care and Protection) Act has now provided: (a) the basic principles for administering justice to a juvenile or the child in the Act; (b) to make the juvenile justice system meant for a juvenile more appreciative of the

developmental needs in comparison to criminal justice system as applicable to adults; (c) to bring the juvenile law in conformity with the United Convention on the Rights of the Child; (d) to prescribe a uniform age of eighteen years for both boys and girls; (e) to ensure speedy disposal of cases by the authorities envisaged under this Act regarding juvenile or the child within a time limit of four months; (f) to spell out the role of the State as a facilitator rather than doer by involving voluntary organizations and local bodies in the implementation scheme of the Act; (g) to create special juvenile police units with a humane approach through sensitization and training of police personnel; (h) to enable increased accessibility to a juvenile or the child by establishing Juvenile Justice Boards and Child Welfare Committees and Homes in each district or group of districts; (i) to minimize the stigma and in keeping with the developmental needs of the juvenile, the Act has separate chapters one for juveniles in conflict with law and the other for the juveniles in need of care and protection; (j) the act has made effective provisions and various alternatives for rehabilitation and social reintegration such as adoption, foster care, sponsorship and aftercare of abandoned, destitute, neglected and delinquent juvenile and child.

A majority of children are unhappy in the institutions and the casework services are inadequate in terms of diagnosis, counseling, and planning of rehabilitation. Many institutions have no vocational training programmes. Correctional institutions do not equip children with the necessary skills to take care of themselves after discharge. The main socialization agents, the caretakers, are the lowest paid, least qualified, and at times even ill-informed about the needs of the institutionalized children. Coordination among various departments exists primarily because of administrative necessities rather than as a necessary element of efficient functioning. A majority of the juveniles do not get a job in the particular trade in which they are trained during their institutionalization- either due to inadequate training or because they are not interested in that type of job owing to poor salaries. Due attention has not been given to the development of preventive measures – like assistance to families in trouble-which is one of the major contributory factors leading to delinquency and maladjustment among children. Very few after-care services are available. Despite a statutory provision to the contrary, children are not always released on bail.

We have to mend the decision-making relating to the Juvenile justice System in India. The malfunctioning is primarily because the system is ill-coordinated, and correction-frequency operates haphazardly with little knowledge of what the other segments are doing. This non-co-ordination leads to an inefficient utilization of resources and retards the process of giving them their due. Lack of resources, unsuited and improperly qualified personnel and sporadic and fragmented implementation of the various Acts and schemes, are symptomatic of the inherent malaise, namely, absence of a systematic approach towards these underprivileged. Balancing the needs of young people and the needs of society is a

challenge to our democracy particularly till our juveniles are given their proper due.

## References

1. Aiyer N. Chandrasekhara (ed.). *Mayne's Treatise on Hindu Law and Usage*. Madras: Higginbothams Ltd., Print. 1953.
2. Ayangar S. Parthasarthy. *Police and Correctional Administration*. Memeo. Madras, Print. 1955.
3. Baig, Tara Ali. *Our Children*. Publication Division, Ministry of Information and Broadcasting, Govt. of India, New Delhi, Print. 1979.
4. Chaturvedi TN. (ed.), *Administration for Child Welfare*, New Delhi: IIPA, Print. 1979.
5. Chowdhry D, Paul. *Child Welfare Manual*, Delhi: Atma Ram and Sons, Print. 1963.