

**“Juvenile Justice System”
(A Rehabilitation for a Young Distracted Mind)**

*Amisha Awasthi
ICFAI Law School,
ICFAI University,
Dehradun*

The love of justice is, in most men, nothing more than the fear of suffering injustice.

-Francois De La Rochefoucauld

Juvenile is a person who has allegedly violated certain laws that declare his act or omission to be an offence and him, a criminal offender. The Judicial System believes Juvenile to be incapable of forming an intent to commit crime especially by the reason of age i.e. *doli incapax*.

A juvenile commits offences alike adult, but being a minor his acts are considered delinquent, which is called as Juvenile Delinquency. There is no single cause of delinquencies. The causes can be biological; socio-environmental; mobility; family background; cultural conflicts; socio- economic conditions; psychological; others.

Bharat has a long history of providing separate treatment for a juvenile offender. In the 19th century penologists punished juveniles with equal punishment as adults, before the British regime Juvenile Justice System (JJS) was not institutionalised. Parents or guardians used to treat their children in general. For instance, in 1833, a nine years child was given capital punishment for stealing goods worth two pence¹.

After 1947, the Republic of India became a signatory of UDHR (Universal Declaration of Human Rights) in 1948. In 1960, the Government of India enacted the Children’s Act to provide care, protection, maintenance, welfare, training, education and, rehabilitation of neglected or delinquent children and for the trial of delinquent children in the union territories. This Act was precursor of the Juvenile Justice Act, 1986. The Juvenile Justice Bill, in accordance with the UN Standard Minimum Rules for Administration of Juvenile Justice (commonly known as “Beijing Rules”) was first introduced in the Lok Sabha on 22nd August, 1986, and the Central Children Act, 1960 had already been replaced by the Juvenile Justice Act of 1974. The Law, formulated and tabled in 1986 came into force in all the union territories but the states having no juvenile law were free to adopt the Juvenile Justice Act of 1974 (brought in lieu of Central Children Act 1960). India declared its National Policy for children, which, included inter alia training and rehabilitation of delinquent, destitute, neglected and exploited children. The Juvenile Justice (Care and Protection of Children) Act, 2000, brought in compliance of the Child Rights Convention 1989, further repealed the earlier Juvenile Justice Act of 1986 after India signed and ratified Child Rights Convention

¹ Dr. B.K. Das- Juvenile Justice in India – 1st Edition 2011 at p.10

1989 in year 1992. The Act provides a special framework for the protection, treatment and rehabilitation of children in the purview of the Juvenile Justice System. It has established the Child Welfare Committee to address the needs of “children in need of care” and the Juvenile Justice Board to deal with “children in conflict with the law”. Therefore, it deals separately with two categories of children. Juveniles accused of a crime or detained for a crime are brought before the Juvenile Justice Board, not in a regular criminal court, under this Act.

In the wake of *Mukesh & Anr vs State of NCT of Delhi & Ors*² (well known as Nirbhaya Case) JJ Act 2000 was replaced by JJ Act 2015, with a view to update JJS in accordance with the International conventions and contemporary social development. The new Act underlines the following basic principles-

1. Presumption of innocence.
2. Principles of dignity and worth.
3. Principles of participation with due regard to maturity.
4. Principles of best interest of the child.
5. Principles of family responsibility to take care.
6. Principles of ensuring safety without my abuse of the child.
7. Positive measures for wellbeing and development of child.
8. Principles of non-accusatory or non-stigmatizing semantics.
9. Principles of non-waiver of rights.
10. Principles of equality and non-discrimination.
11. Principles of right to privacy and confidentiality
12. Principles of institutionalization should be last resort.
13. Principles of repatriation and restoration.
14. Principles of fresh start-erasing of past records.
15. Principles of diversion (without resorting to Judicial proceedings)
16. Principles of natural justice.³

Despite careful drafting of the laws and requisite amendments to them considering the contemporary social development, the rate of juvenile offence does not take a rest. The latest data released by National Crime Record Bureau (NCRB) reveals that 1,614 rapes and 1,456 other sexual assaults were committed by juveniles in the country in 2017, over 40,000 juveniles were caught across the country for their alleged involvement in various offences, with 72 per cent of them belonging to the age group between 16 to 18 years. Among all states, Madhya Pradesh alone accounted for 19.3 per cent of all juvenile offenders' cases as 6,491 FIRs were registered in the state in 2017. Delhi stood third on the list with an 8.8 per cent share in overall juvenile crimes in the country. The national capital registered 2,965 cases in 2017, an upward trend from 2016 when it lodged 2,499 cases and 2015 when it filed 2,366 FIRs, according to the data.

² May 5, 2017

³ Section 3

Also, the fact that the young people are more likely to be wrongfully convicted than adults cannot be ignored. They are less able to weigh risks and consequences; less likely to understand their legal rights; and less likely to understand what attorneys do or how attorneys can help them. Also, the witnesses presented against children are often children themselves. The same interrogation tactics that can cause young suspects to falsely confess, however, can also cause youth witnesses to falsely implicate their peers. Time and again, researchers have concluded that most youth – even those who might be considered "street-smart" simply do not understand their Miranda rights to counsel and to remain silent. Accordingly, these children do not exercise those essential rights and are thus left alone during police interrogation, without the assistance of counsel, a friendly adult, or their parents. Too often, the child's resulting statement is involuntary or unreliable.

The need of hour for the Judiciary is to set up major guidelines against wrongful arrest and/or wrongful conviction of innocent minors and undoubtedly, it is a high time for the Legislature to frame a law providing compensation or a life time free education to the wrongfully convicted children so that it can help the innocents in re-living all those years the children lost in legal proceedings and help them to get back into the mainstream.

Also, in view of above-mentioned statistics related to Juvenile offences, it's crystal clear that the law alone can do nothing until and unless there is a rise in awareness and responsibility towards the generalia of the society. The need is to not only focus on maladjusted children whose deeds of violation of law bring them before the court of law but also focussing on those who while not violating laws are being miscreants in school and other places. The treatment meted out to a child at home, locality and school, i.e. social conditioning, is what determines whether the child will be a responsible citizen of tomorrow or a threat to the society (a criminal) in the near future.

Periodic awareness programmes, reaching to the last mile, such as Integrated Child Protection Scheme (ICPS) both for the children as well as their parents must be made compulsory to bring the future assets of this country out of the vicious circle of crime and harness their demographic potential for the holistic growth, comprising, both, the economic development and social justice. The public- private partnership is of the utmost importance to achieve this goal.

Society needs to understand that a child in himself is 20 years of project which needs nurture, care, guidance and mentoring to mould him into a responsible citizen. Afterall, the Juvenile Justice System is based on the principle of social welfare and rights of the child.⁴ The prime focus of the JJS is reformation and rehabilitation. It is to create an opportunity for the child to develop his personality. The goal is to proceed ahead to create an egalitarian society of high order. Such a vision of holistic growth where the torch bearers of the nation are protected,

⁴ The objective of juvenile justice Act,2015.

nurtured and taken care of can only become a reality when the theory of awareness transforms into a viability showing tangible changes on the ground level.

The need is education!

The need is awareness!

The need is responsibility!