

ROLE OF SOCIAL WORKERS AND NGOs IN THE JUVENILE JUSTICE SYSTEM

Since 1980s there has been a shift from welfarism to the justice approach, social workers continue to play a crucial role in the treatment of juvenile offenders. As earlier mentioned the JJB consists of a Metropolitan Magistrate or a Judicial Magistrate of the first class and two social workers. The social workers should have “been actively involved in health, education, or welfare activities pertaining to children for at least seven years.”¹ The Model Rules has prescribed the criterion necessary for appointment as a social worker on the Board, “The social worker to be appointed as a member of the Board shall be a person not less than 35 years of age, who has a post-graduate degree in social work, health, education, psychology, child development or any other social science discipline and has been actively involved and engaged in planning, implementing and administering measures relating to child welfare for at least seven years.”² The two social workers are to “be appointed by the State Government on the recommendation of the Selection Committee.”³ The Selection Committee has as its members, amongst others, “two representatives of reputed non-governmental organizations working in the area of child welfare.”⁴ The social worker members on the JJB must be assertive, and not get overwhelmed by the Magistrate, as they have an important role to play in the rehabilitation of the juvenile. Under section 5(4) of JJA 2000, the social worker members can overrule the Magistrate. They should familiarize themselves with the provisions of juvenile legislation, as also with the papers and proceeding of each case pending before the JJB to ensure that justice is done to the juvenile. It is for the social worker members to gain the confidence of the juvenile, whilst at the same time to portray to him that though his best interest is on their minds, he is going to be dealt with sternly. It is under the orders of the JJB that the juvenile is placed in an institution. Hence, it is imperative that the JJB, especially the social worker members, regularly visit the Observation Homes, the Special Homes and other institutions where juveniles are referred, to ensure that the objective of reformation and rehabilitation is satisfied. The 1986 Act also recognised the importance of social workers whilst dispensing justice to juveniles. The Juvenile Court was to “be assisted by a panel of two honorary social workers possessing such qualifications as may be prescribed, of whom at least one shall be a woman, and such panel shall be appointed by the State Government.”⁵ The 2000 Act elevated the social worker to being part of the Bench that constitutes the JJB, instead of merely assisting the Magistrate. Despite, social work intervention playing an important role, the same is always voiced alongside words such as “honorary”, “voluntary” and “charitable”. Not only under the 1986 Act were “two honorary social workers” (emphasis added) assisting the Juvenile Court, but a similar trend continues under the 2000 Act. The social worker members on the JJB are to be paid “travel and sitting allowance”⁶ as may be fixed by the State government. It is high time that governments recognise that social workers are professionals, playing a crucial role, and the importance of whose work requires to be accepted and appreciated. POs are qualified social workers. The Superintendents of child-care institutions are also academically trained social workers, as is also the other senior staff employed in the homes. POs and the staff attached to institutions have several critical parts to play in the lives of juveniles. Their role has great significance as delinquents often indicate that their

1 .Section 4(3) of JJA 2000.

2 . Rule 7(1) of the Model Rules.

3 . Rule 5(4) of the Model Rules.

4 . Rule 91(c) of the Model Rules

5 . Section 5(3) of JJA 1986.

6 . Rule 8 of the Model Rules.

families are not concerned about their welfare.⁷ Firstly, that of a friend so that the child feels comfortable to speak freely with him. Secondly, that of an advisor and guide so that the child has confidence to approach him when in need. Thirdly, that of a reformer so that the child understands that what he did was wrong. Fourthly, that of a healer who helps the child accomplish his full-potential, and directs him towards his future. The setting-up of a Child Guidance Clinic in an institution is vital as repeated sessions with the juvenile are crucial to bring about a change in his attitude. It is a qualified and trained child psychologist or psychotherapist in a Child Guidance Clinic who can bring about a positive change in the juvenile's future.

ROLE OF NGOs

NGOs too play a pivotal role. They under JJA 2000, can seek charge of juveniles pending or on completion of inquiry in the capacity of a "fit person" or "fit institution". The 2000 Act has empowered voluntary organisations under agreement with State governments to establish and maintain Observation Homes and Special Homes. Moreover, voluntary organisations need to provide services within institutions established and maintained by the State government, such as counselling, imparting education and vocational training, etc., to secure the juvenile his comprehensive rehabilitation. In a democratic set up it is the citizens and their organisation commonly known as NGO (Non-Governmental Organisation) has to do the real work, as they are the ones which gives a guideline to the Government as the citizens elect their representative who form the Government and who make law by which the country is governed.

In reality it is felt that it is the duty of the citizens and their organisations to help the Government to implement and enforce the law, give suggestions to remove difficulties in the society and in the law and check the misdeeds, if any, if it happens.

The JJA says that NGO's should be made to participate in the functioning of the homes at every stage and that Observation homes, Children homes and Special homes can be set up either by the State Government or by voluntary organisations. The NGO can function as After Care Organisation and work on the line to see that the juveniles housed in the homes and released by the Court are made useful citizens of the country. The NGO's role comes up to bring the neglected and the delinquent Juveniles in the main stream of the society by way of providing them useful job oriented education so as they may stand on their own when they enter the main stream of the society. With regard to delinquent, special care has to be taken by the NGOs to see that such juveniles do not come into contact with harden criminals and become a curse to the society.

The graphs show that the crime rate of juvenile have increased, some define it as alarming, some find the reason in the law and blame it as the law specific as the juveniles cannot be detained for more than three years, they cannot be given a capital punishment or kept in a jail, and should be tried separately. The NGOs may also act as Probation Officer to know the reasons for the juvenile becoming delinquent, to see that he does not repeat the crime or becomes a carrier of the criminals. The NGOs may also play a role in a educating the parents explaining the pros and cons of the act of the juvenile and assist them in their correction.¹⁰ The Law has also provided seeing the importance and the role of citizens of appointing members to the Juvenile Justice Board and Child Welfare Committee and care has been taken that one of

7 . *Juvenile Jusitce - An in-depth study on matters relating to children*, Asutosh Mookerjee, Ajoy De of S.C. Sarkar & Sons Pvt. Ltd. (Calcutta- 1989), pg.69.

them should be a woman. Under this provision of the law the NGOs can act to an extent by their expertise as it will provide the Judiciary a guideline to know the background/reasons of the offence or negligence and also provide the remedy for their respective correction. The Constitution of India and the Laws have taken care but it will become the duty of the NGOs that the provision of the law is implemented and it can only be done by raising a voice.

The NGOs can play as provided under the Act a great role being the members of the Advisory Board nominated as visitors and being defined as an appropriate person under whom a juvenile can be put under control. As stated above the NGO's role is vast as it has to educate the parents making them known of their duties, arrange for funds by collecting voluntary donations, providing training for law implementing Government Officials both of the Police and the Administration.¹¹ The NGOs can even provide legal help to the needy juveniles who are in conflict with law and it becomes their duty also to assist the court time and again as they are the persons who are allowed under the Act who may be present before the competent authority. The NGOs can also function as institution under the law where the juvenile can be kept away from the juvenile home or special home and be kept in the said institution for their vocation training and correction so that they may become useful citizens of the society. It is to be taken as caution that the NGOs work is very pious under the Act and virtually they have to see that the juveniles are not exploited. Further they do not become the source for fulfilling unwanted jobs of other persons.

JJA AND NGOS

The role of NGO's is encoded in the various sections of JJA, 2000.

Section 2 (h) of JJA, 2000 states, "fit institution" means a governmental or a registered non-governmental organisation or a voluntary organisation prepared to own the responsibility of a child and such organisation is found fit by the competent authority;

Section 2 (i) of JJA, 2000 states, "fit person" means a person, being a social worker or any other person, who is prepared to own the responsibility of a child and is found fit by the competent authority to receive and take care of the child; Here JJA, 2000 has kept a clear provision for community participation and it is only a matter of authorisation or certification by the State Government.

Again in Section 2 (e) of JJA, 2000, "children's home" means an institution established by a State Government or by voluntary organisation and certified by that Government under section 34. Here also any home run by the NGO which has the experience and calibre to handle such children can be 'certified' as a fit place to receive juveniles. NGO's can apply with their credentials to get such a certificate. Even special Homes where delinquent children are kept be very well in NGO'S run home if they follow the norms and conditions specified by the Act. This shows that NGO's participation has been envisaged in the JJA, 2000.

Section 2 (j) of JJA, refers to "guardian", in relation to a child, means his natural guardian or any other person having the actual charge or control over the child and recognised by the competent authority as a guardian in course of proceedings before that authority. NGO's can thus take the lead to become "guardian" under the JJA. However, the competent authority should actually 'recognize' such 'NGO's or individuals'. Again in Section 2 (q) of JJA, 2000, "place of safety" means any place or institution (not being a police lock-up or jail), the person incharge of which is willing temporarily to receive and take

care of the juvenile and which, in the opinion of the competent authority, may be a place of safety for the juvenile. Here also any institution run by an NGO which follow the rules and regulation prescribes by the Act and which has the proper environment where children are kept in a very well manner can be in the opinion of competent authority may be a place of safety for the delinquent children. Furthermore, Section 4 (2) of JJA, 2000 states that the Juvenile Justice Board should have a Magistrate and two social workers of whom at least one should to be a woman. Here the scope of community participation has been explicitly highlighted.

The State Governments has been empowered under Section 8,9 and 37 of JJA, 2000 to establish and maintain Observation Homes, Special Homes and Shelter homes either by an agreement with voluntary organisations or to recognise reputed and capable voluntary organisations and provide them assistance to setup and administer these homes for juveniles or children. Moreover, the JJA, clearly spells out the concept of After Care Organisation u/s 44 of JJA, 2000 and gives flexibility to the State Government to frame its own rules regarding the establishment or recognition of After-care Organisation. Thus the JJA, 2000 keeps its doors open for the NGO's to come forward and take the responsibilities especially even at the level of 'after-care'. If one scans through the Sections 32 and 33 of JJA, 2000, one finds that the philosophers have kept the option of community participation open right from the 'bringing' of the child before the Child Welfare Committee or Juvenile Justice Board to the time of inquiry. The above section clearly shows that during the pendency of inquiry, the child can be kept in an NGO home if it is certified as a children home. Thus, the JJA, 2000 clearly envisages the participation of NGO's and social workers on equal footing with the State. Needless to say there is a conscious attempt to reduce the 'police and prison contact' of the juvenile to the minimum while realizing the importance and worth of dealing with tender minds. Embedded here is the acknowledgement to importance of social workers to making the child feel cared for and loved. For the first time the awareness and worth or the crucial role played by NGO's and social workers has been put in legal print. The Act, therefore, merges the 'legal' and the 'social' angles to child care with the enshrined vision of provision of holistic care and protection to the juvenile.