

4. Juvenile Delinquency and Social Justice: the Constitutional Challenges Addressing Root Causes in India

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Abstract

In India the Constitution is the main document to deal with the social issues occurred in the society. Constitution is the source of making remedial provisions to deliver the justice equally to the men, women and child. The available Articles dealing with day to day activities like making of laws its implementation, and taking cognisance of the root cause of the any issue related to the various parts of society. In this research paper researcher wanted to through light on the causes responsible for the Juvenile delinquency and its constitutional challenges. Child is considered as the weaker section of society, for the welfare of child state is binding to make effective policies. Also state is under obligation to provide assistance about their fundamental rights and there implementation. In the constitution enormous importance is given to the provisions related to the children. Paper includes current status of Juvenile Delinquency, Juvenile justice system, provisions related to the Rehabilitation of juveniles, Laws related to the Juvenile delinquency, Correctional methods and challenges in the implementation of Law and Constitutional provisions in India. Furthermore researcher is having keen interest to present the system of rehabilitation in existence and it plays important role to eradicate increasing crime rate among the children in India.

Keywords: Constitution of India, Convention related to child Rights, Juvenile Delinquency, Rehabilitation, and Juvenile Justice System.

Introduction

The society without a crime cannot exist; it can be in imagination only. A thought of crimeless society is a myth. As the peoples are coming across the various changes in the society related to different points. A society is having a dynamic nature; continuous change around us is a part of social development. The society is always in found of different as well as new things for their convenience. In society men, women and children are present as a major part of a society.

Though the Juvenile delinquents also a part of society. In the constitution there are some specific articles dealing with the child rights. Today's children are tomorrow's responsible citizens we are under the obligation to provide them the basic required protective rights. Under the constitution some fundamental rights and duties has been provided for the protection of children and directions to make welfare policies for them.

The word "juvenile" is referred to someone who has not yet attained majority i.e. under the age of 18 years and the word "delinquency" is referred to criminal behavior, majorly among young people. Hence the term juvenile delinquency refers to criminal acts committed by individuals under the legal of adulthood. In India, juveniles are defined as children below the age of 18 years, as per the Juvenile Justice (Care and Protection of Children) Act, 2015. Addressing juvenile delinquency is crucial, as it directly affects the well-being of the society and reflects the social and economic health of the nation. Juvenile delinquency is multidimensional issue influenced by various factors, including socioeconomic conditions, family dynamics, peer pressure, and psychological well-being. Understanding these factors and addressing them comprehensively is essential to prevent children from being drawn into cycle of crime.

Juvenile delinquency is a universal issue for that society is always finding with solution. The Juvenile Justice system is first of all introduced through the Children Act 1920 in India. In 1908 the special justice system were introduced for the juvenile offenders in Great Britain. Till 1991 the juvenile court renamed as youth court to handle criminal as well as noncriminal cases. A strong step had been taken against the increasing Juvenile Delinquency in India through the introduction of Children Act 1920. This act had been provided a specification of age criteria for the juvenile delinquent and so the punishment will be different then a major age criminal. The Juvenile Delinquency is required distinct safeguard and nurturing, the crust in the establishment of a special judicial framework to deal with the offences related to juvenile.¹

Root Causes of Juvenile Delinquency in India

"Today's Children are tomorrow's rising sun; there is no future without them. (Badwe, 2021)" The correct formation of the situation is provided herewith. The child is always learning something from the wrongs but some wrong are negligible and some are not. The offence committed by underage person must be resolve and the wrongdoer should be treat as a person in need of treatment about the negative activity done by them. The root causes of delinquency can be understood under different heads.(Lahon)²

1. Family Responsibilities and Juvenile Delinquency

In Indian families the children are treated as most important part, all the peoples were looking to the children. But due to the nuclear size of families the children are not having control of any big person around them. Initially the child is doing certain things like taking money without permission of parents; it will develop habit of theft. Domestic violence is another root cause behind the negligence toward the child. Due to domestic violence and abuse the child could not survive. Also the root cause like Biological & Genetic factor can be responsible for the tendency of crime in children. After the observation or the natural way of reacting child can turn toward theft, pick pocketing, supply of things as stolen from one person and selling to other person for a nominal price. Due to this genetic root cause some times child could not follow the good practices so are easily available to achieve for them.

2. Socio-Economic Issues and Juvenile Delinquency

Under the constitution provisions related to minimum wages for everyone those are providing their labour for someone and trying to overcome from the Poverty. Lack of education can be one of the root causes for the juvenile delinquency. The constitution provided various rights under fundamental rights Article 14 every person is equality before law and has equal protection of law, Article 15(5), Article 21(A), Article 29(1), Article 45,³Article 51(A) comes under directive principles for the citizens parents must provide educational opportunities to their children. Social crimes are like theft, burglary vandalism is rampantly committing by the children in India. The bad company of children also inspires the child to commit crimes related to the society.

3. Mental Illness and Juvenile Delinquency

Mental health issues are also some times the problem of child, they cannot make difference in good and bad activities they are doing. The child is dealing with the emotions and not able to understand the nature of the act done by them is correct or harmful to any one or the society. Various types of therapy and treatment methods are available for the children. The major cause behind the mental illness is also consider as trauma to the child and under the influence of parent or guardian the criminal act is being done.

4. Social Media Easy Access and Juvenile Delinquency

Now a day the social media is the easy access to everyone including children. The children are having the mobile phones, personal desktop and gaming gazettes it is providing

lots of private space for the activities. When the children are looking to the mobile phone the unnecessary stuff also they were seen, that can be caused danger to the child's mental condition and behavioural patterns. The videos related to violence can be promoter of crime. Child could understand things differently and could not make difference in valid and invalid act. Looking various crime scenes and strategy used to commit crime in videos the children can apply the same in their real life to commit a kind of offence. Also the trend to follow the influencers who are commanding children to perform certain task like committing crime of theft, helping banned products dealers to supply the things can be a cause for the increasing juvenile delinquency. ⁴

Constitutional Challenges to Implement Child Right

Under the Indian constitution the child is treated as a weaker section of the society. The state is under obligation to make welfare policies, specialised project and specialised schemes for the advancement in children related issues. Also children have special fundamental rights related to the Juvenile Delinquents and their rights Under Article 14 right to equal protection of law.⁵

1. Challenges to Equal Opportunity of Protection

Under article 14 and 41 provided the equality before law and equal opportunity of work in reality the child is not getting equal treatment while delivering justice due to other circumstances. Also unavailability of evidence and less understanding child can be deprived from equal opportunity of protection.

2. Rehabilitation of Juvenile Delinquents

The juvenile justice system has approach of rehabilitative and not punitive one. The system based on the motto that to realisation of the crime done by the juvenile delinquents without providing corporal punishments. But it is to be observe that the rehabilitation programme is not sufficiently worked on the given procedure instead of the child is getting aware about crime the child is getting more into the crime

3. Child Labour Prohibited but not Eradicated from the Society

Under the Article 24 of the Constitution of India there is provision to prohibit child labour in hazardous industries in this connection the separate. Looking to the current situation the child labour is increased in India and there is only the Acts made but not getting useful for child labour at every part of society. There is of challenge in the implementation of Provision due to not taking cognisance of such kind of criminal activities by the executors at a required time. Also the reason can be lack of awareness of available provisions related to child labour.

The child labour need to absolute prohibited in the society as it is affecting the government policies related to child prohibition Act 1986.⁶

4. Right to Education and Schools Participation

It has been observe that Article 21A guarantees free and compulsory education for child. According to free and compulsory education scheme schools were getting open and enrol them on paper only but in reality there are no schools in existence. Actually the idea of compulsory education has to be accepted as a goal for children's education and must be trying for the implementation of it. Also the parents should be allowed the girl child for the education and not only to keep busy them in household work. The worst part of child's education is the non-implementation of Educational scheme under Free and compulsory education Act 2009.⁷

5. The Apprentice Act

In this Act the age criteria of majority were mentioned is 18 years of completed. The child above 10 but fewer than 18 years if any person wanted to make any contract they have to pervade the consent letter from father (the apprentice act, 1850).⁸

6. Juvenile Justice (Care & Protection) Act 2015

J. J. Act provides protection of law to all without making discrimination. The act says that every child is having right to life and liberty about the child in conflict with law is required special attention, care and protection from bad practices going on against the criminal person. Basically reformation is the aim of this act and to reach up to the goal a systematic implementation of act is important, in this process the whole juvenile justice system must be active and aware at a same time the relationship between system and delinquent is also important to maintain system. The child is struggling to enter into main stream but the juvenile justice system is only providing care till the child exit from the observation homes but not after that. Actually child is in required actual help in those days. The law is not real for them because a stigma about abused child and their family, instead of punishing to the criminal person.

Other Factors to be Consider

- There should be relationship developed among the officers and child which is not happened.
- The aftercare program must be monitor and if child is required the treatment should be provided till the complete cure. It is responsibility of parents also not getting performed.

- Also the children homes are lacking for the sufficient finances to manage the facilities for the children.
- Also many times parents are not ready to accept and ready to send their child for the rehabilitation centre.⁹

Conclusion

In the juvenile justice system child is the mainly getting protected from the injustice and the rehabilitation of juvenile delinquent is another important aspect. The juvenile justice system is maintain the discipline of administration of juveniles in regard to discussing the cases, providing decisions, considering effective measures for the betterment of juvenile delinquent. In the society it can be observed that begging, stalling things from the hands of the people, vandalism, and illiteracy is also increasing and leading to the juvenile delinquency. The acts are provided protection care but at a same time strict punishment related to petty crimes must be there it can be help to create deterrence in the mind of harden criminals. The child is learning from their elders so for the adult will work indirectly on it. The issue of juvenile delinquency must be curbing and effective education policies introduced which can give long term effect.

Suggestions

Certainly there are suggestions for the removal of defects in the juvenile justice system and it will be possible to lessor juvenile delinquency record in India.

- There should be some strong provisions related to juvenile delinquent by which the child can rethink on the steps. The environment of the reformative schools must be improved.
- The reformative school workers and delinquents relation must be maintain in good faith, it can be help to improve the affection and getting changed personality of delinquents proper manner.
- The JJ Act must be improved as the different conventions are introduced for the protection of child now days. The issue of juvenile delinquency is worldwide now so the adoption of international techniques to deal with this issues can be applied.
- Parliament must be providing exclusive rights to improve the provisions in the juvenile justice act and the less interference of Cr. PC and IPC in Juvenile Justice Act.

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