Chapter Seven
Conclusion
&
Recommendations
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-Indira Gandhi
CHAPTER-SEVEN

7.0 Overall View

The children are the future custodians of sovereignty, rule of law, justice, liberty, equality, potential embodiment of our ideals, aspirations, ambitions and future hopes. In fact they are the messengers of our ideologies, philosophies, knowledge and cultural heritage. They are the ‘future shoulders’ in the form of great philosophers, rulers, scientists, politicians, able legislators, administrators, teachers, judges, technologists, industrialists, engineers, workers, planners on which the country would rest. Undoubtedly, the child by reason of his physical and mental immaturity needs special care and protection including adequate legal protection. At the international level the state parties to the United Nations convention on the rights of the child have shown their concern and are convinced that the family is the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children should be provided necessary protection and assistance so that they can fully assume their responsibilities within the community.

The Child is vital to the development of human resources and to safeguard the country’s future. Therefore child care must be the cornerstone of all our constructive activities. The children are the best resources and the future treasures of the nation.

Today crime against Juveniles is a harsh reality and stirs the conscience of every thinking mind. It is the peak of human greed and exploitation. It symbolizes the human degradation and viciousness. The innocent children with their nimble fingers and tender bones are subjected to a number of crimes against them.

A number of scientific, sociological, psychological, anthropological and medical studies of the crimes against Juveniles have been made during the last few decades in all over the world including India. In India, in fact it is only after the attainment of independence that the interest was developed in the study of said problem where children are frequently stolen, abused, beaten, laboured, burned, boiled & starved. They are the victims of various multifaceted crimes, i.e. rape, incest sexual molestations, forced labour, prostitution, physical & psychological abuses etc.
probably due to their abject poverty, illiteracy, ignorance, large population, neglect in the family, social exploitation allurement and related modes.

The problem has however received little attention from the researchers, the legislators, the administrators and the social reformers. In India, there have been certain enactments made from time to time for the protection of children. Some of them are as follows:

- Child Marriage Restraint Act, 1929.
- Children (Pledging of Laboratory) Act, 1933.
- Juvenile Justice Act, 1986

7.1 Conclusion

The growth of the child into a mature & happy person with fully developed personality largely depends upon the support and attention he receives from the family, society, nation and the Laws. If there is any deficiency, his very development into a self sustaining human being is dwarfed. The children because of their physical and mental immaturity need special safeguards, therefore, it becomes the imperative duty of State to protect the children’s right by legislative and other means.

The nature of the crimes against juveniles often includes familiar child-beating, child-labour, physical and verbal abuses, sexual-abuse, encouraging or forcing them into bootlegging, prostitution, smuggling, begging, the sale of babies etc.

Juveniles need special care, special protection and proper attention because of their tender age, physique and mental faculties. They are universally recognized as the most important asset of any nation and the future welfare of the nation is closely related to their welfare. The future well being of the nation depends upon the fact as to how the children grow and develop in the society. Juveniles need special laws to protect them from human exploitations and crimes against them, which are very rampant today.

Therefore, in the present study an indepth study of the problem of Crimes against the Juveniles have been conducted. In fact, it is the problem that has caused great concern to the common man, social reformers and social scientists of modern
advanced countries. The issue of crimes against juveniles/children has in fact assumed menacing proportions and is a well recognized global phenomenon.

India’s population is a pyramid of young persons with children constituting a large chunk. India had signed the convention of the Rights of the Child on 11th December 1992 and ratified the various ILO conventions. The government of India recently introduced I.P.C. (amended) bill, 1972 in response to unprecedented increase in the heinous case of rape of minor girls. Moreover the Indian Constitution seems to be the basic protector of children. Article 21, provides for Right of Life with human dignity of personal liberty, which is one of the Fundamental Rights. Likewise Article 21-A provides for the Right to Education. There is provision for free and compulsory education till the age of 14 years.

Article 24 of The Indian Constitution provides that “no child below the age of 14 years shall be employed to work in a factory or mine or engaged in any other hazardous employment”. Article 39 (f) makes it obligatory for the state to direct its policy towards securing, the health and strength of the children and that they are given opportunities and facilities to develop in a healthy manner. Article 45, provides that the state has to provide free and compulsory education to all children up to the age of 14 years.

In the International arena too the initiatives taken so far in the area of Rights of the Child globally refers to the UN General Assembly 1959 which had come out with the Declaration of the rights of the Child and their protection. After this, there was a resolution passed in 1976 declaring the year 1979 to the International year of the Rights of the Child.

Moreover, the International Labour Organization had adopted several Conventions dealing with the minimum age for Employment, Medical-Examination, Night-work etc. India is also a signatory to these beneficial conventions. On 2nd November 1989 the UN General Assembly adopted the Convention on the Rights of the Child. There was also a world summit for children in 1990. The Convention came into force on 2nd September 1990 and India also ratified it. The present position is that 195 states have ratified the Convention on the Rights of the Child. In 1999 there was a session of the U.N. General Assembly on protection and promotion of the Rights of the Children.
It must be remembered that when a country ratifies or accedes to the Convention, then it is bound to review its national laws to ensure that conform to the provisions of the Convention. Further, it declares itself bound to observe these provisions and becomes answerable to the international community in the event of there being any failure to comply with them.

Various aspects which have been taken into account for the detailed analysis were basically meant to find out the solution for the problem regarding crimes against Juveniles. India could not free itself from the menace of communalism even more than sixty five years after independence. There has been by and large not a single year in post-independence period, which has been free of communal violence in one part or the other of the nation, though number of incidents have varied. The year 2002 had been one of the worst one in the human history which is remembered as the famous Gujarat Carnage of 2002, where the members of the society were targeted and brutally subjected to the mayhem by the rioters allegedly in connivance with the state machinery and district administration. The worst effect of that carnage was quite devastating on the Juveniles. They became orphans, homeless, hopeless, helpless, sleepless, education-less victims of enormous tortures.

The thesis had been divided into seven chapters which are as follows:

I. Introduction
II. Crimes Against Juveniles: An Overview
III. Magnitude, Factors and Dimensions of Crimes Against Juveniles: An Analysis
IV. An Empirical Study of the Communal Riots Affected Children in Gujarat
V. Legal Developments and Legislative Progress Relating to Juveniles and Crimes Against them: A Critique
VI. Human Rights Perspective of Crimes Against Juveniles: Judicial Response
VII. Conclusion & Recommendations

It is in this context, it is to be noted that the researcher has humbly tried to explore the status of children in our society and the problems of the children in India with legal, administrative and judicial perspectives. This study is a compilation of data, collected from literature, on current facts and figures which can be used by other researchers for their future researches. The revealing findings and the suggestions of this study can definitely be used by the law making bodies as well as the law implementing officials which would surely be significant as they depict the
ground reality of the violence and offences against children in India. Hence, the research had been conducted with a noble vision. Nowhere is the wide chasm between the letter of the law on one hand and the implementation of the law on the other hand so clearly perceived in the enforcement of the rights of the child. The Indian Constitution protects the child. The convention for the Rights of the Child has been ratified by India. Child labour is protected by statute and yet millions and millions of children in India are being grossly exploited and employed in hazardous industries. Half of the nation’s children are mal-nourished. Child abuse is rampant. Poor children will remain illiterate without ever a chance of finishing even primary school. Disabled children are even worse off. Minor girls are often trafficked on an ever increasing scale. Juveniles are often subjected to the worst type of crimes in the society.

This work is an humble attempt to integrate the law in theory and practice. It provides the important legislations and judgments on the subject along with the initiatives for legal reforms, interventions and international legal trends. The approach is multidisciplinary and each chapter; highlights various relevant regional and international mechanisms and international standards of behaviour towards children, examines and recognizes the inadequacies in laws and procedures. Finally it focuses on some legal strategies and law reform recommendations to be carried at all levels from local to national.

The issues addressed in this work basically include Crimes against juveniles as a whole, with its various facets like child labour, child sexual abuse and trafficking, juvenile justice, education, health and nutrition of children to their right to play and recreation. The work also contains important findings from many research studies, related articles and field experiences.

Laws concerning Children like most other laws often remain flawed, inadequately observed and are in need of constant revision. Clearly, children do not receive “the best that mankind has to offer” but they can be shielded from the worst. There is the strong evidence of the existence of well-established legal principles set out in various human rights and humanitarian legal instruments and Constitution that children as such are entitled to special treatment. The various governments at the global level have made a common commitment to put children at the top priority which is yet to be achieved. Their rights are non-negotiable. However, it is not only governments that will have to take initiatives to put the children first, but the entire
society will have to be extremely conscious and vigilant regarding the protection of child’s rights.

In order to enhance the standards of care and to build a protective environment for children in the country, there is a need to develop standard protocols on child protection mechanisms at the district, block and village levels, defining roles and responsibilities of each individual and agency. Such protocols should also lay down standards and procedures for effective child protection service delivery including preventive, statutory, care and rehabilitation services for children. An effective community based monitoring mechanism needs to be put in place to ensure accountability at various levels. Monitoring should be based on indicators of performance such as quality of services and levels of child friendliness.

The majority of crimes take place within the family environment, the perpetrators being close family relatives, the most trusted ones. A child who has been abused or continues to be in an abusive situation, needs a variety of services, including professional help in the form of trauma counseling, medical treatment, police intervention and legal support. Such a system should be established under the scheme on child protection. Further, the existing Child line service providing emergency outreach services to children in difficult circumstances should be expanded. Migration and rapid urbanization have forced a large number of children on to the streets. Such children are often the direct victims of crimes who survive by begging, working, scavenging, rag picking, etc. It is essential to provide outreach services to these children through bridge education, night shelters and vocational skills, so as to get them off the streets, reduce their vulnerability and enable them to sustain themselves.

Surprisingly, children go missing for a number of different reasons. Difficult and abusive situations at home often force children to run away; economic compulsions make them move to urban and semi-urban areas in search of a living; and sometimes they are trafficked for domestic work, other forms being related to labour or commercial sexual exploitation. Annually, large numbers of children go missing, and there is little attempt to track them or trace them. Such children are most vulnerable to all forms of abuse and exploitation. Not only should they be tracked but existing mechanisms for their rescue, rehabilitation, repatriation and reintegration should be reviewed and strengthened while keeping in view the best interests of the child.
7.2 Recommendations

Following are some of the humble recommendations/suggestions which may surely go a long way in the amelioration of the causes of the juveniles/children.

1. The law enforcement agencies specially dealing with the cases of crimes against juveniles/children must be thoroughly restructured. The cases relating to crimes against juveniles must be investigated honestly and expeditiously.

2. There must be creation of child crises wings consisting of social workers, psychiatrist counsellors, lawyers etc. who would take suitable actions on behalf of the juveniles/children for their welfare.

3. The need of the hour is the more specific and stringent comprehensive legislations to combat the growing incidences of crime against juveniles exclusively.

4. There is also a strong need for creating mass awareness in the society regarding crime against juveniles.

5. There must be special courts exclusively dealing with the cases of crime against the juveniles/children in each and every district such creation of the courts would definitely help in the speeding and efficient disposal of the cases.

6. The proceedings of such courts must be time bound and expeditions. Accountability of the concerned officers must be fixed by law.

7. There is an urgent need for strengthening the existing social welfare organization or non-governmental organization, voluntary organization who may be properly funded so that they may be able to combat the growing menace of the crimes against the juveniles more effectively.

8. The perpetrators of the crimes against the juveniles must be surely dealt with and deterrent stringent punishment must be awarded to them accordingly. Normal bails to the perpetrators of such heinous crimes against juveniles must be denied.

9. These must be effective coordination between the social welfare organization, police and the courts in order to bring the real culprits to look and for the effective dispensation of justice.
10. Keeping in view the growing menace of crimes against juveniles becomes imperative on the parts of parents / guardians also to impact them proper education and socialize them so that the children / juveniles may feel self reliant and fearless enough to resist any kind of crimes. Moreover education about their basic rights and duties must be incorporated in the course curriculum of the schools in order to create a general socio-legal awareness amongst the juveniles / children.