

“JUVENILE REHABILITATION” - JUVENILE JUSTICE SYSTEM

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A B S T R A C T --The problem of juvenile delinquency is not new, it occurs in all societies simple as well as complex, that is, wherever and whenever a relationship is affected between a group of individuals leading to maladjustments and conflicts...More than a century ago, Abraham Lincoln had said: “A child is a person who is going to carry on what you have started. He is going to sit where you are sitting, and when you are gone, attend to those things you think are important. You may adopt all the policies you please, but how they are carried out depends on him. He is going to move in and take over your churches, schools, universities and corporations.

Considering the magnitude of this problem and issues involved, analysis indicates that the number of factors for neglect and delinquency are mostly common and interrelated, based on socio-economic and psychological reasons. Poverty, broken homes, family tensions, emotional abuse, rural-urban migration, break-down of social values and joint family system, atrocities and abuses by parents or guardians, faulty educational system, the influence of media besides the unhealthy living conditions of slums and such other conditions explain the phenomena of juvenile delinquency. The neglect of children by their parents, family, society and the nation create detrimental effect on their physical, mental growth and over all development. Needless to say that most of the factors causing delinquency are in plenty in the Indian context and any attempt to prevent and control them can be fruitful for society. After all, the children represent the nation and the coming future of the country. Even international instance like UN Standard Minimum Rules for the Administration of Juvenile Justice, also known as Beijing Rules, 1985 and UN Convention on the Rights of Child, 1989, are notable and has articulated the global consensus on giving special attention to the children who come in conflict with law. In the above context, this paper tries to highlight the growth and development of juvenile justice system in India, further, take a brief look at constitutional provisions, Juvenile justice Act, 2015 and extent of delinquency in India. Juvenile delinquency is an aspect of society that has started demanding greater attention in the recent years. The very many changes in societal standards, the increase in awareness among youth as compared to the youth of yesteryears, the access to multitudes of information Juvenile Delinquency Rehabilitation or Punishment.

Keyword -- juvenilerehabilitation, juvenile justice system, india.

I. JUVENILE OFFENDERS

The ‘Juvenile Justice Act, does not allow for the prosecution of a child under 12 years of age. Those between the ages of 12 & 17 can be tried by the specially constituted Juvenile Justice Board. This differentiation is based on the surmise that a juvenile on account of his/her relative immaturity and inexperience, cannot foresee the consequences of his/her actions, cannot control his/her impulses, cannot understand the seriousness of their

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offences and hence cannot be treated as an adult who is expected to possess an understanding of crime and its effects both upon himself and upon society.

II. WHAT IS REHABILITATION?

The primary motto of punishment is to make the convict understand the grievous nature of the crime committed and regret his/her actions. Hence after the completion (full or partial) of the sentence, the convict has to be prepared to get back into society. The ex-convicts always viewed with a suspicious mind by the general public. Hence the ex-convicts should be prepared mentally and may be taught skill sets to improve their job ability.

Special programs to prevent substance abuse, improve mental health, continuing education was framed for sexual offenders, women parolees and children in conflict with the law. The importance slowly downgraded as the twentieth century progressed towards its end. It regained momentum as human rights concerns are high on the activists' list.

III. HOW DOES REHABILITATION FOR JUVENILES WORK?

While the juveniles held accountable for their violation of the law and kept in juvenile homes or other relevant correctional facilities for public safety, the primary aim is to rehabilitate them. The rehabilitative process includes psychological assessment of the crime committed by the juvenile and the environment, causing it to happen, therapeutic guidance, skill development, involving them in yoga and other mind developing activities. Financial constraints of the government wade rehabilitation away and involvement of social workers and non-profit organisations resulted in cost-effective multi-modal rehab programs for the juveniles.

IV. WHAT ARE THE PROVISIONS MADE BY THE JUVENILE JUSTICE ACT?

The Juvenile Justice Act provides for the rehabilitation of the to begin as soon as the child's transfer to the care home or other correctional facilities. The social reintegration of the child in conflict with law can be done by

Aftercare care organizations-

These are transitional homes where the child is kept before totally reintegrated into society. Aftercare organisations are special homes registered under the governmental nodal agency functions for the welfare of delinquent children.

At the aftercare organisations, the Juveniles were given,

1. Vocational training
2. Therapeutic training to improve psychological behaviour
3. Continuing education
4. Consensus about social values
5. Economical ability to support themselves
6. Activities for physical and mental fitness

The juveniles are taken care of in After Care Organisation which is transitional homes after they leave the special homes and children's home. Juvenile in conflict with law and children in need of care and protection,

both categories are placed in the aftercare organizations. Aftercare organizations enable the juveniles to lead an honest and industrious life. After-Care Organisations are set to achieve the principal objective of allowing children as well as juveniles to adapt to society. At the after-care organizations, the children and juveniles are motivated to stay in mainstream society from their past life in the institutional homes.

Aftercare organizations are nothing but a temporary home which is set up for a group of youths. At the aftercare organizations, the placed youths are encouraged to learn a trade, and they also contribute towards the running of the aftercare home. Any voluntary institution or organization designated as the after-care organization strives to work towards preparing the children as well as juveniles to achieve self-reliance and acquire social and life skills to integrate them fully in the community.

In the aftercare program children and juveniles are also provided access to social, legal and medical services and also with appropriate financial support. Regular educational and vocational training opportunities are provided to children and juveniles at the aftercare organization for helping them to become financially independent and in turn, to generate their income.

The After Care Organisation must ensure regular follow up and support after the child or juvenile is reintegrated in the community or society. Members of various government bodies also work together to reintegrate the child or juvenile into the mainstream society by enabling them psychologically and economically and also providing them with support after integration with society with constant monitoring.

Both institutional and non-institutional measures have been used not only for the proper care and development of children but also to handle the problems of children adequately as a last resort for the welfare of the children and juvenile, the institutional measures have to be used.

Sponsorship

It is the financial help given for child care organisations, foster families, individuals or individual groups to meet the expenses of the juveniles' rehabilitation programs. It may be a government aid or by a non - governmental organisation (NGO) or by individuals.

V. FOSTER CARE

It is one of the non-institutional care provided for the juveniles. Based on *Section 42 of the Juvenile Justice Act of 2000*, the child may be placed with a foster family so he/she may be surrounded in a family environment and parental care which cannot be possible in normal institutional rehabilitation. The child is provided with education as well as family care. The foster family is paid for their service, and it is voluntary in nature.

A child may be placed in foster care if the natural parents are

- sentenced,
- suffering from deadly diseases
- being abroad
- Incapacitated by other means

VI. ADOPTION

Adoption benefits the orphans, homeless children and destitute youngsters as well as childless couples. Adoption makes life meaningful for lone single adults too as they gain a parent-child relationship. Adoption empowers a powerful relationship between the child and its adopted parents even though they are not related. Section 2(2) of the Juvenile Justice Act of 2015 states that adoption as the process through which the adopted child is permanently separated from his/her biological parents and becomes the lawful child of his/her adoptive parents with all the rights, privileges and responsibilities that are attached to a biological child.

What are the steps taken by the Judicial proceedings towards the rehabilitation of juveniles?

A child in conflict with law is sent before the Juvenile Justice board, not before other courts of law. The Juvenile Justice Board consists of two social worker members among one is women. This is to make sure the case proceedings happen in a way to ascertain the welfare of the child. Care is taken while issuing the justice which not only contains the punishment for the unlawful deed but to rehabilitate the child back to the society.

What are the other measures or techniques used in the rehabilitation of juveniles?

There is a huge lack of infrastructure for the rehabilitation of the juveniles like the absence of Juvenile Justice Boards, observation homes or special homes at many districts. There is also not enough counsellors, psychiatrists, medical personnel and trained social workers. The implementation of the Juvenile Justice Act of 2015 is lacking implementation at various levels. It is the role of the state government to ensure the implementation and proper function. State governments need to impart training to the monitoring officers.

While Juvenile Justice Boards avoid the child to be produced in normal courts it does not prevent children from giving evidence at normal courts. Child Rights Convention to which India is a signatory provided guidelines for treating Child victims, Child witnesses and delinquent youth.

1. the Media (Newspapers, Televisions, etc..) should publish the photograph, name and age of the child.
2. The proceedings should be run in a closed courtroom (in-camera) with the presence of a parent or guardian and a welfare worker.
3. Suitable counselling measures should be given to the child after the court session.
4. Any persons or proceedings contravening the above shall be punishable by law.

Section 36 of the Child Protection Act of 1960 also emphasise this.

The unwanted attention given to the child involved in court proceedings may result in mental trauma. Child psychologists specialised in these scenarios help the children to tackle the situation.

Children sent to juvenile homes for petty offences should be treated properly and care is given to educate them and re-socialise them for the positive reintegration with society. The correctional facilities and rehabilitation services for the juveniles should be done with the approach.

As more than one ministry is involved in the juvenile care strong coordination between the concerned departments and corpus fund integrating all the ministries involved is necessary to smooth functioning and implementation of the child care acts. Result oriented mechanism for evaluating, monitoring and future planning must be given more preference.

What are the Legislative Interventions against Juvenile Delinquency?

The Apprentice Act, 1850 states that the convicted children of the age group of 10-18 are to be provided with vocational training to help with their rehabilitation. This was considered to be the first legislation concerning children.

Separate prison for children, creation of remand homes, making suitable arrangements for the custody of children under remand and creation of children's courts with the informal and elastic procedure were recommended by Indian Jail Committee (1919-20). To provide for the administration of Juvenile Justice with special considerations to the treatment of Juvenile delinquents in the year 1986 the Act Juvenile Justice Act was passed in parliament. The Juvenile Justice Board and other child care home were established based on this act, it also gives emphasis for the following:

- Providing a reasoned approach for the prevention and remediation of juvenile delinquency. This is done while keeping the child's developmental needs towards social maladjustment.
- Rules and regulations for investigation, prosecution, adjudication and disposition, rehabilitation of juvenile justice administration.
- Provisions for juvenile specific offences and punishments.
- Conforming the standard Minimum rules for the administration of Juvenile Justice of United Nations implemented in the administration of the juvenile justice system in India

To provide proper care, protection and treatment by catering to the juvenile delinquents' developmental needs, and for adopting a child-friendly approach in the adjudication and disposition of court proceedings in the best interests of children and for their proper rehabilitation the Juvenile Justice Act of 2000 is enacted by Government of India. Provisions for institutional and non-institutional measures for rehabilitation are provided in the Juvenile Justice (care and protection) Act of 2000.

The Convention on the Rights of the Child (1989) adopted by the General Assembly Resolution 44/25 of 20 contains articles to prevent abuse, exploitation and abuse of children. All member states are required to implement the provisions of the Child Rights Convention on par with their own law. It also mandates the process to restore the victimised child back into society. Article 6, 7, 8 of the Convention on the Rights of the Child, 1989 stresses the right to equitable life, basic education and socio-economic rights of the child.

All nations must ensure these rights of the child are protected constitutionally and there should be a proper redressal mechanism. The National Council for the protection of child rights (NCPR) is established for this purpose.

Article 15(3), 25, 39 of the Indian Constitution has necessary provisions for protecting the rights of children. India also implemented Sarva Shiksha Abhiyan (SSA) which made education for children between 6-14 years age free and compulsory. It is also punishable under the law to employ children under 14 years of age. Several legislations enacted in pre and post-independent India for the safeguard of child rights, protecting the young offenders from harsh punishments, reforming the delinquent children with social consciousness.

The principle of "the first call for children" – the children's essential needs to be given at most priority of Child Rights Convention is ratified by India in 1992., Juvenile Justice (Care and Protection) Act of 2000 was passed by the Indian parliament to replace all older acts concerning Juveniles in lieu of the Child Rights Convention.

According to Section 83 of Indian Penal Code, any act committed by a child under seven years of age is not an offence and even it is not an offence committed by a child under twelve years of age provided he/she does not understand the nature and consequences of the act and not attained enough mental maturity.

Under Section 27 of the Criminal Procedure Code of 1973, any accused under the age of 16 years committed any offence other than one is punishable with capital sentence may be tried by the special courts empowered by the Children Act 1960.

Procedures for the three stages of the trial were detailed out in the Juvenile Justice (Care and Protection of Children) Rules, 2007. They are as follows,

Pre-Trial Processes

Rule 11(11) of the Juvenile Justice Rules, 2007 states when dealing with a child in conflict with the law except for crimes of heinous nature like rape or murder not need to file first information report (FIR) or charge sheet by the police. The information recorded only in the general daily diary. The juvenile should be produced before the Juvenile Justice Board immediately after apprehension by the police.

A report on the social background of the juvenile, circumstances of apprehension and the alleged crime committed should be submitted before the Juvenile Justice Board. A juvenile who is accused of a bailable or non-bailable offence "shall" be released on bail or placed under the care of a suitable person/institution.[Section 12, the Juvenile Justice (Care and Protection of Children) Act, 2000] If bail is refused the juvenile cannot be sent to jail and kept in an observation home.

Trial and Adjudication

The Juvenile Justice Board conducts an inquiry of the juvenile charged with an offence and produced before it by the powers under Section 14 of the Juvenile Justice Act. By the provisions of Section 18, a juvenile cannot be tried with an adult. The age of the juvenile is determined based on documentary evidence like the birth certificate, matriculation certificate or medical board examination.

Rule 13 mandates to conclude the inquiry as soon as possible by the Juvenile Justice Board and then the presence of juvenile during inquiry may be dispensed by the Board if it deems fit. According to Rule 13 (7) Section 47 of the Juvenile Justice (Care and Protection of Children) Act, 2000, beyond four months, the inquiry must not be prolonged and delay of more than 6 months will terminate the trial in all non-serious crimes.

VII. POST-TRIAL PROCESSES

After the expiry of the appeal period, the case records of the juvenile are removed to ensure no disqualification attaches to a juvenile in the conflict of law. During his stay in a children's home or the special home itself rehabilitation and social reintegration of the juvenile begin as per the provisions of Section 40 of the Act. For the juveniles to have an honest, industrious and useful life various programs were conducted by government authorised After-care organizations after they leave the Juvenile homes.

Executive Interventions against Juvenile Delinquency

The National Policy for Children 1974 is the first policy document adopted by the Union government for the needs and rights of children. It reaffirms the Constitutional provisions, this brief document outlines services for

the complete development of a child, before and after birth and throughout a child's period of growth including health and nutrition programs, free and compulsory education, protection from abuse, neglect, cruelty, and exploitation with special focus on children from marginalized backgrounds or children with social handicaps by the state.

For the purpose of planning and upholding the rights of the children a National Children's Board is envisioned by this policy. To help in ensuring the above provisions voluntary organizations also need to be recruited. To live a healthy and happy childhood is an inherent right of a child. It is the obligation of state governments to guarantee that. The 2003 National Children's Charter, adopted on 9 February 2004, emphasizes. It is the State government's commitment to ensure that all children grow up in an environment that is respectful of their dignity, free from discrimination, violence, exploitation, exclusion, equal chances to develop their potential and enjoyment of all children according to the National Children's Charter of 2013. This policy is the guideline, policies, plans and programs affecting children of national, state and local governments and applicable to children under the age of 18.

The Ministry of Social Justice and Empowerment under the Union government formulates policies, oversees the implementation of programs and coordinates the welfare activities for child welfare. Integrated Child Development Services (ICDS) It provides a package of services comprising supplementary nutrition, immunization, health check-up and referral services, pre-school non-formal education) and Kishori Shakti Yojana (KSY) (It has launched a nutrition programme for adolescent girls, establishment of the Commission on Child Rights) programs were conducted by the state and union governments for the welfare of women and children.

Health, nutrition, and education as major areas of concern with regard to children were identified by the first five-year plan (1951-56). proposals, relating to juvenile delinquency, social and moral hygiene, vagrancy or beggary and probation were formulated in the second five-year plan (1956-61). The special needs of the child and recognition of the child as a human being were emulated during the third five-year plan (1961-66) and efforts were made to ensure these needs. the National Education policy in 1968 and the National Policy for Children in 1974 came into existence as a result of the fourth five-year plan (1969-74). The needs of working children were the main consideration of the sixth five-year plan (1980-85) and (1992-97).

The ratification of the United Nations Child Right Convention by India was done in the eighth five-year plan and continued work in areas of daycare, education, health, etc. The Sarva Shiksha Abhiyan (SSA) and in 2001-02 adopted the new Juvenile Justice (care and protection of children) Act were introduced in the ninth five-year plan (1997-2002). By Schemes such as Integrated Child Development Scheme and universal immunization introduced in the tenth five-year plan (2002-07) for ensuring survival, development, and protection of children. The central goal of the eleventh five-year plan (2007-12) is the development of the child.

Judicial Intervention against Juvenile Delinquency

The beneficial interpretation of the law given to the juvenile delinquents in judicial decisions. In the case of *Sheela Barse v. Union of India*, (1986 3 SCC 596) . The Supreme Court has condemned and discouraged the detention of children below 16 years in jail as the atmosphere of the jail may have an injurious effect on the mind of child estranging him from society.

In case of *Ramdeo Chauhan v. State of Assam*, (2001) 5 SCC 714) it was held that whenever any delinquent juvenile accused of an offence is produced before a Magistrate or a Court and if it is brought to its notice or observed that the accused produced before it was under the age of 16 years, shall refer the accused to the Juvenile Courts if the Act is applicable in the State and the Courts have been constituted or otherwise refer the case to the Court of the Chief Judicial Magistrate who will deal with the matter in accordance with the provisions of law.

In case of *Harkit Singh alias Kirat v. the State of Haryana* 2008 Cri.L.J. (NOC), 1267 (P&H) the Hon'ble Supreme Court of India held that Section 12 of the Act provides for bail to a juvenile which is mandatory and is subject to a few exceptions. In case of *Praglad Gaur v. State of Uttar Pradesh*, 2009 Cri.L.J. 1563 it was observed that denial of bail to the juvenile on the single instance of a child delinquent joining company of some known criminal or criminals would not be sufficient to satisfy the definition of the word "Association" used in Section 12 of the Act.

In the case of *Jabar Singh v. Dinesh &Anr.* (JT 2010 (2) SC 603) it was observed that under Section 49 the claim of juvenility due to inquiries must be made it was observed that the insertion of Section 7 (A) in the Act shows legislative intent not to oust the jurisdiction of the court to decide a claim of juvenility raised before it.

In the case of *Ravinder Singh Gorkhi v. State of Uttar Pradesh*, AIR 2000 SC 2648 it was observed that the determination of the date of birth of a person before a court of law, whether in a civil proceeding or a criminal proceeding, would depend upon the facts and circumstances of each case to be determined on the basis of the material on the records and in a manner laid down under a statute. It will be the duty of the court of law to accord the benefit to a Juvenile so that no injustice is caused to the victim.

In the case of *Sanjay Suri &Ors. v. Delhi Administration*, (AIR 1988 SC 414) it was observed that no child should be sent to jail otherwise the whole object of protecting the child from the bad influence of jail life would be defeated. The juvenile must be kept in a separate ward and shouldn't be allowed to intermingle with adult prisoners as that would also expose them to bad influences which may prevent their proper rehabilitation. Prevention, dealing, treatment, rehabilitation and reintegration of juvenile delinquents

The proverb "*ounce of prevention is worth a pound of cure*" is the basis behind preventing crime and delinquency. To reduce the frequency and repetition of the crime cycle of a juvenile delinquency detection of environmental factors of the offence occurred, changing the psychological makeup of juvenile delinquents and rehabilitating them are a must. Actions like imparting social skills training, cognitive and behavioural self-control strategies are taught at the school and community level to prevent juvenile delinquency. The rehabilitation focuses on the juvenile delinquent to reintegrate with his family and community.

Prevention: It is the first step towards the curbing delinquency. Delinquency is an evolutionary process as the child starts his delinquent acts at an early stage which is evident in the form of petty stealing, neglecting studies and gradually developing other notorious tendencies. Observing such behaviours, teachers and family members should counsel such children.

Also, the prevention of delinquency includes averting delinquent behaviour by taking action in terms of individual and environmental adjustments. It includes curing the factors responsible for juvenile delinquency like improving family bonds, the better adjustment in schools, provision of educational and recreational activities.

Dealing: Police and Courts are the two major components of the criminal justice system. Police have a more significant role to play in cases related to juveniles delinquents. Even the statutory provisions provide for the active participation of police in cases concerning juveniles. For these juvenile police units with special training must be set up who will help in discovering delinquents and pre-delinquents.

Treatment: Modification of delinquent behaviour is one of the basic purposes of correctional institutions. The Juvenile Justice (Care and Protection for Children) Act, 2000 gives special attention to the children who are in a situation of social maladjustment. The Act provides for the constitution of the Board.

The State Government has been authorized to constitute for a district or a group of districts one or more Juvenile Boards for exercising the powers and discharging the duties, conferred or imposed on such Boards in relation to Juveniles in conflict with the law under this act. The Board shall consist of a Metropolitan Magistrate or a Judicial Magistrate of the first class, as the case may be, and two social workers of whom at least one shall be a woman;

Section 4, the Juvenile Justice (Care and Protection of Children) Act, 2000 that will hold the inquiry and may make such order as it deems fit. (Section 14, the Juvenile Justice (Care and Protection of Children) Act, 2000) The juveniles may be kept in observation homes (Section 8, the Juvenile Justice (Care and Protection of Children) Act, 2000) where the juvenile is provided accommodation, maintenance, and facilities for medical examination and treatment apart from informal education and moral teaching. State Governments have been empowered to establish and maintain special homes (Section 9, the Juvenile Justice (Care and Protection of Children) Act, 2000) in every district for the reception and rehabilitation of juvenile in conflict with the law.

In case of the child in need of care and protection, the State Governments have been empowered to constitute a Child Welfare Committees (Section 29, the Juvenile Justice (Care and Protection of Children) Act, 2000) for every district. The Committee shall have the final authority to dispose of cases for the care, protection, treatment, development, and rehabilitation of the children as well as to provide for their basic needs and protection of human rights. (Section 31(1), the Juvenile Justice (Care and Protection of Children) Act, 2000).

Rehabilitation and Reintegration: Social reintegration of children shall be carried out alternatively by adoption, foster care, sponsorship, and sending the child to an after-care organization (Section 40, the Juvenile Justice (Care and Protection of Children) Act, 2000). The foster care may be used for temporary placement of those infants who are ultimately to be given for adoption. After-care organisations (Section 44, the Juvenile Justice (Care and Protection of Children) Act, 2000) are set up for the purpose of taking care of juveniles or the children after they leave special homes, children homes and for the purpose of enabling them to lead an honest, industrious and useful life.

A report is submitted by the probation officer or any other officer appointed by the Government in respect of each juvenile or the child prior to his discharge from a special home, children's home, regarding the necessity and nature of after-care of such juvenile or of a child, the period of such after-care, supervision thereof. (Section 44(c), the Juvenile Justice (Care and Protection of Children) Act, 2000)

VIII. CONCLUSION

Restoration of a juvenile back to the society is very important for the reformation of the child in conflict with the law and to make him/her into a model citizen. The government and non-governmental organisations work together for the rehab of the juvenile. The core concern of the correctional law for juveniles shifted from punishing for the alleged crime to make him grievous of his actions and rehabilitating the juvenile.

International conventions and social activists demand child-centric activities and due diligence on the case proceedings involving juveniles. Except for heinous crimes such as rape and murder, the child is treated leniently and inquired away from the normal courts and conducted in specifically constituted the Juvenile Justice Board. The law and statutes are continuously updated and upgraded with the major concern towards the welfare of the child in conflict with the law.

Though the evolution of juvenile laws going towards the welfare model, social activists still feels yet more to be done in that field. They argue that importance should be given to social upliftment and removing disparity in resource availability for child development, free education, equal footing in opportunities and so on. "A well-nurtured society takes care of its children" this notion is kept in mind when a child allegedly commits an offence and question is asked whether the societal status forced him to it or the family upbringing is responsible for it.

Hence he/she treated leniently and removed from the environment where the offence committed and put under proper care for relinquishing and understand the nature and gravity of his/her actions and restored back to the mainstream society. We can understand the primary motto of the juvenile justice (care and protection) act is to reform and not simply to punish the child in conflict with the law. Mere punishing may lead to make the juvenile delinquent a serial offender and a danger to society.

To avoid this scenario with the help of the non-governmental organisations and not for profit social workers and voluntary service people the state nodal agencies run child care homes, aftercare organisations, foster homes etc., and conduct programs to enable the child physically, mentally and economically to support himself and fuse into the society seamlessly. Though the laws, rules, regulations and guidelines exist in the paper the actual implementation at ground level lacks proper execution.

State governments should allocate more funds to meet up the expenses of child welfare programs and follow up and monitor the activities of NGOs through trained officials. More Juvenile Justice Boards should be set up for each taluk and district and proportionately enough homes also should be established by the government. A true society wants to get rid of crimes should start the reformation from within. This starts with the rehabilitation of the estranged young minds back to the path of righteousness.

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