

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 5

2023

© 2023 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

Constitutional Provisions in Relation to Juvenile in India

DIPANKAR CHAKRABORTY¹ AND DR. MAHAVEER PRASAD MALI²

ABSTRACT

The Constitution of India incorporates several constitutional provisions to protect the rights and welfare of juveniles, defined as individuals below the age of 18 years. These provisions recognize the vulnerability of children and emphasize the need for their special care and treatment within the criminal justice system. Article 15(3) empowers the State to enact special provisions for children, including juveniles, to promote their educational and social advancement. Article 39(f) and Article 45 advocate for securing childhood and youth against exploitation and ensuring free and compulsory education for children until they reach 14 years of age. The Constitution also allows for the establishment of separate juvenile justice courts or systems under Article 15(4), emphasizing compassionate treatment and rehabilitation rather than punitive measures. Additionally, the principles of natural justice and fundamental rights, such as the right to a fair trial and protection against cruel treatment, apply to all individuals, including juveniles. India's Juvenile Justice Act further strengthens this framework, focusing on the welfare and reintegration of young offenders into society. Challenges remain in implementing and enforcing these provisions uniformly across the country, prompting continuous efforts by the government and civil society to improve the juvenile justice system and safeguard the rights of juveniles effectively.

Keywords: *Constitution of India, Rights and welfare of juvenile, Vulnerability of children, criminal justice system, Children, Juvenile, Childhood and youth against exploitation.*

I. INTRODUCTION

The Indian Constitution lays the foundation for a just and equitable society, ensuring the protection of the rights and welfare of all its citizens, including juveniles. Juveniles, individuals below a certain age (usually 18 years), are recognized as a vulnerable section of society, deserving of special care and attention. To address the specific needs and rights of juveniles, the Indian Constitution incorporates several provisions that aim to safeguard their interests within the legal framework. These provisions are primarily found in the Directive Principles of State Policy and Fundamental Rights, along with legislation that has been enacted to give effect

¹ Author is an Ph.D. Scholar at NIMS School of Law, NIMS University, Jaipur, Rajasthan, India.

² Author is an Assistant Professor at NIMS School of Law, NIMS University, Jaipur, Rajasthan, India.

to these principles.

The key constitutional provisions in relation to juveniles in India include:

1. Article 15(3): This provision empowers the State to make special provisions for women and children. While not explicitly mentioning juveniles, this article underscores the need for the State to take affirmative actions for the protection and welfare of children, which inherently includes juveniles.

2. Article 39(e) and (f): These articles fall under the Directive Principles of State Policy and direct the State to ensure that children are given opportunities and facilities to develop in a healthy manner and that childhood and youth are protected against exploitation and moral and material abandonment.

3. Article 45: This article highlights the importance of early childhood care and education for children below the age of six. It underlines the State's responsibility in providing free and compulsory education to all children, emphasizing their well-being and development.

4. Article 21: The right to life and personal liberty is a fundamental right guaranteed to all individuals, including juveniles. This article ensures that the State cannot arbitrarily infringe upon the rights of juveniles and must ensure their protection and well-being.

5. Article 23: Prohibiting trafficking in human beings and forced labor, this article indirectly addresses issues concerning the exploitation of juveniles, particularly those forced into child labor or other forms of bonded labor.

6. Article 24: This provision specifically prohibits the employment of children below the age of 14 years in hazardous industries. It reflects the State's commitment to protecting the physical and mental health of children, which includes juveniles.

7. Article 39A: While not directly related to juveniles, this article emphasizes equal justice and free legal aid. It indirectly supports the rights of juveniles by ensuring fair legal processes and access to justice.

Apart from these constitutional provisions, India has enacted the Juvenile Justice (Care and Protection of Children) Act to comprehensively address the rights and issues of juveniles. This legislation focuses on their care, protection, and rehabilitation, rather than mere punishment. The Act establishes Juvenile Justice Boards and Child Welfare Committees, which work to ensure the proper implementation of these provisions and the fair treatment of juveniles within the legal system.

In conclusion, the Indian Constitution recognizes the significance of protecting the rights and

welfare of juveniles through various provisions and principles. These provisions reflect the State's commitment to ensuring a safe, nurturing, and equitable environment for the growth and development of its young citizens.

II. CONCEPT OF CONSTITUTIONAL PROVISIONS IN RELATION TO JUVENILE IN INDIA

The constitutional provisions in relation to juveniles in India are an integral part of the country's commitment to protecting the rights and well-being of its young population. These provisions are rooted in the recognition of juveniles as a vulnerable group that requires special attention, care, and safeguards within the legal framework. The Indian Constitution incorporates several key concepts and principles to ensure the protection, development, and rehabilitation of juveniles:

1. Right to Equality and Non-Discrimination: The principle of equality, enshrined in Article 14 of the Constitution, ensures that all individuals, including juveniles, are treated fairly and without discrimination. This principle prohibits unjust treatment and ensures that juveniles are given equal protection under the law.

2. Best Interests of the Child: The concept of the "best interests of the child" is a guiding principle found in various international treaties and also indirectly in the Indian Constitution. Article 39(f) and other related provisions reflect this principle, emphasizing that the welfare of the child should be a primary consideration in any decision or action that affects them.

3. Right to Life and Personal Liberty: Article 21 guarantees the fundamental right to life and personal liberty to all individuals, including juveniles. This provision ensures that the State must take measures to protect juveniles from any form of harm and provide them with an environment conducive to their physical, emotional, and mental well-being.

4. Protection against Exploitation: Articles 23 and 24 address the exploitation of children, including juveniles, by prohibiting practices such as child labor and trafficking. These provisions reinforce the State's commitment to protecting juveniles from exploitation and ensuring their right to a safe and nurturing environment.

5. Right to Education: Article 21A guarantees the right to education to all children in the age group of 6 to 14 years. This right ensures that juveniles have access to quality education, promoting their holistic development and reducing the likelihood of their involvement in criminal activities.

6. Directive Principles of State Policy: The Directive Principles of State Policy contain guidelines for the State to formulate policies and laws that are in the best interests of children and juveniles. Articles 15(3), 39(e), and 45 underscore the State's responsibility to protect and promote the rights of juveniles.

7. Rehabilitation and Reformation: The Indian Constitution recognizes the importance of rehabilitating and reforming juveniles who come into conflict with the law. While not explicitly mentioned in the Constitution, this concept is reflected in the Juvenile Justice (Care and Protection of Children) Act, which focuses on the rehabilitation and reintegration of juvenile offenders.

8. Juvenile Justice System: The constitutional provisions lay the foundation for the establishment of a separate juvenile justice system that is distinct from the adult criminal justice system. This system takes into account the unique needs and vulnerabilities of juveniles and aims to provide them with a rehabilitative approach rather than punitive measures.

In summary, the constitutional provisions in relation to juveniles in India embody the principles of equality, protection, and welfare. These provisions reflect the country's commitment to nurturing its young population and ensuring that their rights and dignity are upheld throughout their growth and development.

III. DEFINITION OF CONSTITUTIONAL PROVISIONS IN RELATION TO JUVENILE IN INDIA

Constitutional provisions in relation to juveniles in India refer to specific clauses, principles, and articles within the Indian Constitution that address the rights, protections, and special considerations granted to individuals who are classified as juveniles, typically those under a certain age threshold (often 18 years). These provisions are designed to ensure the well-being, development, and fair treatment of juveniles within the legal framework of the country. Key aspects of these provisions include:

- **Equal Treatment:** Constitutional provisions ensure that juveniles are treated fairly and equally under the law, irrespective of their age, race, gender, religion, or background.
- **Best Interests of the Child:** These provisions emphasize that decisions and actions concerning juveniles must prioritize their best interests, considering their physical, emotional, and mental well-being.
- **Protection from Exploitation:** The Constitution prohibits the exploitation of juveniles, including practices like child labor and trafficking, safeguarding them from harm.

- **Right to Education:** The Constitution guarantees the right to education for juveniles, ensuring that they have access to quality education and the opportunity for intellectual growth.
- **Directive Principles:** These principles provide guidelines to the State to create policies that promote the welfare, protection, and development of juveniles.
- **Separate Justice System:** The Constitution establishes a distinct juvenile justice system that focuses on the rehabilitation and reformation of juvenile offenders rather than punitive measures.
- **Rehabilitation:** These provisions underscore the importance of rehabilitating and reintegrating juvenile offenders into society, with an emphasis on their positive transformation.
- **Right to Life and Personal Liberty:** Juveniles, like all individuals, are granted the fundamental right to life and personal liberty, ensuring their protection and well-being.

These constitutional provisions collectively represent India's commitment to recognizing the unique needs and vulnerabilities of juveniles and creating an environment that supports their growth, development, and fair treatment. They serve as the foundation for legislative and policy frameworks aimed at upholding the rights and dignity of juveniles in the country.

IV. NATURE AND SCOPE OF CONSTITUTIONAL PROVISIONS IN RELATION TO JUVENILE IN INDIA

The nature and scope of constitutional provisions in relation to juveniles in India pertain to the legal protections and rights granted to individuals who are considered juveniles, typically those under the age of 18, under the Indian Constitution. These provisions recognize the special status of juveniles, taking into account their vulnerability and the need for their rehabilitation and protection.

Key constitutional provisions and aspects related to juveniles in India include:

- **Article 15(3):** This article allows the State to make special provisions for children, including juveniles, to ensure their well-being and protection. It empowers the State to enact laws and policies that cater to the specific needs of children.
- **Article 39(e) and (f):** These articles enshrine the principles of the State's policy towards securing the welfare of children. They emphasize that children should be given

opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity.

- Article 45: This article underscores the importance of early childhood care and education for children. It directs the State to provide free and compulsory education for all children until they complete the age of 14 years.
- Article 21A: While not specifically related to juveniles, this article guarantees the right to education for children aged 6 to 14 years, emphasizing the significance of education in their development.
- Article 24: This article prohibits the employment of children below the age of 14 years in hazardous occupations.
- Article 243G: This article pertains to Panchayats and their role in rural development. It can indirectly impact juvenile welfare by allowing Panchayats to take measures for child development and protection at the local level.
- Juvenile Justice (Care and Protection of Children) Act, 2015: Although not a constitutional provision, this act was enacted in accordance with Article 15(3) and other related provisions. It provides a comprehensive legal framework for dealing with juveniles in conflict with the law and those in need of care and protection. The act focuses on rehabilitation, reintegration, and protection of juveniles.
- Child Rights: While not a specific constitutional provision, India is a signatory to international treaties like the United Nations Convention on the Rights of the Child (UNCRC). These treaties influence India's approach to children's rights, including juveniles, and guide the framing of relevant laws and policies.

The nature of these provisions reflects India's commitment to safeguarding the rights and well-being of juveniles. The scope encompasses not only legal aspects but also policy initiatives aimed at providing a supportive and nurturing environment for the holistic development of children, with a focus on their education, health, and protection from exploitation and abuse.

V. SIGNIFICANCE OF CONSTITUTIONAL PROVISIONS IN RELATION TO JUVENILE IN INDIA

The constitutional provisions in relation to juveniles in India hold significant importance as they are designed to ensure the protection, welfare, and holistic development of children who fall within the juvenile age group (typically under 18 years). These provisions recognize the vulnerability of juveniles and the need to safeguard their rights and well-being. Here's why these

constitutional provisions are significant:

- **Child-Centric Approach:** The constitutional provisions underscore a child-centric approach, focusing on the best interests of the child. They recognize that juveniles are still in the process of physical, emotional, and intellectual development, and therefore need special care and protection.
- **Protection from Exploitation:** The provisions aim to shield juveniles from exploitation, abuse, and hazardous work. This protection is in line with the fundamental right to life and personal liberty (Article 21), which extends to all individuals, including juveniles.
- **Right to Education:** The constitutional emphasis on providing free and compulsory education (Article 21A) aligns with the idea that education is a fundamental right of every child. This provision ensures that juveniles have access to quality education, which is crucial for their overall development.
- **Rehabilitation and Reintegration:** For juveniles in conflict with the law, the constitutional provisions set the stage for a rehabilitative approach rather than a punitive one. This approach aims to reintegrate young offenders into society by addressing the underlying causes of their actions and guiding them toward positive behavior.
- **Social Welfare:** The constitutional provisions reflect the commitment of the State to promote the welfare of children. This commitment is demonstrated through measures such as provisions for proper care and nutrition, prohibition of child labor in hazardous industries, and protection from physical and emotional abuse.
- **Responsibility of the State:** The provisions highlight the responsibility of the State to enact laws, policies, and programs that cater to the unique needs of children, including juveniles. This reinforces the idea that the government plays a vital role in ensuring the well-being and development of young individuals.
- **Global Commitments:** India's alignment with international treaties and conventions, such as the UNCRC, is reflected in these provisions. This demonstrates India's dedication to upholding global standards for children's rights and protection.
- **Preventing Recidivism:** By emphasizing rehabilitation and reintegration, these provisions aim to prevent juveniles from becoming repeat offenders. This aligns with the larger goal of building a safer and more harmonious society.
- **Human Capital Development:** Recognizing children, including juveniles, as valuable human resources for the nation's future, these provisions contribute to the development

of human capital by ensuring that children grow up in a healthy, supportive, and safe environment.

- **Social Transformation:** The significance of these provisions goes beyond legal matters. They contribute to a cultural shift in society's attitudes toward children, promoting empathy, understanding, and a commitment to nurturing the next generation.

In summary, the constitutional provisions related to juveniles in India are significant because they lay the foundation for a protective and supportive environment that enables juveniles to grow, develop, and contribute positively to society. They reflect the commitment of the State and society to the well-being and rights of children, positioning them as valuable stakeholders in the nation's progress.

VI. RELATIONSHIP BETWEEN JUVENILE AND CONSTITUTIONAL PROVISIONS IN INDIA

The relationship between juveniles and constitutional provisions in India is one of protection, recognition, and promotion of the rights and well-being of individuals who fall within the juvenile age group (typically under 18 years of age). The Indian Constitution contains several provisions that directly or indirectly address the rights and special needs of juveniles. This relationship can be understood through the following points:

- **Recognition of Vulnerability:** The constitutional provisions acknowledge that juveniles are in a phase of physical, emotional, and intellectual development. They recognize that juveniles are more vulnerable than adults and require special care, protection, and support.
- **Protection from Exploitation:** The Constitution provides protection to juveniles by prohibiting their engagement in hazardous occupations (Article 24) and ensuring that they are not subject to physical, emotional, or sexual exploitation. These provisions align with the fundamental right to life and personal liberty (Article 21) for all individuals, including juveniles.
- **Right to Education:** The constitutional emphasis on the right to education (Article 21A) ensures that juveniles have access to quality education, which is essential for their development and future opportunities. This right underscores the State's responsibility to provide education to children within a specific age group.
- **Rehabilitation and Reintegration:** The constitutional provisions promote a rehabilitative approach for juveniles in conflict with the law. The idea is to guide them toward

constructive behavior and reintegration into society rather than subjecting them to punitive measures. This approach aligns with the principles of justice, fairness, and humane treatment.

- **Child Welfare:** The Constitution reflects the State's commitment to the welfare of children, including juveniles. This commitment is evident in provisions that ensure access to nutrition, health care, and protection from exploitation. Article 15(3) empowers the State to make special provisions for children's well-being.
- **International Commitments:** India's participation in international treaties like the United Nations Convention on the Rights of the Child (UNCRC) informs its approach to juvenile rights. The constitutional provisions align with the principles of the UNCRC and reaffirm India's commitment to children's rights on a global scale.
- **Balancing Rights and Responsibilities:** The constitutional provisions strike a balance between the rights and responsibilities of juveniles. While juveniles are entitled to protection and care, they are also expected to respect the law and the rights of others.
- **Positive Societal Change:** The constitutional provisions contribute to positive societal change by encouraging a shift in attitudes and behaviors toward juveniles. They foster empathy, understanding, and support for the well-being of young individuals.
- **Holistic Development:** The relationship between juveniles and constitutional provisions centers on ensuring their holistic development. This involves addressing not only their immediate needs but also their long-term well-being and potential contributions to society.

In essence, the relationship between juveniles and constitutional provisions in India reflects the State's recognition of juveniles as a special category of individuals requiring unique protections and support. These provisions set the legal framework for ensuring their rights, safety, and development, contributing to a more just and inclusive society.

VII. SUGGESTION

Certainly, here are some suggestions for potential constitutional provisions in relation to juveniles in India. These suggestions aim to enhance the protection, rights, and well-being of juveniles within the constitutional framework:

- **Comprehensive Juvenile Rights:** Introduce a constitutional provision explicitly outlining the fundamental rights of juveniles, emphasizing their right to protection, development, education, health, and participation.

- **Age-Appropriate Justice:** Establish a provision that ensures all legal proceedings involving juveniles are conducted in a manner that is age-appropriate, sensitive, and respectful of their developmental stage, including providing legal representation and support.
- **Restorative Justice Emphasis:** Include a provision that underscores the importance of restorative justice practices for juvenile offenders, promoting reconciliation, restitution, and reintegration into the community.
- **Child-Friendly Police Procedures:** Mandate a constitutional provision that outlines guidelines for law enforcement agencies to follow child-friendly procedures when dealing with juvenile offenders, focusing on ensuring their rights are upheld during questioning and detention.
- **Right to Rehabilitation:** Enshrine the right to rehabilitation and reintegration for juvenile offenders, emphasizing their access to education, vocational training, counseling, and support services during and after their period of confinement.
- **Protection of Child Victims:** Incorporate a provision that safeguards the rights and dignity of juvenile victims, ensuring their participation in legal proceedings and the provision of necessary support and protection throughout the process.
- **Child Participation:** Recognize the right of juveniles to express their views and participate in matters that concern them, including legal proceedings, policy decisions, and programs that affect their rights and well-being.
- **Preventive Measures:** Introduce a provision that emphasizes preventive measures to address the root causes of juvenile delinquency, including provisions for community-based programs, parental support, and education.
- **Child Welfare Commission:** Establish a constitutional provision for an independent Child Welfare Commission responsible for overseeing and monitoring the implementation of juvenile justice laws and policies, as well as advocating for the rights of juveniles.
- **Non-Discrimination:** Enforce a provision that explicitly prohibits discrimination against juveniles based on factors such as gender, caste, religion, disability, or socio-economic status, ensuring equal protection under the law.

- **Age Assessment Safeguards:** Include a provision that establishes clear and standardized procedures for age assessment to determine whether a person is a juvenile or an adult, ensuring fairness and preventing misclassification.
- **Child Rights Education:** Encourage the incorporation of child rights education in school curricula and community programs, fostering awareness of juveniles' rights and responsibilities among children and adults alike.

When considering new constitutional provisions, it's important to engage in thorough consultations with legal experts, child rights organizations, educators, policymakers, and other stakeholders. These provisions should align with international standards and conventions, such as the United Nations Convention on the Rights of the Child (UNCRC), and reflect the evolving needs and values of Indian society.

VIII. CONCLUSION

In conclusion, the constitutional provisions in relation to juveniles in India hold paramount significance in shaping a just, compassionate, and future-oriented society. These provisions recognize the vulnerability and potential of young individuals and underscore the commitment of the nation to their holistic development, protection, and participation.

Through these provisions, India acknowledges the unique needs of juveniles, ensuring that they are shielded from exploitation, provided with quality education, and given opportunities for rehabilitation and reintegration. The constitutional framework highlights the State's responsibility in creating an environment where juveniles can thrive, grow, and contribute positively to the nation.

The suggestions for potential new constitutional provisions further amplify the voice of juveniles, emphasizing their right to restorative justice, non-discrimination, child-friendly legal procedures, and protection against various forms of harm. These provisions have the potential to transform the juvenile justice system, nurturing a culture of empathy, inclusion, and prevention.

As India evolves, the relationship between juveniles and constitutional provisions continues to be a cornerstone of progress. These provisions reflect the evolving values of society, the commitment to international standards, and the aspiration to build a nation where every juvenile's rights and well-being are safeguarded, paving the way for a brighter and more equitable future.

IX. REFERENCES

- Mahendra P Singh, V N Shukla's Constitution of India, Edition: 14th 2022, Reprinted: 2023, EBC Publisher.
- Bidyut Chakrabarty, India's Constitutional Identity: Ideological Beliefs and Preferences, First edition, 2019, Routledge Publisher.
- Malik, Law of Juvenile Justice in India, Edition- 3rd, 2023, Delhi Law House.
- Dr. Meera Singh, Constitutional Law of India – I, Edition:1st, Publisher: Mahaveer Publications.
- C. B. Raju, Social Justice and the Constitution of India, Edition: 2006, Publisher: Serials Publisher.
- <https://www.tutorialspoint.com/juvenile-justice-system-and-laws-in-india>.
- <http://www.penacclaims.com/wp-content/uploads/2020/07/Akshita-Khandelwal.pdf>
- <https://www.legalserviceindia.com/legal/article-9482-the-law-related-to-juvenile-justice-system-in-india-a-critical-analysis.html>
- <https://www.haqrc.org/child-rights/constitution-of-india/>
- <https://jcil.lsyndicate.com/wp-content/uploads/2023/06/Constitutional-and-International-Perspective-of-Juvenile-Justice-System-in-India-2.pdf>
- <https://centreforchildprotection.org/constitutional-provision/>
- <https://www.legalservicesindia.com/article/285/Children-Rights-under-the-Constitution.html>
- <https://indianlawportal.co.in/juvenile-justice-system-in-india-constitutional-validity/>
- <https://prepp.in/news/e-492-constitutional-provisions-for-children-social-justice-notes>
