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The Impact of Violation of Human Rights on Mental Health of Children and Juvenile Delinquency

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ABSTRACT

“Our children are the future of this world. it’s not about what we can get out of them. It’s about how we can empower them.” This is words of wisdom from Sadh guru. It’s not just words of wisdom, it’s the reality. The trees now we are planting may not give us food but sure will feed our children in the future if, only if we take care of the plants and teach the same to the children.

When a child is conceived, he or she becomes the responsibility of the parents. Then in the journey to the adulthood the parents are responsible for their upbrings. Giving them food, shelter, education and other means. Because children themselves are unable to survive in the world.

The thesis here is about How the violation of human rights effect the mental health of children and the juvenile delinquency. The Indian families are overlooking the feelings and emotions of children on the name that they are children and they do not know, which actively contributing to destroy the children from the very young age which is violation of their rights.

The avoidance of the mental wellbeing of the children are the reason that they are eager to commit crimes or violate the laws. It is a reality that criminals are not born but made by the society. As said in the above a child should not need to survive in the world, it’s their right to be taken care of and get a healthy environment to grow and flourish.

Keywords: children, mental health, juvenile delinquency

I. INTRODUCTION

We are in a race; the whole nation is racing to win, to conquer the world. And to shout it out loud we are making it. We are creating a legacy in every sector that a human being can possibly be a part of. It's an achievement that need to be applauded. but there is a question that need to be addressed for whom we are leaving it or more precisely Who are the one that need to carry out the legacies we made and the world we conquered? Isn't that the important thing to look out

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for? It's the children of today are the adult that will lead the nation tomorrow.

It's high time we made changes in the matter how to establish and secure the future of our nation. The future of our nation is in the hands of our children. We leave the achievement in their hand to keep it up and pass it to our descendant. So, rising a capable youth is the actual way to secure the future of our nation. But the current condition of children in India is alarming.

According to the latest NCRB report, seven out of hundred juveniles in the country were involved in some criminal activities. In all, 37444 juveniles were apprehended. Of these 32654 were taken in under section of the Indian penal code, and 4790 under state and local laws.

Juvenile delinquency is a disease that slowly eating our children. We need to handle the matter with kid gloves. They are called children for a reason, because most of the time they are to understand what may be the consequences of their action. The paper deals with how the children are involving in juvenile delinquent acts due to their lack of mental health and guidance or the healthy environment that needed to be ensured by the adult. and how the adults in India are collectively damaging the mental health of our children. And they are unaware of the fact that what they are doing is violation of human rights of the children. And without knowing that what they are doing will have the power to damage the future of their children and consequently the future of our nation.

“Our children are the future of this world. it’s not about what we can get out of them. It’s about how we can empower them.” This is words of wisdom from Sadh guru. It’s not just words of wisdom, it’s a reality. Every adult in the society along with the state and central governments are responsible for the wellbeing of the children.

II. WHO IS A CHILD?

A child is a human being who is at any stage of the development period of birth to puberty. In the legal terms a person who is a minor or not attained the age of majority is considered as a child. The convention on the rights of the child 1989(CRC) defined the term child as the human being below the age of eighteen years unless under the law applicable to the child, majority to be attained earlier.²

When it comes to India, the census of India and the constitution of India are defining the children as a person below the age of fourteen. A child can also be known as a Juvenile. A

² CRIN (CHILD RIGHTS INTERNATIONAL NETWORK), <http://www.crin.org/resources/news/> (Last visited on 13 March 2023)

juvenile is defined as the child who is not yet attained the age at which we can hold him accountable for the acts he committed which is criminal in nature, like an adult under the law.

There are three types children are mentioned in the juvenile justice (care and protection of children) act 2000. As per the section 2(d) of the act “child in need of care and protection” and the section 2(k) a “juvenile” means a person who has not completed the age of eighteen years. And the section 3(I) defines “juvenile in conflict with law”.

The child in need of care and protection means a child who is found without any home or shelter or a child found begging³. A child resides with guardian who has threatened to kill or injure the child⁴ or there is reasonable likelihood of the child being injured or neglected by that person⁵ or parents being unfit to look after the child or the parents are who does not have parents and no one is willing to look after the child.

The juvenile in conflict with law means a juvenile who is alleged to have committed an offence and has not completed eighteen years of age as on the date of commission of such offence.

In the paper we will discuss about the children who is below the age of eighteen or a minor.

III. WHAT IS HUMAN RIGHT?

When hearing the term Human Right there is hundreds of questions coming into your mind like What is a human right? And who is providing the right? Are you qualified to get the right? and so on. A human right is the right you have just by existing. Like simply, did you born as a part of the species called homo sapiens then dear you are entitled to have the right. More politically let's look into the definition provide by united nations “speaking human rights are the rights we have simply because we exist as human beings- they are not granted by any state. The universal rights are inherent to us all, regardless of nationality, sex, national or ethnic origin, colour, religion, language, or any other status. They range from the most fundamental – the right to life – to those that make life worth living, such as the rights to food, education, work, health, and liberty.”⁶

In 1948 UN General Assembly adopted the universal declaration of human rights. It was the first legal instrument for the protect the fundamental human rights. It has 30 articles that continue to being the foundation of all international human rights law even after 75 years.

³ Juvenile justice act 2000, sec2(d)(i), Act of parliament, 2000(India)

⁴ Juvenile justice act 2000, sec2(d)(ii)(a), Act of parliament, 2000(India)

⁵ Juvenile justice act 2000, sec2(d)(ii)(b), Act of parliament, 2000(India)

⁶ OHCHR, <https://ohchr.org> (last visited on 13 March 2023)

Human Rights of Children

Children are an invaluable asset of the nation but at the same time the vulnerable human resource that needed constant care, protection and guidance. Most of the time the adult around them forgets that proper guidance needed to be given to them according to the stage of development the child is in and more importantly the guidance is one of the human rights of the children too. A child like every adult has human rights. On November 20, 1989, the United Nations General Assembly adopted the Convention on the Right of the Child as the first international treaty that assures the civil, economic, political, cultural and social rights of the children. The convention had coded 54 articles as the right of the right of the children. This is first widely accepted human rights of children and India had ratified the same on 1992. The articles state about the different right of the children and how they are the responsibility of the Government and Parents and others. Some of the rights are given below⁷:

1. Article 2- right to equality regardless of their sex, colour, race, language, religion, political or other opinion, social origin, ethnic, birth or other status.
2. Article 3- government must make sure the best interest of the child is taken into account when any decision is made.
3. Article 5- parents right and right to have a family life: children have the right to know the parents and to be cared by parents and the government need to make sure that the way they are rising you is respecting your rights.
4. Article 7&8- right to have an identity. The government need to make sure the birth of the child is registered and the child have name and nationality. To exercise you right for education housing and other support and to register to vote the registration of birth is mandatory.
5. Article 12- the right to be heard. The child must given a chance to give their opinion when decisions are made that affect them. It's the responsibility of the government to make sure the child's opinion is taken into account.
6. Article 13- freedom of expression and getting information. The government must make sure you get all the information you need from the sources like papers and media and also to make sure those information does not put the children in any harm.

⁷ Legal Service India E-Journal, <https://www.legalserviceindia.com/legal/article-11-protection-of-childrens-human-rights-in-india.html> (last visited on 13 March 2023)

7. Article 14- freedom of thoughts and religion. The child has the right to choose and practise the religion of his choice and freedom of thoughts and conscience.
8. Article 16- right to privacy. The government must make sure the honour and reputation of the children are protected from external intervention and attacks.
9. Article 19- the children have the right to be protected from violence, exploitation, neglect and maltreatment.
10. Article 24- right for health. Here the children have the right to have clean water, nutritious food and a healthy environment to live.
11. Article 27- right for standard of living. The children have the right to get a standard of living necessary for your physical, mental, spiritual, moral and social development. The parents have the responsibility to make sure your needs are met along with the assistance of the government.
12. Article 28- right to education. The children are entitled to get good quality education. This includes free primary and high school education for children. Making sure they can attend the classes regularly. And this make sure the children are not disciplined in a way that harm the children or effect the dignity of the children.
13. Article 29- the educational right also includes the development of the potential of the children, learning human right and culture.
14. Article 31- right to rest and leisure. The government must make sure the children are given enough time for rest and leisure and involved in cultural activities.
15. Article 33- protection from using drugs. The concerned government must protect the children from using illegal drugs.
16. Article 34- protection from sexual abuse. The government must make sure the children are protected from any kind of sexual abuse.
17. Article 36- protection from harm. The children should be protected from any coming harm or any action that is bad for their welfare.
18. Article 4- children who broken the law. The accused child should be treated with respect and dignity. There should be presumption of innocence until proven guilty and have the right to get help from family and lawyer.

India also enacted and implemented several laws to protect these rights and interests. Those are;

1. Child and Adolescent Labour (Prohibition and regulation) Act,1986
2. The Juvenile Justice (Care and Protection of Children) Act, 2000
3. The Prohibition of Child Marriage Act,2006
4. The Right of Children to Free and Compulsory Education Act,2009
5. The Protection of Children from Sexual Offences Act,2012

Along with these acts the constitution of India also ensure the protection of children by giving them fundamental rights and direct the states to make policies accordingly⁸.

1. Article 15(3) requires the state to make special provisions for children.
2. Article 21A provides free and compulsory education for children under 14 and recognise that the children age 6-14 have the fundamental right for education.
3. Article 23 prohibits trafficking of human beings including children.
4. Article 24 mandates no children below 14 years can work in hazardous occupation.
5. Article 39(a)&(f) direct the state policies to securing the tender age of children.
6. Article 45 direct the state to provide early child hood care and education for children until the age of 6 years.
7. Article 51A says its fundamental duty parent and guardian to provide education to his child or ward between the age of six and fourteen.

There are also some initiatives taken by the Indian government to create a protective environment for children as per the law are:

1. The CHILDLINE 1098 service in partnership with integrated program for street children, signing and ratification of the United Nations Convention on the right of the child(UNCRC).
2. Ratification of the Optional Protocols
3. The National Plan of Action,2005
4. The National Policy for Children,1974
5. Study on child abuse 2007.

⁸ Legal Service India E-Journal, <https://www.legalserviceindia.com/legal/article-11-protection-of-childrens-human-rights-in-india.html> (last visited on 13 March 2023)

IV. HOW THE HUMAN RIGHTS ARE STILL VIOLATED?

Even though there is handful of laws how is still the right of the children are being violated? The implementation of these laws is the biggest challenge faced by the govt. India have people from different economic background and it's really difficult to reach and send the message to everyone so as a result the parents and the children are unaware of the rights. Let's look in to the current scenario where the children are vulnerable towards sexual assault, child marriage, domestic abuses and child labour.

- One in four Indian girls aged 20-24 were found to have married before the age of 18 years as per the National Family Health Survey (2019-21).
- Even after implementing various policies the child labour is still a problem that need permanent solution.
- As per the National Family Health Survey 2019-21, 1.5% of young women in the age of 18-29 reported having experienced sexual violence before the age of 18 years.

The above said are the violations that everybody knows. But there are other acts which is Violation of the rights but still is not recognised as one.

- In the household when the parent favours a child over other.
- Corporal punishments to correct the wrong behaviours and disobedience.
- Not giving importance to the opinion of the child or giving them a chance to express themselves.
- Comparing the child with other children.
- In schools, teachers humiliate the child Infront of the whole class so nobody would repeat the mistakes.
- Staring at the children.
- Catcalling or groping the children and sexual abuse.
- Parents and teachers not supporting the passion of the children.
- Sexualisation of chores in the home.

MENTAL HEALTH

When the term health is said then, our mind automatically decodes it to the concept of physically fit. For us health means physical but it's not all about the body, our mind can be in the need of treatment too. Mental health is the state of well being in which the individual

realized his or her own abilities, can cope with the normal stresses of the life, can work productively and fruitfully, and is able to make a contribution to his or her community.⁹

Mental health is important at every stage of the human life, from the foetus stage to the adulthood. In the various stages the human undergoes different type of physical and physiological changes which complicate the mental health of the human. And in those stages different factors affect the mental wellbeing of the human being.

Mental health field started during the year 1950, and at that time our country only had 20 psychiatrists to work. In 1954, All India Institute of Mental Health was created at Bengaluru. Even though it was a stepping stone in the sector of mental health in India, it did not make any significant studies or researches. India had passed the Mental Healthcare Act in 2017 which was the successor act of the Mental Health Act of 1987. Its an elaborate form to provide for mental health care and services for person with mental illness and to protect, promote and fulfil the right of such during delivery of mental health care and services and for matters connected therewith or incidental thereto¹⁰.

V. JUVENILE DELINQUENCY

Juvenile delinquency is the criminal act performed by juveniles. The term juvenile delinquency is still not defined. According to the New Mexico definition, a delinquent juvenile is one who, by habitually refusing to obey the reasonable and lawful commands of the parents or the guardians (or other persons of lawful authority), is deemed to be habitually uncontrolled, habitually disobedient or habitually wayward. In the case of *Raghubir v state of Haryana*¹¹ the supreme court of India interpret the delinquent child as “a child, who has been found to have committed an offence”.

P.N. Bhagwati and R.S. Pathak, JJ. - In the case of *Munna v. State of U.P.*¹² observed as follows: “Juvenile delinquency is by and large the product of social and economic maladjustment. Even if it is found that these juveniles have committed any offence, they cannot be allowed to be maltreated. They do not shed their fundamental rights when they enter the jail. Moreover, the objective of the punishment being reformatory, we fail to see what social objective can be gained by sending them to jail where they come in contact with hardened criminals and lose whatever sensitivity they may have to finer and nobler sentiments”.

The juvenile system in India is working on the principles of *parens patriae* and individualised

⁹ CDC, <https://www.cdc.gov> (Last visited on 13 March 2023)

¹⁰ The mental healthcare act, 2017, 10, ministry of law and justice, 2017(India)

¹¹ AIR 1981 SC 2037

¹² 4 (1982) 1 SCC 546

treatment. The doctrine of *parens patriae* direct the court to use the proceeding to decide what actions to be taken to protect the best interest of the children and Doctrine of individualised treatment says that decision should be taken for the rehabilitation of delinquent juveniles not to punish them. It asks to prescribe a unique treatment plan that fits the needs of juveniles in conflict with law.

The reason for the delinquent acts is an important matter to be taken into care. Because in Delhi- Govindpuri Murder Case: In May, 2015, two juveniles, aged 9 years and 10 years, murdered a 23-years-old man by slitting his throat with a broken beer bottle following an argument in South-East-Delhi's Govindpuri area¹³. This is quite alarming situation the Indian society are in.

The causes for delinquent behaviours of children can be found at all stages of society, including society, social institutions such as home, school and other interpersonal relations.

VI. MENTAL HEALTH AND JUVENILE DELIQUENCY

The mental health of the children and their delinquent behaviour can be seen interrelated to each other in a form that the one condition aggravates the other condition. It's impossible address one without addressing the other. Children lacking a good mental health are prone to juvenile delinquent behaviour than one with good mental health.

The studies shows that 70% of the youth who came in contact with the juvenile justice system have diagnosed with mental health problems. Some of the common issues found in them are ADHD (attention deficit hyperactivity disorders), or substance abuse disorders or internalising disorders like anxiety disorders and mood disorders. And externalising disorder increase the chance of juvenile delinquency, violence, and recidivism¹⁴.

- ADHD: the most commonly diagnosed childhood disorder. 3-5% of school children are affected by it. It occurs more often in boys than girls. The symptoms include inattention, hyperactivity and impulsivity. It makes the children functionally impaired and they engage in problematic behaviour that disturb the family, school and etc. and eventually push them to failure and dropping out. An untreated ADHD patient have the high chances to use drugs or

¹³ The Times of India, Boys, aged 9 & 10, Kill Man with Beer Bottle, <http://timesofindia.indiatimes.com/city/delhi/Boys-aged-9-10-kill-man-with-beer-bottle/articleshow/47409571.cms>, (last visited on 13 March 2023)

¹⁴ SCC BLOG, <https://www.scconline.com/blog/post/2021/06/05/juvenile-justice-system/> (Last visited on 13 March 2023)

alcohol or commit antisocial behaviour. Boys with ADHD are in increased risk of committing any crime. girls can also have long term negative effect due to ADHD.¹⁵

- Substance abuse disorder: A substance abuse disorder (SUD) is a state in which the person is unable to control the behaviours. It causes them to use illegal drugs and substances. It is caused by mental pressure or stress and other genetical reason.

- Anxiety disorders: the young offenders in the care had shown symptoms of anxiety disorders and these are often the reason for their criminal activity. Panic disorder, social anxiety disorder and obsessive compulsory disorder are some examples of anxiety disorder.¹⁶

- Mood disorders: A mood disorder is a mental health that mainly affects the emotional wellbeing. People with this disorder experience long period of extreme emotional highs and lows.

- Dysthymia: A global public health issue. Depression effects all age of people. This makes the individual incapable to work. the original study by Anderson, Cesur and Takin in 2015 found that the adolescents who shows depressive symptoms are prone to delinquent behaviour.

- Disruptive behaviour disorder: A psychiatric disorder where the repetitive and persistent pattern of antisocial behaviour can be seen in children and adolescent.

- Bipolar disorder: A disorder with episodes of mood swings ranging from depressive low to manic highs. The Tamil movie 3 starring Danush had portrayed the condition beautifully.

VII. ANALYSIS AND INTERPRETATION OF THE SURVEY

METHODOLOGY: Quantitative method

SAMPLE DESIGN: 91 children

TOOL FOR DATA COLLECTION: Survey Form (google form)¹⁷

- The study was conducted between children who is under the age of 18 years. 82 females and 9 males were responded.
- Majority of the respondents believe that their friendship caused their academic performance to go downwards.

¹⁵ Karen R Stern, "a treatment study of children with attention deficit hyperactivity disorder"

¹⁶ CHILD CRIME PREVENTION& SAFETY CENTER, <https://childsafety.losangelescriminallawyer.pro/anxiety-disorders.html> (Last visited by 13 March 2023)

¹⁷https://docs.google.com/forms/d/e/1FAIpQLSdYBQR6lkj558hplQF4j5BMxf8WnXPzC-Cg81cDMYTshYlaw/viewform?vc=0&c=0&w=1&flr=0&usp=mail_form_link

- A quarter of the respondents are under the peer pressure to do some activities even if they don't want to do.
- Some of the respondents are forced to be violent towards others due to the friends group.
- Most of the respondents would like to talk with their family about the problems happening in their lives but half of the respondents does not even have time reserved to spend with the family.
- The right to dignity and healthy environment is violated for most of the students, they were encountered with staring and cat calling and taking pictures without their permission.
- The right for safety is foreign word for the respondents, most of them are afraid to being alone with family members and teachers.
- The respondents believe that after covid they are more vulnerable to exploit.
- Some of the respondents started smoking and watching porn due to peer pressure.
- It is found that the pressure from friendship and lack of involvement from the part of the parent are the reason the children easily get into judicial delinquent behaviour.

VIII. SUGGESTIONS

TO THE FAMILY

“My children didn't choose to be born; I chose to have children. They owe me nothing, I owe them everything” —Elon Musk

When it comes to parenting the Indian parents conveniently forget that their children who came into this world because they decide to have Children, are their responsibility and they owe the children to give them the best condition to live. But sadly, the parents choose to believe that the children owe them because they are the one who is providing them food and shelter. When a parents think in the later mentioned manner their words and actions echoes more of an intimidating command of a kingship than a loving parent who cherish their children.

Things to keep in mind when conversing with children:

- The child is a growing person who is incapable to understand the right and wrong because their prefrontal cortex — the front portion of the frontal lobe of the brain is developing. This area handles many of our higher-level cognitive abilities such as planning, solving problems, and making decisions.

- Be patient and start to apply gentle parenting or conscious parenting with them.
- Keep in mind that the children are not responsible for your mental well-being. They are the children not you.
- Children need a mother or father who is reliable not a frustrated employee who is mad at superior or any other person. Leave your work stress at the work place.
- If you have more than one child then make sure you are first time parents to each child separately. Validate each child and their feelings separately. when they fall while trying to walk, they need a parent to kiss it and make it better not the one who is already aware of the fact that this wound is not fatal because you are already past this stage through their elder siblings.
- Each child is different from one another and are different individual with different capacity and passion. Don't compare them. All Children are not born to be doctor they could be the next artist to bring Oscar or FIFA World Cup to the country.
- A child will not be a robot that you can program in your liking, they are their owners you have to accommodate them.

Things to implement in the family;

- Alone time with each child to give them validation and get rid of favouritism.
- Make a bound with each child.
- Have At least dinner together with everyone in the family.
- Keep the clash with your partner in your room. Don't put child in between.
- Correct them in private even if the audience is your immediate family. and praise them in public. They also have dignity and the right to be respected.
- Ask them opinion about the decisions to make. It helps to develop a sense of importance.
- Try to know the actual intend behind their misbehaviour.
- Use alternative method to discipline them, and quit corporal punishment.
- When a failure happens make sure it's you and the child as team against the failure not the you against the child.
- Make the children aware of their rights.

- Active involvement in the life of the children.
- Verbalise your love and affection to the children.
- Show them good and bad touch.
- Ask them to not to keep secret from the parents.

TO SCHOOL:

"It's the teacher that makes the difference, not the classroom."

—Michael Morpurgo

In India the children after the age four years are more likely to spend a good part of their day time in the school along with the teachers. So, a teacher has to be a second mom to guide them and a tutor to introduce them to the world of knowledge.

- End comparing academically excellent students with others.
- Treat every student with same love and affection.
- Keep in mind that the marks on exam is not the only form of excellence a child can possess. Music, poetry, drawing, literature and even cooking are also excellence.
- Know the difference between correcting someone and abusing someone in the name of punishment.
- Increase the number of education advisers. Sensitise teachers about corporal punishment.
- Ensure the security of the children at school.
- Make sure the active involvement of parents in the school related activities.

TO SOCIETY

"There can be no keener revelation of a society's soul than the way in which it treats its children"

- Nelson Mandela

A child is different from the adult in two matters. One, a child can not vote in the election and other, is that the adult lived in this society more years than the child. And these are not a valid reason to prove that a child should be lower than an adult in matter of status. If the adult cannot even protect the right of the vulnerable child what did the adult actually acquired from living more than them.

- Give awareness about human rights of the children.
- Educate the people about the consequences of human right violation in the life the victim.
- Create support system for victims.
- Create local committees for child protection.
- Respect children and their opinions.
- Be responsible for the safety of the children.
- Encourage and develop the child led organization.

TO THE GOVERNMENT AND JUDICIARY

- Give sexual education to children through schools and other supporting institutions.
- Conduct training programs for teachers with special reference to the mental health of the children.
- Conduct programs for family counselling with special reference to the mental health and judicial delinquency.
- Educate the parents about the human rights of children and how far the violation effects the life of the victim.
- Appoint staff in proportion of one employee for hundred children.
- Conduct awareness programs about child rights for children.
- Make sure the policies are implementing accordingly.
- Create preventive laws and disseminate information about them.
- Stringent punishment for those who commit violation of human right of children.
- Prepare policies to protect and reform juvenile in conflict with law

IX. CONCLUSION

“My argument against God was that the universe seemed so cruel and unjust. But how had I got this idea of just and unjust? A man does not call a line crooked unless he has some idea of straight line. What was I comparing the universe with when I called it unjust?”

- C S Lewis, Mere Christianity

If you are ignorant of the existence of good apple, that only ever tasted rotten apples then, the

rotten apples become your reality. Because if you didn't experience or not have any knowledge about it then, you don't know if it exists or how it works.

From the study it can be seen that the same goes for children. If we fail to provide them the peaceful environment to grow up, they would not know how to create it. Or if we failed to protect them from the exploitation, they don't know exploiting someone is not normal. If kindness was a stranger thing for them in the childhood, then they start to believe violence is the answer for disagreements. Prevention is better than cure. So, rather than sitting in dilemma on thinking how to reform the juvenile into the righteous path we need to make sure that no child will be in that position to rehabilitate.

More precisely saying it can be concluded that the violation of human rights of children by the society, family and school ruin the mental health of the children. The lack of healthy mind and other consequences of the violation of right easily push the children into juvenile delinquency and if not reformed correctly then into the path of crime.

Along with parents and guardians the state and central govts are equally responsible to protect children and guide them into future. Judicial delinquency if treated right the children can overcome the behaviours and move on with life. If the treatment is not ideal then we loss the child completely to the crimes. It's the right of the child to be guided into the right path.

Let's teach them the beauty of morality so, they do not find immorality appealing. Let's respect them so, they love to respect each other. Let's show them how law protect us so, they do not feel trapped in it or enjoy breaking it. Let's create a society for them just the one we want them to create for themselves. Let's give them time to grow to flourish. Let's not only create a legacy to hand over but also prepare youngsters to be a part of it.

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