



# Rehabilitation and Reintegration of Juvenile in Conflict With Law

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## ABSTRACT

Children are the precious asset of our country and it is the responsibility of everyone to ensure that they have a safe environment to live in. But the last decade has seen a huge leap in the rate of Juvenile crime in a developing country like India. Today, Juvenile crime is like a disease to our society.

Criminal justice system of India treats differently for different crimes and gives some exceptions and leniency to some class of people. These exceptions are mentioned in Indian penal code, while the court is lenient for giving punishment in case of juveniles and separate act has also been made for juveniles. Juvenile has been defined differently in different acts but as per latest act i.e. The Juvenile justice (care and protection) Act, juveniles are those who has not attained the age of 18 years. There is a juvenile justice system that treats juveniles differently than adults because our society believes juveniles are different from adults, both in terms of level of responsibility and potential for rehabilitation. Although there is concern with public safety and holding juvenile offenders accountable for their actions, there is greater emphasis on rehabilitation than on punishment in the juvenile justice system. "Rehabilitation" means to restore someone to a useful life through therapy and education. For example, a juvenile who commits an offense may be required to participate in counseling or a program to help him or her make better decisions in the future. But in the light of the present scenario does the "Rehabilitation" really leads to a reformation in the child? In spite of the presence of the welfare laws for juveniles, there is a rise in the number of Juvenile offenders across the country. juveniles are sent to the rehabilitation centre in order to make their future better. For this purpose, rehabilitation centre are made so that special care and protection can be given to these children and it is assumed that they will return back as a reformed person.

**Keywords-** Juvenile, Rehabilitation, Juvenile Justice, Reintegration

## Introduction

A “Juvenile” or “Child” means a person who has not completed eighteen years of age. The proviso to section 10 of Juvenile Justice (Care and Protection of Children) Act, 2015 makes it very clear that in no case a child alleged to be in conflict with the law shall be placed in a police lock-up or a jail. The new bill will allow minors in the age group of 16-18 to be tried as adults if they commit heinous crimes. The crime will be examined by the Juvenile Justice Board to ascertain if the crime was committed as a 'child' or an 'adult'.

Juvenile Justice is a key area of social policy, dealing with a growing number of children and youth who have been marginalized and displaced by rapid socioeconomic changes. The framers of the Constitution of India placed a duty on the State to ensure that children live a life of dignity and respect. By also ratifying the United Nations Convention on the Rights of the Child, the Government of India had, in 1992, agreed to the international legal obligation to protect, promote, and fulfill the civil, political, cultural, economic and social rights of children. Yet, 40%<sup>1</sup> of our children continue to live in deplorable situations both within the statutory homes established under law in the Juvenile Justice System, as well as in the wider community. This is a harsh reality which clearly demonstrates that justice is not being done to children despite several laws having been passed by the legislature.

Studies indicate that the most effective way to find constructive solutions to involvement of children in activities that violate a law is to involve children in the process of rehabilitation and not to consider them as merely ‘trouble makers’ or ‘problem children’ in need of punishment. Recognition of and respect for their rights as human being and as a child is an important first step in this direction.

Thus Juvenile delinquency is a serious and multidimensional problem which is on rise. It is necessary to deal with this problem with a multidimensional approach. For this we need to evaluate the working of the police, juvenile courts, and other segments of the social control machinery that influences juvenile delinquency. It is crucial to frame a comprehensive social welfare programme with better resource utilization and emphasis on effective planning, monitoring and evaluation of the existing programmes. Thus rather than cutting the weeds from the top it should be destroyed by pulling it out completely. Similarly in order to get rid of juvenile delinquency we should destroy the conditions under which it breeds and for doing so a coordinated effort by the community is the only way out.

## Methodology

The present study is a doctrinal study and is based on secondary sources which includes books e sources newspaper articles, journals etc.

## Historical Background

1850 – The Apprentices Act,

It was the first law which required that children between the ages of 10-18 convicted in Courts, to be provided vocational training as part of their rehabilitation process

1897 – Reformatory school Act,

Under the Act, the court could detain delinquents in a reformatory school for a period of two to seven years but after they had attained the age of eighteen years, the court would not keep them in such institutions.

1920 – Madras Children Act,

The Juvenile Court philosophy was first introduced in the Madras Children Act 1920, (followed by the Bengal Children Act (1922) and the Bombay Children Act (1924), thereafter by many other Children Acts).

1923 – Amendment in Criminal Procedure Code

The Criminal procedure code (CrPC) was amended to provide a special procedure for adjudicating criminal cases concerning child offenders.

1960 – The Children Act,

The children act was passed to function as a model legislation and for use in union territories. This Act established separate Child Welfare Boards to handle cases relating to neglected children. It also created the position of a probation officer who could “advise and assist neglected or delinquent children.”[5] In addition, it established separate Children’s Courts for cases related to delinquent juveniles, thereby separating the judicial process for delinquent and neglected children.

1986 – The Juvenile Justice Act

The Juvenile Justice Act, 1986, was enacted to provide for care, protection, treatment, development and rehabilitation of neglected and delinquent juveniles and for the adjudication of certain matters related to the disposition of delinquent juveniles.

It repealed all other Children Acts and provided for a uniform legal framework for the juvenile justice system throughout the country.

2000 – The Juvenile justice (care and protection) Act,

The Juvenile Justice (Care and Protection) Act was re-enacted with some modifications. It came into effect in April 2001. The ‘Central Rules’ were notified in June 2001. The Juvenile Justice (Care and Protection) Act (2000) has ensured that irrespective of religion, children in need of care and protection are provided the benefits of a separate judicial process. However, in addition to the Juvenile Justice (Care and Protection) Act (2000), Hindu and Muslim personal laws also govern children in India.

Juvenile Justice (Care and Protection of Children) Act, 2015 has been passed by Parliament of India amidst intense controversy, debate and protest on many of its provisions by Child Rights fraternity. It replaced the Indian juvenile delinquency law, Juvenile Justice (Care and Protection of Children) Act, 2000, and allows for juveniles in conflict with Law in the age group of 16–18, involved in Heinous Offences, to be tried as adults. The Act came into force from 15 January 2016.

## CONCEPT OF REHABILITATION

Studies indicate that the most effective way to find constructive solutions to involvement of children in activities that violate a law is to involve children in the process of rehabilitation and not to consider them as merely ‘trouble makers’ or ‘problem children’ in need of punishment. Recognition of and respect for their rights as human being and as a child is an important first step in this direction.

Thus, Juvenile justice has made a departure from the criminal justice model of punishment recognizing the negative influence of association with adult offenders and the higher possibility of reformation of children being in the growing age where their capacities are still being built and developed. Juvenile Justice adopted the path of reformation of children found to have committed an offence through various community based reformatory and rehabilitative measures and using institutionalization as a measure of last resort and for the minimum period till suitable community based alternatives are found for them.

### **Function of rehabilitation Centre**

In this paper focus has been done on the functioning of rehabilitation Centre and rights of juvenile

Every child in conflict with the law shall have the following rights, including but not limited to:

- a) Humane treatment
- b) No corporal punishment
- c) Separation from adult criminals, if detained
- d) Access to legal assistance
- e) Bail and release on recognizance
- f) Privacy g) Diversion, if qualified
- h) Proportionate judgment
- i) Restrictions on liberty kept to a desirable minimum
- j) Automatic suspension of sentence
- k) Probation, if qualified
- l) Confidentiality of proceedings
- m) Right against discrimination
- n) Constitutional rights.

### **Juvenile Justice (Care and Protection of Children) Act, 2015.**

The JJ Act 2015 caters to the basic needs of children through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach and disposal of matters in the best interest of children and for their rehabilitation through process provided and institutions and bodies established under the Act.

The JJ Act has also categorized offences committed by children into three categories as listed below:

1. Heinous offences is defined under Section 2 (33) as “heinous offences” includes the offences for which the minimum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment for seven years or more;

2. Petty offences is defined under Section 2 (45) as “petty offences” includes the offences for which the maximum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment up to three years;

3. Serious offences is defined under Section 2 (54) as “serious offences” includes the offences for which the punishment under the Indian Penal Code or any other law for the time being in force, is imprisonment between three to seven years;

With the passage of the JJ Act, 2015, the possibility of children between the ages of 16 and 18 years being tried as adults for heinous offences has arisen. This means that a separate set of reform and rehabilitation measures will have to be taken for such children. Further, it is important to identify the parameters on which the level of reformation of a child offender who has, committed heinous offence, will be assessed, so as to minimize the element of bias or prejudice, after the child has attained the age of 21 years. The Act also focuses on restorative justice practices that are different from criminal justice practices. Section 18. (

1) of the JJ Act, 2015 states “ Where a Board is satisfied on inquiry that a child irrespective of age has committed a petty offence, or a serious offence, or a child below the age of sixteen years has committed a heinous offence, then, notwithstanding anything contrary contained in any other law for the time being in force, and based on the nature of offence, specific need for supervision or intervention, circumstances as brought out in the social investigation report and past conduct of the child, the Board may, if it so thinks fit,—

(a) allow the child to go home after advice or admonition by following appropriate inquiry and counseling to such child and to his parents or the guardian;

(b) direct the child to participate in group counseling and similar activities;

(c) order the child to perform community service under the supervision of an organisation or institution, or a specified person, persons or group of persons identified by the Board;

(d) order the child or parents or the guardian of the child to pay fine: Provided that, in case the child is working, it may be ensured that the provisions of any labour law for the time being in force are not violated;

(e) direct the child to be released on probation of good conduct and placed under the care of any parent, guardian or fit person, on such parent, guardian or fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and child’s well-being for any period not exceeding three years;

(f) direct the child to be released on probation of good conduct and placed under the care and supervision of any fit facility for ensuring the good behaviour and child’s wellbeing for any period not exceeding three years;

(g) direct the child to be sent to a special home, for such period, not exceeding three years, as it thinks fit, for providing reformatory services including education, skill development, counselling, behaviour modification therapy, and psychiatric support during the period of stay in the special home: Provided that if the conduct and behaviour of the child has been such that, it would not be in the child’s interest, or in the interest of other children housed in a special home, the Board may send such child to the place of safety.

(2) If an order is passed under clauses (a) to (g) of sub-section

(1), the Board may, in addition pass orders to—

(i) attend school; or

(ii) attend a vocational training centre; or

(iii) attend a therapeutic centre; or

(iv) prohibit the child from visiting, frequenting or appearing at a specified place; or v) undergo a de-addiction programme.

(3) Where the Board after preliminary assessment under section 15 pass an order that there is a need for trial of the said child as an adult, then the Board may order transfer of the trial of the case to the Children's Court having jurisdiction to try such offences

There are two orders listed at 1 and 2 in Section 18 mentioned above that are suitable for using restorative practices and long term rehabilitation

The process of rehabilitation includes a network of different professionals. These professionals have to undertake this difficult task within a limited time frame. All our strategic interventions are aimed to improving the rehabilitation process for the children in conflict with law.

For successful rehabilitation and re-integration of children in conflict with law it becomes necessary to develop a multi- dimensional approach. Prevention of juvenile crimes, proper timely interventions can help strengthen the rehabilitation process. Focus should be given on addressing all the needs of a child's life: emotional, physical, relational, intellectual, creative and spiritual. We must shift our attitudes from need based approach to rights based approach while rehabilitating children in conflict with law

### **Rehabilitation and Reintegration**

The idea of preventing crime and delinquency is based on the premise that an ounce of prevention is worth a pound of cure.((See: K. Kusum, Juvenile Delinquency – A Socio Legal Study, KLM Book House, New Delhi, 1979)) The detection, prevention and rehabilitation form the series of intervention essential for reducing the frequency and repetition of juvenile delinquency. For this the primary prevention of delinquency includes action at the school and community level through imparting social skills training, cognitive and behavioral self-control strategies.((See: Dolly Singh, Child Development Issues, Policies and Programmes, Kanishka Publishers, New Delhi, 1995)) The secondary prevention((See: S.P. Srivastava, Juvenile Justice in India: Policy Programme and Prospective, Ajanta Publication, New Delhi, 1989)) or rehabilitation focuses on the juvenile delinquent and his family or 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 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, better adjustment in schools, provision of educational and recreational activities.((See: S.L. Goel and R.K. Jain, Social Welfare Administration: Organisation and Working, Deep & Deep Publications, New Delhi, 1989))

**Dealing:** Police and Courts are the two major components of the criminal justice system. Police has a more significant role to play in cases related to juveniles delinquents.((See: K. Kusum, Juvenile Delinquency – A Socio Legal Study, KLM Book House, New Delhi, 1979)) Even the statutory provisions provides for the active

participation of police in cases concerning juveniles.((Such as the Central Children Act, 1960, the Prevention of Beggary or Vagrancy Acts of some of the States, The Central Probation of Offenders Act 1958 and the Suppression of Immoral Traffic in Women and Girls Act, 1956)) For this 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 the 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 authorised 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 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 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))

### **STRATEGIES FOR REHABILITATION:**

The ultimate objective of these interventions is the rehabilitation and reintegration of children in conflict with law in the society.

### **ACTIVITIES UNDER REHABILITATION**

Rehabilitative programmes at Observation Homes / Special Homes could incorporate the following activities in the daily time table:

1. **Discipline** Discipline in the juveniles through structured programmes moulds them as the responsible citizens of the society. The structured and strict time table helps the children to develop discipline within them.

2. **Yoga** Yoga is good for mental and physical growth of a child. Introduction of Yoga practices to the juveniles like; Pranayama, SooryaNamaskar, Halasana, Vajrasana, Thriconasana, Bhujangasana, Padmasana, Dhanurasana, Mudrasana, Vakrasana, Shavasana etc. It helps them in their day to day life and keeps them fit all through the day.

**3. Meditation** Meditation provides numerous benefits to a person who practices it regularly. Some of the benefits gained by juveniles practicing meditation are; keeps him stress-free, increases attention-span, increases immunity and metabolism, improves brain functioning & emotional stability etc. A light music should be played early in the morning. Practice of silence and meditation puts the children in a peaceful and happy mood throughout the day.

**4. Personality Development** The child must believe in himself that he can change his life for the better and all efforts should motivate the children to put their dreams together and move forward. Through various awareness programmes and class on different subjects efforts should be made to develop the personality and moral values within the juveniles. Helping juveniles to build a positive self-esteem and training them to stay away from negative influences enhances their personality.

**5. Counseling** The juveniles should be regularly counseled by well experienced counselors. Counseling is also very important for children to change their mental state. It is an absolute requirement to strengthen their confidence and remove the stigma and other demoralizing effects on their mind.

**6. Vocational and skill training** Through close observation and individual assessment of each child, institutions must identify hidden talents and potentials within a child. There are instances where the child requires more training and expertise to shine in a specific area. It was observed that organizations mostly offer courses on beauty culture, computer courses which include tally, MS Office, MS Excel, Hardware, desktop publishing, etc, and cutting and tailoring courses which include dress making, sewing, fashion designing. Typing and stenography is also widely offered. With the help of suitable resource persons, training to the juvenile helps the child in mastering his/her skills thereby helping the child to earn some income. Vocational training is definitely a good way of rehabilitating. Reintegrating the child back into the society. Prayas Observation Home for Boys (POHB) runs the 'Yuva Connect Aftercare Programme,' which provides vocational training and effective social re-integration of children in conflict with law. It is a project for youth in need of social integration and rehabilitation of CCLs who are about to leave or have left POHB in Delhi. The state is required to frame a policy with proper financial back-up to strengthen the initiative of NGOs involved in such projects.

### **7. Bala-Panchayat**

- The children with their peer-mates at institutions should conduct weekly Bala-Panchayat (Child self-governance). The aim of Bala-Panchayat is to provide opportunity for them to take responsibility of their actions. It develops "we" feeling among the children.

- Bal-Panchayat inculcates self-discipline, improves self-confidence, motivates them in team building & methodological thinking, gives clarity about their goal and aim and enables them to deal with their problems.

- Bala-Panchayath helps children voice their opinion before the management in a systematic and democratic manner.



**8. Computer Education** In this fast moving era, we depend on computer for everything. Computer is an integral part in all the fields of work. Through the computer education juveniles get an opportunity to enrich themselves with technical knowledge.

**9. Development of short-term courses** The studies have shown that illiteracy and ignorance are major reasons for juvenile crimes in India. Poverty and lack of job opportunities are other factors which draw children to crime. With development of short term courses, institutions can help in eradicating illiteracy, ignorance and poverty by helping the children develop their skill and find employment for themselves.

**10. Art and craft therapy** Art and craft activities helps the children to relax, feel sense of accomplishments, to discover pride, to improve their motor-skills, to develop a meaningful and life-long hobby, to maintain an alert mind etc. Juveniles at institutions must regularly get trained from the qualified trainers. Various art forms should be introduced within the home such as music, dance, painting as the healing properties of the artistic activities are well known

**11. Spoken English** English as a universal language and has become the key tool of globalization. English is the medium of communication in and around the world. Spoken English class should be included in institution's curriculum for the juveniles and should be taught by a trained teacher on a regular basis.

#### **12. Cultural Gathering**

- Weekly cultural gatherings should be part of the institutions child-friendly life style.
- It is also an essential component for the overall development of Juveniles. It helps to bring forth the hidden talents of the children.
- Every Sunday, the children perform various programmes which include dance, drama, speech, etc.
- Through this cultural gathering, a self-disciplined and a well confident group will be generated. It also inculcates moral values and strengthens their skills, increases their knowledge and builds a better and positive attitude.

**13. Dance and drama practice** To enrich the juveniles in the cultural front, the artistic skills of juveniles would be identified and classes for these are arranged to bring out their talents in the open.

**14. Farming, Gardening & Animal Husbandry** Farming, gardening & Animal Husbandry help in development of the entrepreneurship skills among the juveniles, thereby enabling them to be independent once they are released and are on their own.

**15. Sports & Games** "All work and no play make Jack a dull boy" this proverb is true to every child. They need to be physically exerted to forge their routine and get refreshed. Therefore regular sports and games should be conducted without compromising the security of the juveniles.

**16. Recreation** Television programme and indoor games are useful tools to have some extracurricular activities in their daily routine. This helps to remove their boredom and monotony from their lives.

**17. Individual care plan** As per sec.39 of JJ Act an individual care plan for every juvenile must be developed for rehabilitation and social integration, which includes the needs and service options identified in the

assessment process. It helps to effectively identify and address all their needs. The individual care plan should be reviewed at regular intervals so that it is dynamic and can meet the needs of a growing child.

### **18. Rehabilitation through professional course**

- The studies have shown that poverty is often the reason for children getting into crime but not the only reason.

- Financial empowerment holds key in sustained development of children.

- Financial empowerment is best achieved when these children find employment in the best working environment.

- Professional courses through universities could be linked to institutions.

**19. Post-release follow-up** Institution should conduct regular follow-up programs for all released children to ensure the child does not get back to a difficult situation. Institution should maintain regular contact with the children and their families. Regular follow-up activities help to reduce the rate of recidivism. Institutions should conduct half yearly meets to get a feedback from the juveniles about their current situation and to ascertain the further interventions required for their successful rehabilitation.

- The central objective of the programme is to maintain zero recidivism.

- Parents, social workers from like-minded NGOs, SJPU police personnel's, Superintendent of Government Juvenile Home for Boys are part of these programmes.

- The programme offers individual and group counseling services to both parents and children.

- Regular follow-up programs helps in developing a constant relationship with the children and their families.

- The programme provides a platform for the children to voice their apprehensions and challenges through group discussions and learn from the experiences of other children present, on how they can face these challenges and succeed in life.

### **CONCLUSION**

From the above discussion, we can say that serious crimes like rape and murder also go unpunished with the offender wearing the grab of juvenility. Juvenile crimes cannot be stopped only through the proper implementation and amendments of Juvenile Justice Act. In order to reform, the juvenile in conflict with law, the juvenile system, as a whole needs to be reformed first. The ramshackle conditions of observation homes and juvenile justice boards need to be addressed immediately. The nation must strike to provide education, health care, sanitation and housing to every child. Apart from multiple laws governing children, there exist many other problems at the grassroots level. Government-sponsored children's homes are often unable to accommodate neglected children. Children are sometimes even kept in jail. Thus, there is a problem in the execution of laws pertaining to children and the maintenance of children's homes due to both a lack of awareness of child rights and India's burgeoning child population.

Juvenile crimes cannot be stopped only through the proper implementation and amendments of Juvenile Justice Act. It is vital to make aware of civil society about this disease that exists in our sick society. Juveniles involved in crimes are not criminals, in fact, they are victims of society. Juvenile delinquency can be stopped at an early stage, provided special care is taken both at home and in school. Parents and teachers play a significant role in nurturing the mind of a child. Instead of labeling them as „criminals“ or „delinquents“- steps need to be taken to give them a scope of rectification and it would be better if the errors in their lives (involving social and psychological) are brought to their notices. The problem of child crime like many other social evils is linked up with the imperfections and maladjustment of our society. The ideal is gradually gaining wider acceptance that juvenile delinquent needs the sympathy and understanding of our society and not the heavy hand of the law.

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