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PREVENTIVE STRATEGIES IN DEALING WITH CHILDREN IN CONFLICT WITH LAW AND ROLE OF NGOs

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ABSTRACT

The juvenile justice system in India aims to protect, reform and rehabilitate children in conflict with law rather than subjecting them to conventional criminal punishment. This study examines the concept of rehabilitation and corrective treatment under the Juvenile Justice (Care and Protection of Children) Act, 2015. It analyses the legal framework, constitutional provisions, international standards and judicial approaches governing juvenile rehabilitation. Particular attention is given to Section 3, which incorporates fundamental principles such as the best interests of the child, dignity, institutionalization as a last resort and the right to a fresh start, and Section 39, which provides for rehabilitation and social reintegration through individual care plans. The study also examines various rehabilitative measures, including counselling, education, vocational training, psychological assistance, family support, foster care, sponsorship and aftercare services. Further, it highlights the roles of Juvenile Justice Boards, probation officers, child care institutions, NGO's and other stakeholders in ensuring effective rehabilitation. Relevant judicial decisions are analysed to understand the courts'contribution to strengthening child protection and reformative justice. Finally, the study identifies challenges such as inadequate infrastructure, shortage of trained professionals, social stigma and insufficient aftercare. It emphasizes the need for effective implementation to ensure successful rehabilitation and social reintegration of children.

Keywords: Juvenile Justice, Rehabilitation, Reformation, Corrective Treatment, Social Reintegration.

INTRODUCTION

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Children represent the future of every society, and ensuring their protection, development, and well-being is a fundamental responsibility of the State. However, many children become involved in unlawful behaviour because of circumstances such as poverty, neglect, family disintegration, abuse, lack of education, substance addiction, and negative peer influence. Modern juvenile justice recognises that such children are capable of reform and should be treated with care, guidance, and compassion rather than punishment. Consequently, the juvenile justice system is based on the principles of reformation, rehabilitation, and social reintegration, with the ultimate aim of enabling children to become responsible members of society.

The juvenile justice system in India has evolved gradually through legislative and constitutional developments. The earliest enactments dealing with young offenders were the Apprentices Act, 1850 and the Reformatory Schools Act, 1897, which introduced the idea that children should receive vocational training and corrective education instead of being confined in prisons. Following Independence, the Constitution of India, 1950 strengthened child protection by incorporating provisions such as Articles 14, 15(3), 24, 39(e), 39(f), and 47, which promote equality, permit special measures for children, prohibit exploitation, and direct the State to ensure their healthy growth and development. These constitutional safeguards established the foundation of a child-centred justice system in India.

A significant milestone was the enactment of the Juvenile Justice Act, 1986, the first comprehensive legislation exclusively dealing with juveniles in conflict with law. Thereafter, the United Nations Convention on the Rights of the Child (UNCRC), 1989, ratified by India in 1992, profoundly influenced the country's juvenile justice policy by emphasising the rights, dignity, rehabilitation, and social reintegration of children. In conformity with these international standards, the Juvenile Justice (Care and Protection of Children) Act, 2000 adopted a rights-based approach towards children requiring care and protection as well as those involved in criminal offences.

The present legal framework is governed by the Juvenile Justice (Care and Protection of Children) Act, 2015, which came into force on 15 January 2016. The enactment was introduced after extensive debate on juvenile crime, particularly following the 2012 Delhi Nirbhaya case, where one of the offenders was below eighteen years of age. The 2015 Act

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introduced a new provision permitting a preliminary assessment of children aged 16 to 18 years alleged to have committed heinous offences, enabling certain cases to be transferred for trial as adults. While this provision seeks to balance public safety with the rights of children, it remains one of the most debated aspects of juvenile justice in India.

The Act classifies children into two distinct categories: Children in Conflict with Law under Section 2(13) and Children in Need of Care and Protection under Section 2(14). A child in conflict with law refers to a person below eighteen years who is alleged or found to have committed an offence, whereas a child in need of care and protection includes abandoned, orphaned, trafficked, abused, homeless, or otherwise vulnerable children requiring State intervention. Thus, the legislation serves a dual purpose by ensuring both the reformation of juvenile offenders and the protection and rehabilitation of vulnerable children.

Rehabilitation is the central theme of the Juvenile Justice Act, 2015. Chapter VII (Sections 39–55) provides an elaborate framework for rehabilitation and social reintegration through individual care plans, observation homes, special homes, children's homes, counselling, education, vocational training, foster care, sponsorship, adoption, and after-care organisations. The Act further incorporates guiding principles under Section 3, including the best interests of the child, dignity, equality, family responsibility, institutionalisation as a measure of last resort, and the child's right to a fresh start. These principles ensure that the juvenile justice system focuses on restoring the child's life rather than imposing punitive sanctions.

Despite its progressive legislative framework, the effective implementation of juvenile justice continues to face several challenges, including inadequate infrastructure, shortage of trained professionals, overcrowded child care institutions, inconsistent monitoring, and societal stigma towards children in conflict with law. Therefore, strengthening rehabilitation mechanisms and ensuring proper implementation of the Act remain essential for achieving a humane, child-friendly, and rights-based juvenile justice system in India.

CONCEPT OF REHABILITATION AND CORRECTIVE TREATMENT

MEANING AND NATURE OF REHABILITATION

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Rehabilitation refers to the process through which a child is assisted in overcoming the circumstances and behavioural difficulties associated with offending and is prepared for successful reintegration into family and society.

It includes psychological support, education, vocational training, life-skills development, family counselling, social support and aftercare. Rehabilitation is therefore broader than punishment or institutional confinement.

Section 39 of the Juvenile Justice Act provides that rehabilitation and social integration should be undertaken on the basis of the individual care plan of the child and preferably through family-based care.[2]

MEANING OF CORRECTIVE TREATMENT

Corrective treatment refers to interventions designed to address behavioural, psychological, educational and social difficulties that may have contributed to the child's involvement in offending.

It may include counselling, behavioural modification, psychiatric assistance, anger-management programmes, educational intervention, vocational training and therapeutic activities. The emphasis is on correcting harmful behaviour without destroying the child's dignity or future prospects.

OBJECTIVES OF REHABILITATION

The major objectives are:

1. To reform the child's behaviour;
2. To address the causes of offending;
3. To promote education and skill development;
4. To improve psychological and emotional well-being;
5. To strengthen family relationships;
6. To develop social and life skills;

[2]The Juvenile Justice (Care and Protection of Children) Act, 2015 (Act 2 of 2016), s. 39.

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7. To prevent repeated offending; and
8. To facilitate successful reintegration into society.

REHABILITATION VERSUS PUNISHMENT

Punishment traditionally concentrates on the wrongful act and imposes a sanction for the offence. Rehabilitation, on the other hand, concentrates on the child and the factors responsible for the offending behaviour.

The rehabilitative approach does not mean that the child is free from accountability. Rather, accountability is combined with measures intended to produce positive behavioural change.

In ***Hari Ram*** *v.* ***State of Rajasthan,*** the Supreme Court emphasised the rehabilitative nature of juvenile justice and stated that implementation requires a different mindset from conventional criminal justice.[3]

IMPORTANCE OF SOCIAL REINTEGRATION

Rehabilitation is incomplete unless the child can return to family and community life. Social reintegration involves restoring family relationships, continuing education, obtaining employment or vocational opportunities and reducing social stigma.

A child who leaves an institution without family support, education or employment may be exposed again to the same circumstances that contributed to offending. Consequently, aftercare and community support are essential components of rehabilitation.

THEORETICAL AND JURISPRUDENTIAL FOUNDATIONS

- **REFORMATIVE THEORY OF PUNISHMENT**

  The reformative theory views punishment as an opportunity to transform the offender rather than merely inflict suffering. This theory has particular relevance to children because their personalities and behavioural patterns are still developing.

  The juvenile justice system reflects this theory by providing education, counselling, vocational training and behavioural interventions instead of conventional imprisonment.

- **REHABILITATIVE APPROACH**

[3]Hari Ram v. State of Rajasthan, (2009) 13 SCC 211.

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The rehabilitative approach attempts to identify the personal and social causes of offending and provide interventions capable of reducing the possibility of future offending.The approach recognises that children have considerable capacity for change. Consequently, the justice system should create opportunities for positive development instead of permanently attaching criminal labels to children.

- **RESTORATIVE JUSTICE**

  Restorative justice focuses on repairing the harm caused by an offence. It encourages responsibility, reconciliation and restoration rather than concentrating exclusively on punishment.In the juvenile context, restorative practices may include counselling, mediation, community-based programmes and, where legally appropriate, mechanisms through which the child understands the consequences of the conduct and takes responsibility.

- **PARENS PATRIAE DOCTRINE**

  The doctrine of *parens patriae* recognises the protective responsibility of the State towards persons who are unable to protect their own interests, particularly children.In juvenile justice, the State therefore assumes a protective and supervisory role. The objective is to guide and reform the child rather than simply punish the child.

- **BEST INTEREST OF THE CHILD PRINCIPLE**

  The best-interest principle requires every decision concerning a child to prioritise the child's safety, development, dignity and long-term welfare.Section 3 of the Juvenile Justice Act incorporates the best-interest principle as one of the fundamental principles governing administration of the Act.[4]

- **PRINCIPLE OF FRESH START**

  The principle of fresh start seeks to prevent the child's past involvement with the justice system from becoming a permanent obstacle to future education, employment and social participation.This principle recognises that a child should have a genuine opportunity to reform and begin life again without unnecessary stigma.

- **PRINCIPLE OF DIVERSION**

  diversion means dealing with children through alternatives to formal judicial proceedings wherever legally appropriate. Counselling, supervision, community programmes and other non-custodial measures may reduce the harmful effects of

[4]The Juvenile Justice (Care and Protection of Children) Act, 2015 (Act 2 of 2016), s. 3.

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formal criminal proceedings.Diversion is consistent with the principle that institutionalisation should generally be treated as a measure of last resort.

INTERNATIONAL LEGAL FRAMEWORK FOR JUVENILE REHABILITATION

- **UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD, 1989**

The Convention on the Rights of the Child establishes important standards for the treatment of children involved in the justice system. Article 40 requires States to recognise the child's right to treatment that promotes dignity and reinforces respect for human rights while taking into account the child's age and the desirability of promoting reintegration into society.

India acceded to the Convention in 1992, and its principles have influenced Indian juvenile justice legislation.[5]

- **BEIJING RULES, 1985**

The Beijing Rules provide internationally recognised standards for the administration of juvenile justice. They emphasise the welfare of the juvenile, proportionality, diversion and the use of institutionalisation only when necessary.

The Rules support the idea that juvenile justice should be directed towards the child's development and future social integration.

- **RIYADH GUIDELINES, 1990**

The Riyadh Guidelines focus primarily on preventing juvenile delinquency. They recognise the importance of family, education, community participation and social development in preventing children from becoming involved in crime.

The Guidelines therefore complement rehabilitation by addressing the social conditions that may contribute to juvenile offending.

- **HAVANA RULES, 1990**

[5]Convention on the Rights of the Child, 1989, art. 40.

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The Havana Rules establish standards concerning children deprived of liberty. They emphasise humane treatment, education, healthcare, vocational development, family contact and preparation for release and reintegration.

These principles demonstrate that deprivation of liberty should never eliminate the child's right to development and rehabilitation.

INTERNATIONAL STANDARDS ON REHABILITATION AND SOCIAL REINTEGRATION

International juvenile justice standards consistently favour rehabilitation, social reintegration, diversion and alternatives to institutionalisation. The central idea is that deprivation of liberty should be used only where necessary and that children should continue to receive education, healthcare, psychological support and family contact.

HISTORICAL BACKGROUND BEHIND THE IMPLEMENTATION OF THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015 AND RELEVANT CONSTITUTIONAL PROVISIONS:

This concept of Juvenile Justice System in India is borrowed from the Western Countries[6]. Some of the first legislations on the juvenile justice system were the Apprentices Act, 1850, Indian Penal Code, 1860, Reformatory Schools Act, 1897, Code of Criminal Procedure, 1898 and so on[7] . After independence in the year 1947, the Constitution of India, 1950 has come into force. Some of the significant Constitutional provisions in this regard are Articles 14, 15(3), 24, 39(e), 39(f), 47 and so on. The Juvenile Justice Act, 1986 was the first statutory enactment on the subject matter of juvenile justice. This statute defined a child or juvenile by differentiating the age group for boys and girls. Under this Act, the age limit for boys was 16 years and for girls 18 years[8] to be identified as a child. Some of the international instruments also played a major role in the execution of the Juvenile Justice (Care and Protection of Children) Act, 2015. The United Nations Convention on the Rights of the Child, 1989 is one such noteworthy International Convention. Under Article 1 of this Convention, a child means every human being who is below the age of 18 years. India has ratified this

[6]Team Lawyered, History of Juvenile Justice System in India, LAWYERED (Apr. 21, 2022, 10:30 PM), https://www.lawyered.in/legal-disrupt/articles/history-juvenile-justice-system-india/.

[8]Dibakar Banerjee, Juvenile Justice, Legal Service India (Apr. 21, 2022, 10:38 PM), https://www.legalserviceindia.com/legal/article-3089-juvenile-justice.html

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Convention on the Rights of Child 1989 on 11th December 1992. This ratification has stimulated the Parliament to bring about several changes in the prevailing Juvenile Justice system. As a consequence of the same, the Juvenile Justice (Care and Protection of Children) Act, 2000 was enacted. This brought about a standard definition of child for both boys and girls. Also, the Act makes it clear that children in conflict with law should be separated from children in need of care and protection as they come from different backgrounds and mindsets. This will facilitate effective and efficient reformation or rehabilitation of children. Several amendments were made to the Juvenile Justice (Care and Protection of children) Act, 2000 by way of the Amendment Act of 2006. The main stimulation behind the coming into effect of the Juvenile Justice Act, 2015 was the brutal Nirbhaya rape incident which took place in Delhi in the year 2012. In this inhumane crime, one of the convicts was a juvenile. Presently, after the enactment of the Juvenile Justice (Care and Protection of Children) Act, 2015, children between the age group of 16 to 18 years who commit heinous offences are treated differently from other juveniles. After a preliminary assessment, they are tried in the same manner like adults and are produced before the children's Court and not Juvenile Justice Boards for the purposes of adjudication. This is one of the major features of the 2015 Act which did not exist earlier. Some of the Constitutional provisions under the Constitution of India, 1950 instrumental in the implementation of the Juvenile Justice (Care and Protection of Children) Act, 2015 are as given below. These provisions are either fundamental rights under PART-III or Directive Principles of State Policy under PART-IV of the Constitution.

a. Article 14: This article contains the principle of equality. It confers equality before the law and equal protection of laws to every person within the territory of India[9] . The former expression is concerned with formal equality and the latter expression deals with substantive equality.

b. Article 15(3): As a matter of substantive equality, this Article empowers the State to make special provisions for women and children[10].

c. Article 24: It prohibits the employment of children below the age of 14 years in factories, mines or in any other hazardous employment[11].

[9]INDIA CONST. art. 14
[10]INDIA CONST. art. 15, cl. 3.
[11]INDIA CONST. art. 24.

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d. Article 39(e): It obligates the State to see that the health and strength of men or women workers, tender age of children are not abused. The main aim is to ensure that citizens are not coerced because of their economic necessity to enter avocations or occupations beyond their strength, capacity or age[12] .

e. Article 39(f): This Article explicitly mentions that children should be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity. It is to be noted that children and youth must be afforded protection against any kind of exploitation or moral or material abandonment[13].

f. Article 45: Being a Directive Principle of State Policy, this provision makes it clear that the State shall endeavor to provide early childhood care and education for all children until 6 years of age. However, after the implementation of the Right of Children to free and compulsory education Act, 2009, the State is obligated to furnish free and compulsory education to children between the age group of 6 to 14 years[14].

g. Article 47: This article pertains to duty of the State to raise the level of nutrition, standard of living and to improve public health[15].

h. Article 51-A(k): This is inserted by the Constitution (86th Amendment) Act, 2002. It states that it is the fundamental duty of every citizen as a parent or a guardian to provide educational opportunities for the child between the age group of 6 to 14 years[16]. In this manner, the Constitutional provisions have played an instrumental role in the promulgation of the Juvenile Justice Act, 2015.

MAIN OBJECTIVES, DEFINITIONS AND PRINCIPLES OF REFORMATION AND REHABILITATION UNDER THE JUVENILE JUSTICE ACT, 2015

The Juvenile Justice (Care and Protection of Children) Act, 2015 was enacted primarily with two main objectives namely—

[12]INDIA CONST. art. 39 cl. (e).
[13]INDIA CONST. art. 39 cl.
[14]INDIA CONST. art. 45.
[15]INDIA CONST. art. 47
[16]INDIA CONST. art. 51-A cl. (k).

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i. Reformation of a child in conflict with law; and

ii. Rehabilitation of a child in need of care and protection.[17]

Some of the main definitions are discussed below:[18]

• **Child:** It refers to a person who has not completed 18 years of age.

• **Child in conflict with law:** It is used in the context of a child who is alleged or found to have committed an offence and who is below the age of 18 years on the date of commission of the offence. Essentially, it means a child who has acted in contravention of criminal laws.

• **Child in need of care and protection:** A child in need of care and protection is someone who has no home, settled place of abode or ostensible means of subsistence. It includes cases wherein children are the victims of child labour, child abuse, child trafficking, child marriage and other forms of exploitation.

• **Juvenile:** It simply means a child who is below the age of 18 years.

Some general principles of reformation and rehabilitation that have to be kept in mind during the implementation of this Act are below mentioned. These principles are laid down under Section 3 of the Juvenile Justice Act, 2015.[19]

• **Principle of presumption of innocence:** It is applicable to a child in conflict with law. This principle is in reference to the mental element involved in the commission of the offence by the child. There is a general presumption that the child is free of any mala fide or criminal intention up to the age of 18 years. Basically, it will be presumed that the child is innocent.

• **Principle of dignity and worth:** It is a basic human right principle. The fundamental rights enunciated in PART-III of the Constitution also talk about the right to live with human dignity. It comes under the ambit of Article 21 which confers the right to life and personal liberty to every person. In a similar manner, the Juvenile Justice Act also states that each and every child should be treated with equal dignity and rights.

• **Principle of best interest:** It has to be noted that there are many authorities constituted under the Juvenile Justice Act. Taking for instance, the authorities include Juvenile Justice Boards, Child Welfare Committees and so on. This principle explicitly mentions that

[17]The Juvenile Justice (Care and Protection of children) Act, 2015, No. 2, Acts of Parliament, 2015 (India).
[18]Id. at 12.

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whenever the authorities are taking decisions concerning the reformation or rehabilitation of the child, it should be in the best interests of the child. It should be ensured that such decisions facilitate the child to develop to its full potential.

• **Principle of right to privacy and confidentiality:** It is extremely important that the child's anonymity needs to be maintained throughout the course of judicial proceedings. This is because his current mindset and situation should not prevent him from having a bright future. There should be a stringent protection of privacy and confidentiality.

• **Principle of institutionalization as a last resort:** It needs to be highlighted that whenever a child is rescued, a sincere attempt should be made by the concerned authorities to unite the child with its family. It is of utmost significance that the child should receive abundant family love and affection. Therefore, institutionalization is considered to be the last resort where no other remedy is available.

• **Principle of repatriation and restoration:** This principle is closely inter-connected with the principle of institutionalization as a measure of last resort. It articulates that every child shall have a right to be re-united with his family as soon as possible. Also, the child must be restored to the same socio-economic or cultural status as he was in before coming under the ambit of the Juvenile Justice Act.

• **Principle of fresh start:** This principle stipulates that except in special circumstances, all the past records pertaining to the child under the juvenile justice system should be erased. It should be done to make sure that the antecedents of the child do not affect the precious future of the child.

In the judgment of ***Juvenile 'X' through his Father v. State of U.P.***,[20] the Allahabad High Court has held that the name of the juvenile should not be disclosed during the judicial proceedings for being in conflict with law. In this matter, the identity of the child had been revealed which infringes the right to privacy and confidentiality principle. The memo of the parties mentioned the name of the juvenile. Therefore, the Hon'ble High Court directed the Registry to conceal the names of the juvenile from the cause list as well as other records. The

[20] Shivang, Identity of Juvenile is not to be disclosed: Allahabad High Court reminds its registry, LiveLaw (Apr. 27, 2022, 4:44PM), https://www.livelaw.in/news-updates/allahabad-high-court-juvenile-identity-confidentialsection-74-jj-act-192984.

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Court, in strengthening its view, took the support of the Supreme Court's decision in the case of ***Shilpa Mittal** v. **State (NCT of Delhi)**.*[21]

CERTAIN IMPORTANT PROVISIONS RELATING TO THE REFORMATION AND REHABILITATION OF CHILDREN

Chapter VII of the Juvenile Justice (Care and Protection of Children) Act, 2015 specifically deals with the rehabilitation and social reintegration of children. Sections 39 to 55 of the Act contain various provisions intended to ensure the proper care, protection, rehabilitation and reintegration of children into society.[22]

1. Process of Rehabilitation and Social Reintegration

Section 39 of the Act provides for the rehabilitation and social reintegration of every child on the basis of an individual care plan. An individual care plan is prepared according to the specific needs and circumstances of each child. It sets out the measures required for the child's care, protection, development, reformation and rehabilitation. Thus, the Act follows an individualized approach rather than applying the same rehabilitation method to every child.

2. Registration of Child Care Institutions

Section 41 deals with the registration of child care institutions. The Act recognizes different types of institutions, including observation homes, special homes, open shelters, children's homes and places of safety. All child care institutions, whether managed by the State Government or by voluntary or non-governmental organizations, are required to be registered with the State Government. This requirement is intended to ensure that institutions providing care and protection to children are properly regulated and maintain the standards prescribed under the law.

3. Observation Homes

Observation homes are established by the State Government under Section 47 of the Act. Their primary purpose is to provide temporary reception, care and rehabilitation to children in conflict with law while an inquiry concerning them is pending before the competent authorities. These institutions are therefore intended to provide a safe and supportive environment rather than a punitive one.

[21]Shilpa Mittal v. State (NCT of Delhi), (2020) 2 SCC 787.
[22]The Juvenile Justice (Care and Protection of children) Act, 2015, No. 2, Acts of Parliament, 2015 (India)

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4. Special Homes

Special homes are established under Section 48 of the Act. They are meant for children in conflict with law who have been found to have committed an offence and against whom the Juvenile Justice Board has passed an appropriate order. The principal objective of these homes is to provide care, education, training, treatment and opportunities for reformation and rehabilitation so that the child can gradually return to normal social life.

5. Children's Homes

Section 50 of the Act deals with children's homes. These institutions are established and maintained by the State Government for children in need of care and protection. They provide a range of services, including care, treatment, education, training and rehabilitation. The objective is to create an environment in which children can develop physically, mentally, emotionally and socially.

In *Re: Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India*,[23] the Supreme Court emphasized that Juvenile Justice Boards must implement the provisions of juvenile justice legislation in their true spirit. The Boards cannot remain passive when matters concerning children come to their notice and must take appropriate action in the best interests of the child. The Court further observed that where a child is found to have been detained in a police lock-up or prison instead of being placed in an observation home, special home or other appropriate institution, the concerned authorities must immediately intervene and take necessary steps for the child's release and proper placement.[24]

REHABILITATION AND REINTEGRATION SERVICES IN REGISTERED CHILD CARE INSTITUTIONS

The Act provides for various services that are essential for the effective rehabilitation and reintegration of children residing in child care institutions. These services include the following:

(a) BASIC NECESSITIES:

[23]Akshita Saxena, A child in conflict with law cannot be kept in jail or police lockup under any circumstances: Supreme Court, LiveLaw (Apr. 26, 2022, 11:32PM), https://www.livelaw.in/top-stories/a-child-in-conflict-withlaw-cannot-be-kept-in-jail-or-police-lockup-at-any-circumstances-sc-read-order-152644.
[24]Id at 17.

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Children must be provided with essential requirements such as nutritious food, clean drinking water, adequate shelter, clothing and necessary medical care. These basic facilities are essential for ensuring the physical well-being and dignity of every child.

(b) EDUCATION:

Child care institutions must provide appropriate educational facilities to children. The Right of Children to Free and Compulsory Education Act, 2009 provides for free and compulsory education for children between six and fourteen years of age. Education plays an important role in enabling children to develop their abilities and participate meaningfully in society.

(c) SKILL DEVELOPMENT:

The institutions are also expected to provide opportunities for vocational and skill development. Such training can help children acquire practical skills and improve their chances of obtaining suitable employment when they become adults.

(d) RECREATIONAL AND CULTURAL ACTIVITIES:

Rehabilitation is not limited to education and vocational training. Recreational and cultural activities such as sports, painting, singing, dancing and other creative activities are also important for the overall development of children. Therefore, child care institutions should provide opportunities for both indoor and outdoor games and other constructive activities.

(e) LEGAL AID:

Children who require legal assistance should be provided with appropriate legal aid. This ensures that financial limitations do not prevent a child from accessing justice and receiving proper legal representation.

(f) OCCUPATIONAL THERAPY AND LIFE SKILLS:

The rehabilitation process should also focus on occupational therapy and life-skill education. Individual care plans may include activities such as yoga, meditation and other constructive activities that promote emotional well-being and healthy development.

(g) MENTAL HEALTH AND COUNSELLING:

Special attention should be given to the mental and emotional health of children. Counselling should be provided according to the individual needs and circumstances of each child. This is

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particularly important because children in conflict with law or children in need of care and protection may have experienced abuse, neglect, exploitation, family difficulties or other traumatic circumstances.

In *Re:* ***Children in Need of Care and Protection Due to Loss of Parents During COVID-19,***[25]the Supreme Court directed the District Magistrates to personally interact with children and assess their educational and health conditions. The Court also emphasized the responsibility of the authorities to ensure that children who became vulnerable as a result of the COVID-19 pandemic received the benefits and assistance available to them.[26] The decision reflects the importance of active administrative intervention in protecting children who are particularly vulnerable.

Similarly, in ***Court on Its Own Motion v. State***,[27] the Delhi High Court issued directions concerning the rehabilitation and reintegration of children in conflict with law. The Court emphasized the importance of preparing and properly scrutinizing post-release plans for children before their release from child care institutions. Such plans contain recommendations concerning the child's aftercare and continued rehabilitation after release. The Juvenile Justice Board was directed to carefully examine these plans and ensure that appropriate arrangements were made for the child's transition back into society.[28]

Thus, the Juvenile Justice (Care and Protection of Children) Act, 2015 adopts a comprehensive approach towards the reformation and rehabilitation of children. The Act does not merely focus on dealing with children who come into contact with the justice system; it also seeks to address their educational, emotional, social, psychological and vocational needs. The judiciary has further strengthened this approach through various decisions emphasizing the best interests, , protection and successful reintegration of children into society.

LEGAL FRAMEWORK FOR REHABILITATION UNDER THE JUVENILE JUSTICE ACT

[25]Sohini Chowdhury, COVID Orphans: Supreme Court directs district magistrates to personally interact with children to review health and education, LiveLaw (Apr. 26, 2022, 11:30PM), https://www.livelaw.in/topstories/supreme-court-suo-moto-children-in-need-of-care-and-protection-loss-of-parents-covid-five-statesdirections-186591.
[26]Id at 19.
[27]Nupur Thapliyal, JJBs to review progress of child in conflict with law, ensure post release plans, Delhi High Court issues slew of directions, LiveLaw (Apr. 26, 2022, 11:27PM), https://www.livelaw.in/news-updates/delhihigh-court-directions-juvenile-justice-child-in-conflict-with-law-post-release-plans-188127.
[28]Id. at 21.

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The Juvenile Justice (Care and Protection of Children) Act, 2015 adopts a welfare-oriented and reformative approach towards children in conflict with law. Rehabilitation and social reintegration are important objectives of the Act. The law seeks to ensure that children receive care and guidance suited to their age, circumstances and individual needs.

The rehabilitation process may involve both institutional and non-institutional measures. Institutional care is intended to be used where necessary, while family and community-based alternatives are encouraged wherever they are appropriate and in the best interests of the child.

- **AFTERCARE AND SOCIAL REINTEGRATION**

  Aftercare is an important part of rehabilitation because the child's difficulties do not necessarily end after leaving a child-care institution. Aftercare programmes help children make the transition from institutional life to independent living and mainstream society.Such programmes may provide education, vocational training, counselling, financial assistance, healthcare, legal assistance and life-skills training. Children may also receive guidance in finding employment and becoming financially self-reliant. Continued follow-up is important to ensure that the child does not face difficulties after reintegration or return to circumstances that may encourage reoffending.Thus, aftercare acts as a bridge between institutional rehabilitation and successful participation in family and community life.

- **SPONSORSHIP**

  Sponsorship is a form of financial assistance intended to meet the needs of children undergoing rehabilitation. Support may be provided by government agencies, voluntary organisations, NGOs or other recognised sources.The assistance can help meet expenses related to education, healthcare, training, accommodation and other rehabilitation requirements. Sponsorship is particularly important for children who come from economically disadvantaged families and may otherwise struggle to continue their education or rehabilitation programmes.

- **FOSTER CARE**

  Foster care provides a child with an alternative family environment when returning to the biological family is not immediately possible or is not in the child's best interests. Instead of remaining in an institution, the child may receive care, protection, education and emotional support within a suitable family setting.Foster care can

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provide children with a sense of family belonging, stability and parental support, which may be difficult to achieve through institutional care alone. Proper assessment and monitoring of foster families are essential to ensure the safety and welfare of the child.

- **ADOPTION**

  Adoption provides a permanent family environment for children who are legally eligible for adoption. Under the Juvenile Justice (Care and Protection of Children) Act, 2015, adoption involves the permanent transfer of the legal relationship of the child to the adoptive parents, subject to the statutory requirements.However, adoption should be understood primarily as a child-welfare and alternative family-care measure, rather than simply as a rehabilitation technique for every child in conflict with law. It is particularly relevant to children who are legally declared eligible for adoption under the applicable framework.

- **JUDICIAL APPROACH TOWARDS REHABILITATION**

  The juvenile justice system seeks to keep children away from the conventional criminal justice process wherever the law permits. A child in conflict with law is dealt with by the Juvenile Justice Board, which includes members with experience in child welfare.

  The proceedings are intended to be child-friendly and sensitive to the child's age and developmental needs. The emphasis is on understanding the circumstances of the child and determining measures that can promote reformation and reintegration, rather than imposing conventional criminal punishment.Confidentiality and protection of the child's identity are also important because public exposure and social stigma can negatively affect the child's psychological development and future prospects.

REHABILITATION TECHNIQUES FOR CHILDREN IN CONFLICT WITH LAW

- **INDIVIDUAL COUNSELLING**

  Individual counselling allows the child to discuss personal, family, educational and behavioural difficulties with a trained professional. It can assist in developing self-awareness, responsibility and healthier methods of dealing with conflict.

- **GROUP COUNSELLING**

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Group counselling encourages children to interact with peers, share experiences and develop communication and social skills. It may also assist in reducing feelings of isolation.

- **PSYCHOLOGICAL AND BEHAVIOURAL THERAPY**

  Psychological intervention is useful where offending behaviour is associated with trauma, emotional difficulties, impulsivity or behavioural problems. Behavioural techniques can encourage positive conduct and improve decision-making.

- **EDUCATIONAL REHABILITATION**

  Educational rehabilitation aims to restore interrupted education and provide opportunities for academic development. It may involve formal schooling, bridge courses, remedial education or alternative educational programmes.

- **VOCATIONAL AND SKILL DEVELOPMENT**

  Vocational training enables children to acquire practical skills that can support future employment and financial independence. It may include computer skills, tailoring, carpentry, electrical work, agriculture, hospitality and other locally relevant skills.

- **LIFE-SKILLS TRAINING**

  Life-skills programmes may include communication, decision-making, problem-solving, emotional regulation, conflict resolution and responsible citizenship. These skills help children manage future challenges without resorting to unlawful conduct.

- **FAMILY COUNSELLING AND FAMILY THERAPY**

  Family circumstances may contribute significantly to juvenile offending. Family counselling seeks to improve communication, resolve conflict and create a supportive environment for the child's return.

- **RECREATIONAL, SPORTS AND CULTURAL ACTIVITIES**

  Sports, yoga, music, art, drama and cultural activities can promote physical health, emotional stability and positive social interaction. They also provide constructive alternatives to harmful peer influences.

- **SUBSTANCE-ABUSE INTERVENTION**

  Where substance use is connected with offending behaviour, rehabilitation should include counselling, treatment and relapse-prevention measures. Such interventions should be therapeutic rather than purely punitive.

- **COMMUNITY-BASED REHABILITATION**

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Community-based rehabilitation enables children to remain connected with their family, school and community wherever this is consistent with their safety and best interests. It reduces unnecessary institutionalisation and may improve long-term reintegration.

- **RESTORATIVE JUSTICE PRACTICES**

  Restorative approaches seek to make children understand the consequences of their actions and, where appropriate, participate in repairing the harm caused. The approach can encourage responsibility without resorting to conventional punishment.

- **DIVERSION PROGRAMMES**

  Diversion allows appropriate cases to be handled through alternatives to formal judicial proceedings. Counselling, supervision, community programmes and educational interventions may be used depending upon the circumstances.

- **AFTERCARE AND POST-RELEASE SUPPORT**

  Rehabilitation should continue after release. Children may require assistance with education, employment, accommodation, family relationships and psychological adjustment. Continuous follow-up is therefore essential to prevent relapse and facilitate stable reintegration.

CORRECTIVE TREATMENT OF CHILDREN IN CONFLICT WITH LAW

- **PSYCHOLOGICAL ASSESSMENT**

  Psychological assessment helps identify the child's emotional condition, cognitive abilities, behavioural difficulties and factors associated with offending. Such assessment should be conducted by appropriately qualified professionals.

  This is particularly significant where the law requires an assessment of children aged 16–18 involved in alleged heinous offences.

- **BEHAVIOUR MODIFICATION**

  Behaviour modification aims to replace harmful behavioural patterns with constructive ones. Positive reinforcement, structured activities, counselling and supervised programmes can encourage desirable behaviour.

- **ANGER MANAGEMENT**

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Some children may engage in offending because of difficulties in controlling anger or responding to conflict. Anger-management programmes can teach children techniques for recognising triggers, controlling emotional responses and resolving disputes peacefully.

- **TRAUMA-INFORMED INTERVENTION**

  Children may themselves have experienced abuse, neglect, violence or exploitation. Rehabilitation should therefore avoid assuming that every child enters the system with the same background.Trauma-informed intervention recognises the child's previous experiences and seeks to create a safe environment for psychological recovery.

- **MORAL AND SOCIAL DEVELOPMENT**

  Corrective treatment should encourage empathy, responsibility, respect for others and understanding of the consequences of unlawful behaviour. Moral development should be achieved through guidance and education rather than humiliation or fear.

- **EDUCATIONAL AND VOCATIONAL CORRECTION**

  Education and vocational training correct the social and economic disadvantages that may contribute to offending. They also create legitimate future opportunities for the child.

- **INDIVIDUALISED TREATMENT APPROACH**

  No single treatment can be appropriate for every child. Rehabilitation should therefore be based on age, maturity, family background, educational needs, psychological condition, nature of the offence and future prospects.The Supreme Court's decision in ***Barun Chandra Thakur v. Master Bholu*** demonstrates the importance of proper expert assessment when evaluating the mental capacity, physical capacity, maturity and circumstances of a child under Section 15 of the 2015 Act.[29]

INSTITUTIONAL MECHANISMS FOR REHABILITATION

- **ROLE OF JUVENILE JUSTICE BOARDS**

The JJB is central to the juvenile justice process. It conducts inquiries and can issue orders requiring education, vocational training, counselling, therapeutic intervention, probation or placement in appropriate institutions.

[29]Barun Chandra Thakur v. Master Bholu, 2022 SCC OnLine SC 870.

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The Board should therefore approach each case from the perspective of rehabilitation rather than simply determining punishment.

- **ROLE OF PROBATION OFFICERS**

Probation officers assist in preparing social investigation reports, assessing family circumstances and monitoring children placed under supervision. Their role is important in connecting judicial decisions with practical rehabilitation.

- **ROLE OF SOCIAL WORKERS**

  Social workers assess family and community conditions, provide counselling and assist with reintegration. They can also coordinate with schools, families, government agencies and NGOs.

- **ROLE OF PSYCHOLOGISTS AND COUNSELLORS**

Psychologists and counsellors provide specialised support for behavioural, emotional and psychological problems. Their participation is particularly important in cases involving trauma, substance abuse or serious behavioural difficulties.

- **ROLE OF CHILD CARE INSTITUTIONS**

Child care institutions must provide more than accommodation. They should ensure education, healthcare, nutrition, recreation, counselling, vocational training and opportunities for social development.

The Supreme Court in *Sampurna Behura v. Union of India* highlighted the importance of effective institutional mechanisms and proper implementation of child protection legislation.[30]

- **ROLE OF POLICE**

Police officers are required to follow child-sensitive procedures and should avoid unnecessary intimidation or exposure of the child to adult criminal processes.

- **ROLE OF NGOS AND CIVIL SOCIETY**

[30]Sampurna Behura v. Union of India, (2018) 4 SCC 433.

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NGOs can supplement government efforts by providing counselling, education, vocational training, mentoring and community support. Their involvement can be particularly valuable where public institutions lack specialised resources.

- **ROLE OF PARENTS, FAMILY AND COMMUNITY**

Family support is one of the strongest factors in successful rehabilitation. Parents and guardians should participate in counselling and reintegration plans wherever appropriate.

Community acceptance is equally important because social rejection may push a child back towards harmful peer groups and increase the risk of reoffending.

LEGISLATIVE INTERVENTIONS AGAINST JUVENILE DELINQUENCY

The development of juvenile justice legislation in India has taken place gradually, with a shift from a punitive approach towards one based on care, protection, reform and rehabilitation. The early legal measures recognised that children who come into conflict with the law should not be treated in the same manner as adult offenders.

The Apprentices Act, 1850 is generally regarded as one of the earliest legislative measures dealing with children involved in offences. It provided an opportunity for children between the prescribed age group to undergo vocational training and apprenticeship, reflecting an early recognition that education and occupational skills could help prevent children from returning to criminal behaviour.

The Indian Jail Committee (1919–1920) also played an important role in shaping the juvenile justice system. It recommended the establishment of separate institutions for children, including remand homes and separate arrangements for their custody, instead of keeping them with adult prisoners. The Committee also supported the establishment of children's courts with simpler and more flexible procedures. These recommendations reflected the growing understanding that children require a justice system adapted to their age, maturity and developmental needs.

A major development came with the enactment of the Juvenile Justice Act, 1986. The legislation attempted to create a separate legal framework for dealing with children who came into conflict with the law. It emphasised the need for a specialised and child-oriented

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approach to investigation, adjudication and rehabilitation. The Act also provided for institutions such as juvenile courts and juvenile homes and sought to ensure that children were dealt with according to their developmental needs rather than through conventional punitive methods. Its approach was influenced by emerging international standards concerning the administration of juvenile justice.

The Juvenile Justice (Care and Protection of Children) Act, 2000 represented another important stage in the development of Indian juvenile justice law. It was enacted in the context of India's international obligations under the Convention on the Rights of the Child, 1989. The Act placed greater emphasis on the best interests of the child, child-friendly procedures, care, protection, treatment, rehabilitation and social reintegration. It also recognised both institutional and non-institutional methods of rehabilitation. The objective was not merely to respond to the offence committed by a child but also to address the social, family, educational and psychological circumstances that may have contributed to the child's behaviour.

The Convention on the Rights of the Child, 1989 (CRC) has had a significant influence on the development of India's juvenile justice framework. The Convention recognises children as individuals entitled to special protection and assistance because of their age and vulnerability. It requires States to protect children from abuse, exploitation and neglect and to ensure their physical, mental and social development. Its provisions relating to the right to life and development, identity, education, dignity and rehabilitation have strengthened the human-rights approach to juvenile justice. India ratified the Convention in 1992, thereby reinforcing its commitment to developing a child-centred system of justice.

The Indian Constitution also provides an important foundation for the protection and development of children. Article 15(3) permits the State to make special provisions for children, while Article 21 protects the right to life and personal liberty, which has been interpreted to include the right to live with dignity. Article 21A guarantees the right to free and compulsory education for children in the constitutionally prescribed age group. Article 39(e) and 39(f) direct the State to protect children from abuse and exploitation and to ensure opportunities for healthy development in conditions of freedom and dignity. These constitutional provisions demonstrate that the welfare and development of children are matters of public responsibility.

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The Government has also introduced various policies and programmes aimed at reducing the social and economic conditions that contribute to juvenile delinquency. Initiatives relating to education, nutrition, child protection and skill development seek to create an environment in which children can develop positively and avoid involvement in criminal activities.

Earlier criminal laws also recognised the importance of age and mental maturity in determining criminal responsibility. For example, the Indian Penal Code recognised that children below certain ages may lack the capacity to understand the nature and consequences of their acts. However, following the enactment of the Bharatiya Nyaya Sanhita, 2023, the relevant provisions should now be understood with reference to the current criminal law framework rather than the repealed IPC.

The Juvenile Justice (Care and Protection of Children) Act, 2015 is presently the principal legislation governing children in conflict with law and children in need of care and protection in India. It further strengthened the institutional framework by providing for Juvenile Justice Boards, Child Welfare Committees, observation homes, special homes, places of safety and rehabilitation and aftercare measures. The Act seeks to balance accountability with the child's developmental needs and places considerable importance on rehabilitation and social reintegration.

PRE-TRIAL STAGE

The juvenile justice process begins from the time a child comes into contact with the police. The child must be handled in a child-friendly manner and produced before the Juvenile Justice Board within the prescribed period. The objective at this stage is to protect the child from unnecessary exposure to the formal criminal justice system.

The circumstances surrounding the child's alleged offence, family background, educational situation and other relevant social factors may be considered while preparing the social investigation report. Bail is also given special importance under the juvenile justice framework. A child should ordinarily be released on bail and placed under the supervision or care of a parent, guardian or fit person unless there are legally recognised reasons for denying bail. Even when bail is denied, the child is not to be placed in an ordinary prison with adult offenders.

INQUIRY AND ADJUDICATION

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Cases involving children in conflict with law are dealt with by the Juvenile Justice Board, rather than through the ordinary criminal courts in the same manner as adult offenders. The Board follows a child-friendly procedure and takes into consideration the child's age, maturity, family circumstances and developmental needs.

The law also makes an important distinction between children and adults accused of offences. A child should not ordinarily be subjected to the same criminal process or treatment as an adult. In cases involving children aged 16 to 18 years accused of heinous offences, the Juvenile Justice Board is required to conduct a preliminary assessment in accordance with the 2015 Act. This assessment concerns the child's mental and physical capacity, ability to understand the consequences of the alleged conduct and the circumstances in which the offence was allegedly committed.

POST-TRIAL REHABILITATION AND SOCIAL REINTEGRATION

Rehabilitation should not be viewed as a process that begins only after the child completes an institutional placement. Under the present juvenile justice framework, rehabilitation and social reintegration are intended to begin from the early stages of the child's contact with the system.

The rehabilitation process may include education, vocational training, counselling, psychological support, skill development, family reintegration, community-based intervention and aftercare services. The ultimate objective is to help the child develop into a responsible and independent member of society while reducing the possibility of reoffending.

Another important principle is the fresh-start approach, under which the child's past conflict with the law should not unnecessarily become a permanent barrier to education, employment or social participation. This reflects the understanding that children are still developing and should be given a genuine opportunity to change their behaviour.

EXECUTIVE INTERVENTIONS AGAINST JUVENILE DELINQUENCY

Legislative measures alone cannot effectively address juvenile delinquency. Government policies, welfare programmes and administrative institutions play an equally important role in preventing children from entering the criminal justice system and in supporting their rehabilitation.

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The National Policy for Children, 1974 was an important early policy initiative that recognised the responsibility of the State towards the overall development and welfare of children. It emphasised areas such as health, nutrition, education and protection from abuse, neglect, exploitation and social disadvantage.

The policy approach was based on the recognition that juvenile delinquency is often connected with wider social conditions such as poverty, lack of education, family problems, neglect, substance abuse, unemployment and social exclusion. Therefore, effective prevention requires more than punishment. It requires access to education, healthcare, family support, recreational opportunities, counselling and other social services.

Government agencies, child protection institutions, local authorities, schools, social workers and non-governmental organisations have an important role in implementing these measures. Programmes aimed at education, vocational training, skill development and child protection can help address the underlying causes of delinquent behaviour.

Thus, executive intervention should focus not only on responding to children after an offence has occurred but also on early identification of vulnerable children, prevention of delinquency and creation of supportive social environments. A coordinated approach between different government departments and child protection agencies is essential for making rehabilitation programmes effective.

REHABILITATION OF CHILDREN INVOLVED IN HEINOUS OFFENCES

CHILDREN AGED 16–18 YEARS

The 2015 Act introduced a special mechanism for children between 16 and 18 years who are alleged to have committed heinous offences. This represents a significant departure from the earlier framework.

However, even in such cases, the child's age and developmental characteristics remain relevant.

PRELIMINARY ASSESSMENT

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Section 15 requires the Juvenile Justice Board to undertake a preliminary assessment concerning:

1. The child's mental capacity to commit the offence;
2. Physical capacity to commit the offence;
3. Ability to understand the consequences of the alleged conduct; and
4. The circumstances in which the offence was allegedly committed.

In *Barun Chandra Thakur v. Master Bholu*, the Supreme Court emphasised that this assessment must be meaningful and cannot be reduced to a mechanical exercise. The Court highlighted the importance of psychological and psycho-social expertise in conducting the assessment.[31]

- **ROLE OF THE JUVENILE JUSTICE BOARD**

The JJB must conduct the preliminary assessment carefully and ensure that the child is given an adequate opportunity to participate. The assessment should consider the child's developmental characteristics and circumstances rather than relying merely on the seriousness of the allegation.

- **ROLE OF THE CHILDREN'S COURT:** Where the statutory requirements for transfer are satisfied, the Children's Court determines whether the child should be tried as an adult. Even then, the Act retains a rehabilitative framework and provides for reformative services.
- **CONFLICT BETWEEN ACCOUNTABILITY AND REHABILITATION**

The treatment of children involved in heinous offences creates a tension between public demand for accountability and the principle of rehabilitation.

A balanced approach should recognise the seriousness of the offence while also acknowledging that the offender is still a child. *Salil Bali v. Union of India* and *Dr. Subramanian Swamy v. Raju* are particularly useful in understanding the judicial treatment of the age-based classification of juvenile offenders.[32]

[31]Barun Chandra Thakur v. Master Bholu, 2022 SCC OnLine SC 870.
[32]Salil Bali v. Union of India, (2013) 7 SCC 705; Dr. Subramanian Swamy v. Raju, (2014) 8 SCC 390.

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CHALLENGES IN THE IMPLEMENTATION OF REHABILITATION MEASURES

- **INADEQUATE INFRASTRUCTURE**

The existence of legislation does not automatically guarantee effective rehabilitation. Many institutions may lack adequate accommodation, educational facilities, recreational spaces and therapeutic services.

- **SHORTAGE OF TRAINED PROFESSIONALS**

Effective rehabilitation requires psychologists, psychiatrists, counsellors, probation officers, social workers and trained institutional staff. Shortages in these areas can seriously reduce the quality of rehabilitation.

- **LACK OF INDIVIDUALISED TREATMENT**

A major weakness is the possibility of applying similar institutional programmes to children with very different needs. Rehabilitation must be individualised and based upon proper assessment.

- **INSTITUTIONALISATION AND STIGMATISATION**

Institutional care can sometimes isolate children from their families and communities. Prolonged institutionalisation may also produce stigma and make social reintegration more difficult.

In *Sheela Barse*, the Supreme Court recognised the harmful effects of keeping children in prison-like environments and emphasised the need for appropriate child-care facilities.[33]

- **LACK OF FAMILY SUPPORT**

Children returning to families affected by violence, substance abuse, poverty or neglect may face a high risk of reoffending. Family counselling and community support are therefore essential.

- **EDUCATIONAL AND VOCATIONAL GAPS**

[33]Sheela Barse v. Union of India, (1988) 4 SCC 226.

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Disruption of education and inadequate skill development can leave children without realistic opportunities after release. Rehabilitation should therefore be connected with mainstream educational and employment systems.

- **INADEQUATE AFTERCARE**

The period immediately after institutional release is particularly important. Without accommodation, education, employment, financial support and mentoring, children may return to harmful environments.

- **RISK OF RECIDIVISM**

Recidivism refers to repeated involvement in offending. Effective rehabilitation must address the underlying causes of offending rather than merely control the child's behaviour during institutional stay.

- **ADMINISTRATIVE AND INSTITUTIONAL CHALLENGES**

Lack of coordination between the police, JJBs, child care institutions, probation officers, education departments, health authorities and NGOs can weaken rehabilitation.

In ***Sampurna Behura v. Union of India,*** the Supreme Court highlighted the continuing implementation problems within the juvenile justice framework and emphasised that statutory institutions must function effectively.[34]

RELATED CASE LAWS

Sheela Barse v. Union of India[35]

The Supreme Court in this case focused on the treatment of children who were kept in prisons along with adult offenders. The Court recognised that such an environment could have a harmful effect on the physical and psychological development of children. It emphasised that children in conflict with law require special care, protection and treatment, rather than being subjected to the same conditions as adult prisoners.The Court directed the authorities to identify children who were confined in jails and to make arrangements for their transfer to appropriate juvenile institutions. It also stressed the importance of legal assistance and child-

[34]Sampurna Behura v. Union of India, (2018) 4 SCC 433.
[35]*Sheela Barse v. Union of India*, (1986) 3 SCC 596; AIR 1986 SC 1773.

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sensitive procedures.The decision is significant because it reinforced the principle that the juvenile justice system should focus on reformation and rehabilitation rather than punishment. It also laid an important foundation for the later development of a separate institutional framework for children in conflict with law.

Gopinath Ghosh v. State of West Bengal[36]

In this case, the Supreme Court considered the applicability of juvenile protection to an accused who was below the relevant age when the offence was committed. The Court adopted a beneficial and child-oriented interpretation of the law and emphasised that the age of the accused at the time of the commission of the offence is an important consideration.The judgment reflects the Court's recognition that children cannot be treated in exactly the same manner as adult offenders. Their age, maturity and capacity for reform must be taken into account while dealing with criminal conduct.The decision therefore contributed to the development of the reformative philosophy of juvenile justice, under which the purpose of dealing with a child is not simply to impose punishment but to provide an opportunity for correction and reintegration into society.

Pratap Singh v. State of Jharkhand[37]

In *Pratap Singh*, the Supreme Court examined the question of determining whether an accused person was entitled to the protection of juvenile justice legislation. The Court clarified the importance of the person's age on the date of commission of the offence for determining juvenility.The decision highlighted that juvenile justice legislation is designed to provide special protection to children because of their developing mental and physical capacities. Therefore, the determination of age cannot be treated as a mere technical issue when it affects the child's entitlement to the benefits of juvenile law.The case is significant in demonstrating that juvenile justice legislation is founded upon a protective and welfare-oriented philosophy rather than an exclusively punitive approach.

Hari Ram v. State of Rajasthan[38]

[36]*Gopinath Ghosh v. State of West Bengal*, (1984) 1 SCC 530; AIR 1984 SC 237.
[37]*Pratap Singh v. State of Jharkhand*, (2005) 3 SCC 551; AIR 2005 SC 2731.
[38]*Hari Ram v. State of Rajasthan &Anr.*, (2009) 13 SCC 211.

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The Supreme Court in *Hari Ram* adopted a strongly reformative approach towards juvenile justice. The Court recognised that the purpose of juvenile justice legislation is substantially different from the ordinary criminal justice system applicable to adults.The Court emphasised that children who come into conflict with law require opportunities for reformation, rehabilitation and social reintegration. The juvenile justice framework should therefore be interpreted in a manner that advances the welfare and developmental interests of the child.The judgment also reflects the need for a change in the approach of authorities dealing with juveniles. Instead of viewing a child merely as an offender, the system should consider the social and developmental circumstances that may have contributed to the child's conduct..

Dharambir v. State (NCT of Delhi)[39]

In *Dharambir*, the Supreme Court dealt with the beneficial application of juvenile justice legislation. The Court recognised that the protection provided by juvenile law should not be defeated merely because there has been a delay in the proceedings or because the person has subsequently crossed the prescribed age.

The judgment demonstrates that the courts should adopt a child-friendly and liberal approach while interpreting juvenile justice provisions. The underlying purpose of such legislation is to provide children with an opportunity for reform and to prevent their early involvement in the adult criminal justice system from permanently affecting their future.The Court's approach reinforces the idea that rehabilitation is more important than imposing conventional criminal consequences upon a child.

Salil Bali v. Union of India[40]

This case arose against the background of public debate concerning serious offences committed by juveniles. The constitutional validity of the juvenile age framework was questioned on the ground that children who commit serious crimes should, in certain circumstances, be treated in the same manner as adults.The Supreme Court upheld the legislative approach of maintaining a separate juvenile justice system. The Court recognised that children differ from adults in terms of their mental development, maturity, understanding and capacity for change. Therefore, treating children differently is justified by their

[39] *Dharambir v. State (NCT of Delhi)*, (2010) 5 SCC 344.

[40] *Salil Bali v. Union of India &Anr.*, (2013) 7 SCC 705.

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developmental characteristics and does not amount to unconstitutional discrimination.The decision reinforces the principle that the juvenile justice system must maintain a balance between society's interest in accountability and the child's right to rehabilitation.

Dr. Subramanian Swamy v. Raju, Through Member, Juvenile Justice Board[41]

The case arose in the context of concerns regarding serious offences committed by juveniles and the demand for treating such children in the same manner as adult offenders. The Supreme Court considered whether the existing juvenile justice framework should be altered on the basis of the nature of offences committed by some children.The Court recognised that the juvenile justice system is based upon the developmental differences between children and adults. The possibility that a child may commit a serious offence does not, by itself, eliminate the rationale for a separate juvenile justice framework.The judgment demonstrates the continuing tension between social demand for punishment and the rehabilitative philosophy of juvenile justice. It supports the view that the objective should remain the correction and reintegration of children while ensuring appropriate accountability under the law.

Abuzar Hossain @ Gulam Hossain v. State of West Bengal[42]

In this case, the Supreme Court considered whether a claim of juvenility could be raised at a later stage of criminal proceedings. The Court adopted a liberal approach and recognised that a genuine claim of juvenility should not ordinarily be rejected merely because it was raised after the proceedings had commenced.The Court emphasised the beneficial character of juvenile justice legislation and recognised that the protection available to children should not be lost because of procedural or technical difficulties.The decision reflects the principle that when there is a genuine question regarding the age of an accused, the courts should examine it carefully because a finding of juvenility may substantially alter the manner in which the person is dealt with.

Jarnail Singh v. State of Haryana[43]

The Supreme Court in *Jarnail Singh* dealt with the determination of the age of a person claiming the benefit of juvenile justice legislation. The Court recognised that age

[41] *Dr. Subramanian Swamy v. Raju, Through Member, Juvenile Justice Board &Anr.*, (2014) 12 SCC 344
[42] *Abuzar Hossain @ Gulam Hossain v. State of West Bengal*, (2012) 10 SCC 489.
[43] *Jarnail Singh v. State of Haryana*, (2013) 7 SCC 263.

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determination is extremely important because it determines whether an individual falls within the protective framework of juvenile law.The Court adopted a child-beneficial approach and emphasised the importance of documentary evidence and the prescribed legal procedure for determining age. The judgment demonstrates that courts must take particular care in cases involving juvenility because an incorrect determination of age can deprive a child of important legal protections.

Sampurna Behura v. Union of India[44]

This is a particularly important judgment for analysing the implementation of rehabilitation measures in India. The Supreme Court examined the functioning of institutions established under juvenile justice legislation and identified several deficiencies in the implementation of the statutory framework.The Court emphasised that merely enacting progressive legislation is not sufficient. Effective juvenile justice requires properly functioning Juvenile Justice Boards, Child Welfare Committees, child care institutions and other supporting mechanisms.The judgment also highlighted the responsibility of State authorities to ensure adequate infrastructure, trained personnel and effective monitoring. The Court's directions were intended to strengthen the implementation of the juvenile justice framework across the country.

Shilpa Mittal v. State (NCT of Delhi)[45]

In *Shilpa Mittal*, the Supreme Court examined the classification of offences under the Juvenile Justice Act, 2015, particularly the distinction between petty, serious and heinous offences.The Court considered the consequences of placing an offence within one of these categories because the classification affects the manner in which a child is dealt with under the Act. The judgment emphasised that the statutory categories must be interpreted carefully and consistently with the scheme of the legislation.The decision is relevant to rehabilitation because the classification of an offence can influence the nature of the proceedings and the rehabilitative opportunities available to the child.

Barun Chandra Thakur v. Master Bholu[46]

[44] *Sampurna Behura v. Union of India*, (2018) 4 SCC 433.
[45] *Shilpa Mittal v. State (NCT of Delhi)*, (2020) 2 SCC 787.
[46] *Barun Chandra Thakur v. Master Bholu&Anr.*, (2022) 2 SCC 237.

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This is one of the most significant recent decisions concerning the preliminary assessment of children between 16 and 18 years of age accused of heinous offences under the Juvenile Justice Act, 2015.The Supreme Court emphasised that preliminary assessment should not be treated as a routine or mechanical exercise. The Juvenile Justice Board must carefully examine the child's mental and physical capacity to commit the alleged offence, ability to understand its consequences and the circumstances in which the offence was allegedly committed.The Court also recognised the importance of expert assistance in conducting such assessments. A proper assessment is necessary to determine whether the child can be appropriately dealt with within the juvenile justice system or whether further proceedings before the Children's Court are warranted.

CONCLUSION

The development of juvenile justice legislation in India reflects a gradual but significant change in the way children in conflict with law are perceived and treated. The approach has moved away from a purely punitive model towards one that recognises the child's age, immaturity, social circumstances and capacity for reform. From the early legislative measures such as the Apprentices Act, 1850, to the Juvenile Justice Act, 1986, the Juvenile Justice (Care and Protection of Children) Act, 2000, and ultimately the Juvenile Justice (Care and Protection of Children) Act, 2015, the law has progressively strengthened the principles of care, protection, rehabilitation and social reintegration.

The constitutional provisions relating to the protection and development of children, together with India's obligations under the Convention on the Rights of the Child, have provided an important foundation for this transformation. The present juvenile justice framework recognises that children should not be exposed unnecessarily to the harshness of the ordinary criminal justice system. Instead, they should be provided with appropriate opportunities for education, counselling, vocational training, psychological support and family and community reintegration.

However, the effectiveness of these legal provisions ultimately depends upon their proper implementation. Shortages of trained professionals, inadequate infrastructure, limited counselling and psychological services, insufficient aftercare and lack of coordination among institutions continue to affect the rehabilitation process. Therefore, greater attention must be

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given to strengthening Juvenile Justice Boards and child care institutions, training professionals, involving families and communities, and ensuring continuous support after a child's release from institutional care.

In conclusion, juvenile justice should not merely seek to respond to an offence committed by a child; it should seek to understand the circumstances that led to the behaviour and provide the child with a meaningful opportunity to change. A child who comes into conflict with the law should be viewed not simply as an offender but as a person with the potential for development and reform. Effective implementation of rehabilitation-oriented laws and policies can therefore protect society while simultaneously protecting the rights, dignity and future of the child.

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