

Rehabilitation Services in the Correctional Centres of Children in Conflict with Law

Prof. (Dr.) Seema Surendran*

Ms. Gayathri N. M**

Introduction

In India, the subject of ‘Children in conflict with the law’ is a complex and urgent issue. As of January 2019, there were roughly 33,000 ‘Children in conflict with the law’ in India, as reported by the National Crime Records Bureau.¹ Allegations of theft, murder, and rape are frequently levelled against these minors. The Juvenile Justice (Care and Protection of Children) Act, 2015² currently serves as the legislative establishment for managing these children and ensures their safety and rehabilitation.

Indian legislation regarding Children in conflict with the law has developed over time. Children in dispute with the law and other vulnerable youth were protected and cared for under the Juvenile Justice Act, 1960.³ The Juvenile Justice laws of 1986⁴ was superseded by the Juvenile Justice (Care and Protection of Children) Act, 2000 and then by the current laws in 2015. While India does have a legal system in place to aid *Children in conflict with the law*, the ongoing framework has been investigated for being too harsh, leading

* Professor of Law, CMR University School of Legal Studies

** Research Scholar & Faculty, CMR University School of Legal Studies

¹ Ministry of the Interior's National Crime Records Bureau, Government of India. Crime in India 2019, Statistics Volume I. 2019.

² Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2015 (India)

³ Juvenile Justice Act, 1986, No. 53, Acts of Parliament, 1986 (India). Available at: <https://lawsisto.com/Read-Central-Act/1232/JUVENILE-JUSTICE-ACT-1986> (last accessed Apr. 3, 2023)

⁴ *Ibid.*

to problems like crowded juvenile facilities and high recidivism. Childrens' offending rates continue to rise as a result of an absence of a reformative strategy to rehabilitation that would help these youth overcome their circumstances and become positive contributors to society. The purpose of this paper is to analyze current techniques that have demonstrated effective rehabilitation of *Children in conflict with the law* in India, with the ultimate goal of making policy suggestions for a more restorative approach to rehabilitation that places a premium on multi-disciplinary interventions and community-based initiatives.

Importance in Context

The following justifications illustrate why it is crucial to learn about the difficulties encountered by juveniles who come into contact with the law and to pinpoint social work mediations that would lessen the negative consequences of this situation.

To begin with, a person's formative years are essential for shaping their adult identities. Therefore, it is crucial to take a supportive stance and help facilitate the same. Secondly, as the future leaders of our nation the overall development and advancement of young people must be prioritized. The potential harmful consequences of incarceration is another significant reason to ensure that youngsters who are in conflict with the law are protected.⁵

There are 472 million kids in India between the ages of 0 and 18.⁶ It is crucial to focus on addressing their needs. Societal vices loom big despite humankind's progress and children are susceptible to these vices due to both

⁵ Erik Erikson, *Childhood and Society* (2nd ed. rev. 1963)

⁶*Children in India - Statistical Information*, THE TOY BANK, available at <https://toybank.in/children-in-india-statistical-information/>, accessed 03 Apr. 2023.

societal and personal factors. Children's identities and world-views are damaged when they enter the juvenile court system, whether they do it willingly or inadvertently⁷

Furthermore, a correctional facility is a rare and special environment and is therefore crucial in maintaining the fabric of society by reforming children in conflict with the law so as to reduce the likelihood of recidivism.⁸

Difficulties Encountered by Children in Legal Conflicts

Family issues, economic considerations, social factors, and psychological aspects are considered to be the overarching causes of juvenile delinquency. Familial causes include parental absence, parental deviance, parental employment, and other reasons.⁹ Lack of financial resources may be a result of the desire to meet other needs, such as those for food, shelter, clothing, and entertainment. Peer pressure, masculinity, the need to keep up an image of extravagance, the desire to emulate celebrities and other social influences all assume a part in the criminal behaviour of today's youth. Desperation and lack of resources are learnt to be the results of psychological problems in these children.¹⁰ Intoxication and anger are also two normal motivations behind why juvenile offenders commit crimes.

⁷ UNICEF, The State of World's Children 2021: Children, a Force for Change - UNICEF, 2021.

⁸ S. Rachel, J.S. Gunavathy, *Challenges faced by youngsters in struggle with regulation and scope for social work interventions*, 18(1) EDUCERE BCM.J.S.W. 38, 36-43 (2022).

⁹ P.D. Haveripeth, *Contributing factors of juvenile delinquency*, 2(1) INTERNATIONAL J.I.R.D. 8-16 (2013).

¹⁰ B.S. Sharma, Dhillon, *Juvenile delinquency in India: A cause for concern*, 31(1) JOURNAL I.A.F. M. 68-70 (2009).

There are several barriers preventing youngsters' on their road to recovery. These may be broken down into four categories: societal issues, educational roadblocks, familial considerations, and institutional obstacles.¹¹

- a) **Societal issues** - Youngsters who struggle with the law confront a number of social difficulties, the most obvious of which is the stigma of being regarded as an offender or a youngster who has spent time in a juvenile detention center. Besides damaging the child's reputation, this also encourages outside agencies to falsely accuse them of involvement in criminal activity. The child's greatest efforts to start a new life are thwarted when he or she is forced to relive the past because of false accusations or prosecution for more serious offenses. Due to this, recovery remains a pipe dream.¹²
- b) **Educational roadblocks** - Dropping out of school is a common survival technique for kids who have spent time in juvenile detention centers, as they fear being labeled and returning to similar climates where they were abused. In many circumstances, a family's uprooting might cause academic disruptions for their children¹³. Employability suffers when students' schooling is interrupted. Furthermore, youths with criminal records may have difficulty finding gainful employment. Thus, integration into society at large becomes problematic¹⁴
- c) **Familial Considerations** - Family problems, such as parental substance abuse, parental absenteeism, parental incarceration, and

¹¹ S. Rachel, J.S. Gunavathy, *supra* note 8,

¹² *Ibid.*

¹³The Annie E. Casey Foundation, "Juvenile Justice in America: A 2022 Update," 2022

¹⁴ The Sentencing Project, "Unlocking the Gates: How States Can Improve Reentry Outcomes for Youth," 2022

parental divorce, are significant contributors to juvenile recidivism. When children return to their families, it might be difficult if the underlying causes still exist. Again, the child is vulnerable to the influences of society if his or her family doesn't acknowledge the child.¹⁵

- d) **Institutional obstacles** – Children who are set in observation homes typically have closed off opportunities that may have led to social interaction with their friends. This has an emotional impact on them. On the other hand, since all the children are staying in one place, there's plenty of opportunity for them to connect and learn from one another. Children with a record of lesser offenses can gain exposure to more serious ones in this way. The Institutors' poor rehabilitative services are another drawback. Deficient follow-up is also hindered by a lack of personnel.¹⁶

Concept of Rehabilitation

The term rehabilitation is utilized to portray the most common way of helping people who have come into contact with the law to return to productive citizenship. The basic goal of rehabilitation is to assist patients in resolving issues from their past, learning new skills, and adapting to productive roles in society. With the goal of keeping young people from relapsing into criminal behavior, rehabilitation plays a crucial role in juvenile justice¹⁷. Research shows that treating children as active participants in the rehabilitation process,

¹⁵ R.K. Mwangangi, *The Job of Family in Dealing with Juvenile Delinquency*, 7(3) OPEN J.S.S. 52-63 (2019).

¹⁶ S. Rachel, J.S. Gunavathy, *supra* note 8,

¹⁷The United Nations Guidelines for the Administration of Juvenile Justice (the Riyadh Guidelines), 2008

rather than as ‘troublemakers’ or ‘problem children’ who need punishment¹⁸, is the best method for finding helpful answers for the commitment of youngsters in exercises that violate a law¹⁹. First and foremost, they need to have their human and child rights recognized and respected.

The term Children in conflict with the law refers to youths who have gotten into legal trouble and could benefit greatly from rehabilitation services. But there are many difficulties faced by them which include hunger, illiteracy, and social isolation. When children are rehabilitated, they are given the chance to start over and learn the skills they need to contribute to society. Furthermore, rehabilitation is crucial because it helps to deal with the underlying causes of juvenile delinquency²⁰

The probability of recidivism can be reduced if underlying factors like poverty and lack of education are addressed so that young people can find meaning in their lives and look forward to the future. In addition, children who undergo rehabilitation have a better chance at a successful and meaningful life since they will have the chance to learn new skills, such as vocational training, which can work on their professional prospects.²¹

Given that juveniles are more malleable and have more potential for recovery than hardened adults who commit crimes, the field of juvenile justice has evolved away from the adult criminal justice paradigm of punishment. Juvenile justice has embraced a strategy of reformation for juvenile offenders

¹⁸ Paul, B. and Paul, V., 2020. Factors Of Reintegration Of Children In Conflict With Law. Journal of Dharma, 1, pp.105-124.

¹⁹ Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2015 (India)

²⁰ The National Institute of Justice, "Juvenile Recidivism: What We Know and What We Can Do," 2014.

²¹ The National Institute of Corrections, "Rehabilitation of Juvenile Offenders: A Comprehensive Manual," 2016

through a variety of community-based reformatory and rehabilitative measures, with institutionalization reserved as the last option after any remaining choices have run out and for the shortest possible time until appropriate community-based alternatives can be found.²²

India's Legal Framework

The Indian legal framework offers a holistic strategy that incorporates four essential aspects of juvenile justice: prevention, intervention, treatment, and rehabilitation. Reducing the likelihood of children coming into conflict with the law is one of the primary goals of delinquency prevention efforts. Programmes that promote education, health, and wellbeing are remembered for this category, as are those that aim to reduce poverty, inequality, and social exclusion²³

Counselling, family mediation, and diversion programmes are just a few examples of the types of help and guidance offered to 'at-risk youth' to reduce juvenile delinquency. These procedures are designed to keep juvenile offences from becoming more serious and to keep them out of the formal court system. It is important to guarantee that they are provided healthcare, education, and vocational training, among other necessities. To aid in reintegration of youth into society, these methods addressing underlying causes of delinquency may also be appropriate.²⁴

Rehabilitation programs in the form of training, guidance along with opportunities are needed to ensure that they become law-abiding citizens.

²²Chandel, V.S., & Prasad, M. (2023). Children in conflict with the law: A reformatory approach. *International Journal of Law, Management, and Humanities*, 6(2), 2549-2559

²³ The United Nations Guidelines for the Administration of Juvenile Justice (the Riyadh Guidelines), 2008

²⁴ Office of Juvenile Justice and Delinquency Prevention, "Juvenile Justice: A Comprehensive Resource Guide," 2022

Mentoring, vocational education and local area administration are models of community-based programmes that fall under this grouping as initiatives to ensure effective policy making.²⁵

As a result, it is crucial to take a holistic view of juvenile justice if we are to ensure that children in conflict with the law are given the required chance to grow and flourish after having been negatively impacted by the system. Such children in conflict with the law may be susceptible to abuse, neglect, and discrimination, which can have lasting impacts on their emotional, physical, and social development if there is definitely not a strong legitimate structure that incorporates such preventative, interventional, therapeutic, and rehabilitative measures. Several significant changes in legislation and policy have resulted in improved guidelines for the juvenile justice system in India²⁶

Apprentices Act of 1850 was the principal regulation mandating rehabilitation through vocational training for juveniles between the age group of 10 to 18. The Reformatory Schools Act of 1897 allowed sentencing of juvenile offenders by sending them to ‘reform schools’ for two to seven years, but once they turned eighteen, the court could no longer order their detention. The Madras Children Act of 1920 which was followed by the Bengal Children Act of 1922 and the Bombay Children Act of 1924 and eventually many other Children Acts, was the first to introduce the Juvenile Court philosophy.²⁷ In 1923, the Criminal Procedure Code was revised to add a distinct process for hearing and deciding criminal matters involving juvenile

²⁵ National Institute for Juvenile Justice and Delinquency Prevention, "Juvenile Delinquency: A Brief Overview," 2023

²⁶ National Institute for Juvenile Justice and Delinquency Prevention, "Juvenile Delinquency: A Brief Overview," 2023

²⁷ Juvenile Justice (Care and Protection of Children) Act, 2000, No. 56, Acts of Parliament, 2000 (India), Sections 3(1)(f) and 3(2)

offenders following appropriate amendments to the Criminal Procedure Code (CrPC).²⁸

In 1960, the parliament passed *The Children Act*, for various union territories. Since the passing of this law, we have established Child Welfare Boards to handle cases involving neglected children. In addition, it defined the place of a probation officer whose responsibility it would be to "advise and assist neglected or delinquent children."²⁹ It also established Children's Courts, which are particular courts for managing issues including delinquent youngsters and adolescents, effectively dividing the judicial system in two³⁰.

The Juvenile Justice Act of 1986³¹ was the first comprehensive piece of legislation in India to deal with juvenile justice. Probation, care, and protection were also established, and juvenile courts and juvenile boards were created to hear matters involving 'Children in conflict with the law'.

The Juvenile Justice (Care and Protection of Children) Act³² was passed in 2000 to replace the Act of 1986. It made significant changes to the system by emphasizing the rehabilitation and social reintegration of 'Children in conflict with the law', creating special homes for juvenile offenders and establishing a statutory framework for child protection.³³

²⁸ Rehabilitation and Reintegration of Youth in Conflict with the Law, A.T. Srinivasa Murthy and D. Lokaraj, 9(2) JOURNAL Pages a138, 136, and 147 of the Electronic Textual Records of 2022).

²⁹The Juvenile Justice Act, No. 53, *supra* note 3.

³⁰The Children Act, 1960, No. 35, Acts of Parliament, 1960 (India)

³¹ *Ibid.*

³² The Child Care and Protection Act (Juvenile Justice) of 2000, No. 56, Acts of Parliament, 2000 (India), available at https://www.indiacode.nic.in/repealed-act/repealed_act_documents/A2000-56.pdf, accessed 03 Apr. 2023.

³³ Juvenile Justice (Care and Protection of Children) Act, 2000, No. 56, Acts of Parliament, 2000 (India)

Concerns with the law's efficacy and its execution led to further changes to the 2000 Act in 2006. The amendments added improvements to the system of juvenile justice. Included in these were guidelines for establishing child-friendly courts, the establishment of a National Commission for the Protection of Child Rights and a broader definition of 'child in need of care and protection'. Another amendment to the Juvenile Justice (Care and Protection of Children) Act was made in 2015 due to concerns about how "Children in conflict with the law" are handled. Among other major reforms, the Act created a new Juvenile Justice Board and boosted funds for the rehabilitation of "Children in conflict with the law."³⁴

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

Numerous significant measures for the rehabilitation of children in conflict with the law in India were introduced under the Juvenile Justice (Care and Protection of Children) Act of 2015, demonstrating a commitment to restorative justice and a child-centered approach to juvenile justice. The Juvenile Justice (Care and Protection of Children) Act of 2000 and the Juvenile Justice Act of 1986 were both replaced by this new legislation.³⁵

Provisions related to restorative justice

A child in conflict with the law is defined under Section 3(1)(f)³⁶ as an individual who has been blamed for violating the law yet who was younger than 18 at the hour of the alleged offence. According to the Act's Section

³⁴ The Juvenile Justice (Care and Protection of Children) Amendment Act, 2015, No. 2, Acts of Parliament, 2015 (India)

³⁵ Juvenile Justice (Children's Rights and Safety). Act, 2000, No. 56, *supra* note 32.

³⁶ Juvenile Justice (Care and Protection of Children) Act, 2015, § 3(1)(f), available at <https://cara.nic.in/PDF/JJ%20act%202015.pdf> (last accessed Apr. 3, 2023)

3(2)³⁷, no minor may be given an irrevocable sentence of death or life in prison without the chance of parole.

Also, the JJ Act divides juvenile offences into three distinct types, as detailed below:

According to Section 2(33), ‘heinous offences’ comprise any crime for which a sentence of seven years in prison or more is required by legislation, whether it be the Indian Penal Code or another currently in effect;

According to Section 2(45) of the Indian Penal Code, ‘petty offences’ are any crimes for which the most extreme discipline under the Indian Penal Code or some other regulation currently active is as long as three years in jail;

Any offence for which the maximum term under the Indian Penal Code or any other legislation now in force is three to seven years in jail is considered a ‘serious offence’ under Section 2 (54).³⁸

Principles of rehabilitative and social reintegration programming for children in conflict with the law are discussed in Section 15³⁹ of the Act. As part of the process of rehabilitating and reintegrating children into society, the Child Welfare Committee must design an individualized consideration plan for each youngster. This plan should take into consideration the child's best interests as well as the meaning of accommodating the child's care, safety, and development.

³⁷Juvenile Justice (Care and Protection of Children) Act, 2015, § 3(2), available at <https://cara.nic.in/PDF/JJ%20act%202015.pdf> (last accessed Apr. 3, 2023)

³⁸ The High Court of Delhi, "Rakesh v. The State of NCT of Delhi," 2008 SCC (Cri) 1838

³⁹Juvenile Justice (Children's Rights and Safety). Act, 2015, § 15, available at <https://cara.nic.in/PDF/JJ%20act%202015.pdf>, accessed 03 Apr. 2023.

Juvenile Justice Boards are established in each district to hear matters involving "Children in conflict with the law" per Section 19⁴⁰ of the Act. The Board is in charge of investigating the situation, figuring out what kind of help the child needs, and issuing directives to get him back into society. Guidelines for the treatment and reintegration of "Children in conflict with the law" into society are outlined in Section 37⁴¹ of the Act. The Child Welfare Committee will work with the child to create a plan for rehabilitation that may include therapy, schooling, job skills development, and volunteer work.

Rehabilitation of Children In Conflict with Law: A Judicial Approach

A humanistic and rehabilitative approach to juvenile justice was emphasized by the Supreme Court in the case *Sheela Barse v. State of Maharashtra*⁴² which acknowledged the significance of social reintegration and the possibility of reform and rehabilitation of juvenile offenders.

The Supreme Court ruled in *Gopinath Ghosh vs. State of West Bengal*⁴³ that helping juvenile criminals to become productive members of society should be the primary goal of the juvenile justice system, not retribution. The Delhi High Court ruled in *Salil Bali v. Union of India*⁴⁴ that rehabilitating 'Children in conflict with the law' ought to be done in a manner that is both individualized and child-centered with consideration given to the child's unique set of circumstances.

⁴⁰ Juvenile Justice (Children's Rights and Safety). Act, 2015, § 19, available at <https://cara.nic.in/PDF/JJ%20act%202015.pdf>, accessed 03 Apr. 2023.

⁴¹ Juvenile Justice (Children's Rights and Safety). Act, 2015, § 37, available at <https://cara.nic.in/PDF/JJ%20act%202015.pdf>, accessed 03 Apr. 2023.

⁴² *Sheela Barse v. State of Maharashtra* (1983) 2 SCC 96.

⁴³ *Gopinath Ghosh v. State of West Bengal*, AIR (1986) SC 828 (India).

⁴⁴ *Salil Bali v. Union of India*, (2013) 7 SCC 705.

Difficulties and Criticisms of the Current System

Since its passage in 1986, India's Juvenile Justice Act has greatly improved the country's legal system for managing juvenile offenders. However, there remain a number of difficulties and criticisms of the current system that must be resolved. The next section addresses some of these complaints and concerns.

Inadequate funding and facilities is one of the principal obstacles. Trained staff, counseling services, and housing and educational infrastructure are only some of the many resources needed for the rehabilitation process. However, these necessities are often lacking in existing juvenile justice institutions, which has a negative impact on the success of rehabilitating and reintegrating such children into society.

An additional difficulty is the requirement for better cooperation amongst relevant parties. The police, the Juvenile Justice Board, Child Welfare Committees, and non-governmental organizations (NGOs) must all work together to help children who are in need of rehabilitation.

But the rehabilitation process is often slowed down and the effectiveness of the legal framework is diminished due to the absence of coordination between the stakeholders. Emphasis is often placed on institutional care. Even though residential treatment programmes have their place in the rehabilitation process, they are not the only choice. The current administrative system doesn't really handle community-based rehabilitation programme and other alternative kinds of rehabilitation that may be more successful in some circumstances.

In addition, the Juvenile Justice Act of 2015's implementation of restorative justice principles have been met with skepticism. Regardless of the way that restorative justice is an effective method of rehabilitating offenders, its principles are not clearly defined in the law.⁴⁵

The Supreme Court of India ruled in the case of *Gaurav Kumar v. State of Haryana*⁴⁶ that all aspects of juvenile justice, from prevention to intervention, treatment and rehabilitation, must be given equal weight. The Supreme Court ruled that children should be given a second chance through the process of resolving juvenile justice cases and their rehabilitation into society.

The fact that significant progress has been made in India's juvenile justice system in recent years, it still faces a number of obstacles and criticisms. The public authority has an obligation to fund and support rehabilitation programme, encourage better cooperation among stakeholders, and investigate options for rehabilitation beyond institutional settings. Clarity is also required with relation to the application of restorative justice principles.

Requirement For a Reformative Approach

Rehabilitating ‘Children in conflict with the law’ requires a reformative approach which acknowledges that the child is not intrinsically terrible or evil but has committed an offence owing to many causes, including economic, social, and environmental ones. Instead of simply penalizing the child for their misdeeds, a reformative approach looks to address the underlying causes that lead to the child's delinquent behavior which is not the case in an punitive

⁴⁵ V.S. Chandel, M. Prasad, *supra* note 13.

⁴⁶ *Gaurav Kumar v. State of Haryana*, (2012) 12 SCC 635.

approach. The latter has far-reaching detrimental effects on the child's development and future chances since they lead to stigmatization, marginalization and further criminalization of the youngster.

For 'Children in conflict with the law' it is preferable to use a reformative strategy that takes into account the child's needs as a whole in order to help in their rehabilitation and social reintegration. All aspects of a child's life are addressed so that they can learn to cope with their past, develop new skills and eventually become contributing members of society. The reformative method incorporates the child's family and community into the recovery process and places emphasis on the child's positive characteristics instead of their weaknesses.

In addition, the goals of restorative justice which include mending the relationships among offenders, victims and the larger community subsequent to the commission of an offence are consistent with a reformative strategy. The goal of the reformative approach is wanting the young offenders to take ownership of their actions, make amends, and rejoin society as productive adults.⁴⁷

Goals of a Rehabilitation Centre

The study focuses on the role of the rehabilitation center and the rights of juveniles. The following are guaranteed to every juvenile offender:

- a) No cruel or unusual punishment;
- b) No physical abuse

⁴⁷ *Ibid.*

- c) Isolation from adult inmates if imprisoned
- d) Permission to consult with an attorney
- e) Possibility of posting bail or being released on personal recognizance
- f) Confidentiality
- g) Diversion for eligible offenders
- h) Reasonable sentencing
- i) Tolerable limits on individual freedom
- j) Automatically suspending a sentence
- k) Constitutional rights
- l) Probation, if qualified
- m) Confidentiality of proceedings
- n) Discrimination rights⁴⁸

Based on the principle that *an ounce of prevention is worth a pound of cure*, the goal of reducing criminal activity and juvenile delinquency is commendable.⁴⁹ Juvenile delinquency can be reduced and prevented by a number of interventions including early identification, prevention, and treatment. This is why it's important for schools and communities to focus on delinquency prevention by teaching students how to regulate their emotions

⁴⁸ The Supreme Court of India, "Deepika v. State," 2005 SCC (Cri) 1033

⁴⁹ K. Kusum, Juvenile Delinquency: A Socio Legal Study (KLM Book House, New Delhi, 1979)

and actions.⁵⁰ Focusing on the juvenile offender and his family or community is central to secondary prevention.⁵¹

Prevention - Prevention is the cornerstone of any successful strategy for reducing criminal activity. Early signs of delinquency in a youngster can include things like minor theft, a lack of interest in school work and eventually the development of more serious criminal tendencies suggesting that delinquency is a progressive process. Children whose teachers and parents have noticed these kinds of conduct should be counseled. Delinquency prevention is adjusting both the offender and their surrounding environment to reduce the probability of offending behaviors. Fixing the underlying causes of adolescent delinquency such as strained family relationships, difficulty in adjusting to school and a lack of opportunities for growth and development is part of this.⁵²

Trading - The criminal justice system consists mostly of the police and the courts. In matters involving young offenders, the police have a more central role.⁵³ Law enforcement is required to take an active role in situations involving minors, as stated by the statutes themselves including the Suppression of Immoral Traffic in Women and Girls Act of 1956,⁵⁴ the Central Children Act, 1960,⁵⁵ the Prevention of Beggary or Vagrancy Acts of

⁵⁰ 3 Issues, Policies, and Programmes for Child Development by DOLLY SINGH (Kanishka Publishers, New Delhi, 1995).

⁵¹S.P. SRIVASTAVA, JUVENILE JUSTICE IN INDIA: POLICY PROGRAMME AND PROSPECTIVE (Ajanta Publication, New Delhi, 1989).

⁵²S.L. GOEL, R.K. JAIN, SOCIAL Government assistance Organization (Deep & Deep Publications, 2002).

⁵³ K. KUSUM, *supra* note 48.

⁵⁴ The Immoral Traffic (Prevention) Act, 1956, No. 33, Acts of Parliament, 1956 (India), available at

https://www.indiacode.nic.in/bitstream/123456789/15378/1/the_immoral_traffic_%28prevention%29_act%2C_1956.pdf (last accessed Apr. 3, 2023)

⁵⁵ The Children Act, 1960, Ministry of Women & Child Development, India, available at <https://wcd.nic.in/children-act-1960-60-1960> (last accessed Apr. 3, 2023)

various States⁵⁶ and the Central Probation of Offenders Act, 1958.⁵⁷ This can be accomplished by establishing juvenile police units with specialized training to aid in the identification of juvenile offenders and potential offenders.

Treatment - Correctional facilities use therapy with convicts as a means of rehabilitating them and reducing their offending activities. The Juvenile Justice (Care and Protection for Children) Act, 2000 guarantees that children who are socially at-risk get the care and protection they need.⁵⁸ The Act mandates the establishment of the Board by authorizing the State government to establish one or more Juvenile Boards with jurisdiction over juveniles who have broken the law either for a single district or for a collection of districts. The Board is made up of a Metropolitan Magistrate or a Judicial Magistrate of the first class depending on the case and two social workers, at least one of whom must be a woman.⁵⁹ The Board will hold the inquiry and can make whatever order it thinks is best.⁶⁰ In accordance with Section 8 of the Juvenile Justice (Care and Protection of Children) Act of 2000⁶¹ Juveniles may be detained in observation homes, which provide them with a place to live, food, and medical care in addition to providing them with informal education and moral guidance. According to Section 9 of the Juvenile Justice (Care and

⁵⁶ Prevention of Beggary or Vagrancy Acts of Various States, 2010, Ministry of Social Justice & Empowerment, New Delhi, India, available at <https://pib.gov.in/newsite/PrintRelease.aspx?relid=67734> (last accessed Apr. 3, 2023).

⁵⁷ The Probation of Offenders Act, 1958, No. 20, Acts of Parliament, 1958 (India), available at <https://indiankanoon.org/doc/167447/> (last accessed Apr. 4, 2023).

⁵⁸ Juvenile Justice (Care and Protection of Children) Act, 2000, No. 56, Acts of Parliament, 2000 (India), available at https://www.indiacode.nic.in/repealed-act/repealed_act_documents/A2000-56.pdf.

⁵⁹ Juvenile Justice (Care and Protection of Children) Act, 2015, § 4, available at <https://cara.nic.in/PDF/JJ%20act%202015.pdf> (last accessed Apr. 3, 2023).

⁶⁰ Act for the Care and Protection of Children in Juvenile Justice Act, 2015, § 14, available at <https://cara.nic.in/PDF/JJ%20act%202015.pdf>,(last accessed Apr. 3, 2023)

⁶¹ Act for the Care and Protection of Children in Juvenile Justice Act, 2015, § 8, available at <https://cara.nic.in/PDF/JJ%20act%202015.pdf>,(last accessed Apr. 3, 2023)

Protection of Children) Act of 2000,⁶² states are allowed to give places of refuge to youngsters who have gotten into legal trouble all over the country. As per Section 29 of the Juvenile Justice (Care and Protection of Children) Act of 2000⁶³, each state is required to appoint a Child Welfare Committee to oversee the care, protection, treatment, development and rehabilitation of children in their jurisdiction as well as meet their basic needs and safeguard their human rights.⁶⁴

Rehabilitation Methods

The activities below are examples of rehabilitative programming that might be implemented everyday in Observation Homes and Special Homes:

1. **Discipline** - Juveniles who are subjected to discipline in the form of structured courses are more likely to mature into productive adults. The youngsters benefit from the rigid schedule because it encourages them to learn self-control.
2. **Yoga** - Yoga helps kids develop both mentally and physically. Yoga breathing techniques and postures including pranayama, surya namaskar, halasana, vajrasana, trikonasana, bhujangasana, padmasana, dhanurasana, mudrasana, vakrasana, and shavasana are presented to young people. This helps them do their daily tasks and maintains their level of physical activity all day long.

⁶²Act for the Care and Protection of Children in Juvenile Justice Act, 2015, § 9, available at <https://cara.nic.in/PDF/JJ%20act%202015.pdf>,(last accessed Apr. 3, 2023)

⁶³Act for the Care and Protection of Children in Juvenile Justice Act, 2015, § 29, available at <https://cara.nic.in/PDF/JJ%20act%202015.pdf>,(last accessed Apr. 3, 2023)

⁶⁴Act for the Care and Protection of Children in Juvenile Justice Act, 2015, § 31(1), available at <https://cara.nic.in/PDF/JJ%20act%202015.pdf>,(last accessed Apr. 3, 2023)

3. **Meditation** - The benefits of regular meditation practice are numerous. Juveniles who meditate reap numerous benefits, including a reduction in anxiety, a boost in focus and concentration, enhanced health and well-being, and a more stable mental and emotional state. Early in the morning, soothing music is recommended. The children's day-long dispositions are positively impacted by their daily practice of meditation and stillness.
4. **Personality development** - Each child needs to have faith in his own abilities to make positive changes in his life, and everyone involved needs to encourage and inspire the kids to work towards their goals. Juveniles should be nurtured through education and awareness campaigns to help them grow into well-rounded adults. Juveniles can benefit from self-esteem building and negative peer impact prevention training.⁶⁵
5. **Counseling** - Juveniles should be seeing qualified counselors on a regular basis. Children's mental health cannot be improved without counseling help. Improving their sense of self-worth and rescuing them from the weight of social prejudice and other demoralizing influences is crucial.⁶⁶
6. **Skill and Vocational Training** - The best way for institutions in order to encourage kids to develop their greatest potential is to carefully observe and evaluate each child on an individual basis. In some cases, a child's potential cannot be fully realized without additional instruction and guidance. Organizations primarily provide

⁶⁵ Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2015 (India).

⁶⁶ The Supreme Court of India, Deepika v. State," 2005 SCC (Cri) 1033.

training in areas like beauty culture, computer courses like Tally, MS Office, MS Excel, Hardware, desktop publishing, etc., and ‘cutting and tailoring’ like ‘dressmaking, sewing, and fashion designing’ among others. The provision of typing and stenography services is very common. Juvenile offenders who receive training from appropriate resource individuals can improve their abilities and eventually enter the workforce. A good method of rehabilitation is vocational schooling. Reintegration refers to reintroducing a youngster back into adult settings. Prayas Observation Home for Boys (POHB) runs a programme called ‘Yuva Connect Aftercare Programme’ which assists youngsters with legal problems get back on their feet by preparing them for the workforce and networking opportunities. It's a programme for young people in Delhi who have as of late moved on from or left POHB and require help with social integration and rehabilitation of CCLs. The government needs to establish a policy also give satisfactory financing to such programme so that non-governmental organizations can take the lead.⁶⁷

7. **Bal-Panchayat** - The children in care should hold a Bal-Panchayat (Child self-governance) every week with their peers. Bal-Panchayat's goal is to encourage people to get a sense of ownership with their community. It fosters a sense of community among the children. Bal-Panchayat teaches children responsibility, boosts their confidence, encourages them to work together and think in a methodical way,

⁶⁷ A study conducted by the Department for Women and Child on Rehabilitation of Children in Conflict with the law
https://wed.nic.in/sites/default/files/SOP%20ON%20REHABILITATION%20OF%20CHILDREN%20IN%20CONFLICT%20WITH%20THE%20LAW_0.pdf accessed as on 1st of January, 2024.

makes it easier for them to define and achieve their goals, and solves any issues that may arise. Children are given a methodical and democratic outlet to have their voices heard by the administration through Bala-Panchayath.

8. **Computer based Education** - With the pace of modern life, computers have become indispensable. Juveniles have an opportunity to expand their technical literacy through computer education.
9. **Development of short-term courses** - According to the research, Juvenile delinquency in India is largely attributed to a lack of education and literacy⁶⁸. Children are attracted to criminal behavior for several reasons including poverty and a lack of employment possibilities. Institutions can aid in the fight against illiteracy, ignorance, and poverty by assisting juveniles in acquiring marketable skills and securing gainful work through the creation of shorter-term educational programme.
10. **Craft and Art therapy** - Crafting and other innovative pursuits are perfect for youngsters since they help them unwind, feel proud of their work, develop motor skills, find a meaningful interest they can enjoy for the rest of their lives, keep their minds sharp and so on. There needs to be consistent training for juveniles in institutions from knowledgeable instructors. The therapeutic benefits of music,

⁶⁸ see generally, Katsiyannis, A., Ryan, J.B., Zhang, D. and Spann, A., 2008. Juvenile delinquency and recidivism: The impact of academic achievement. *Reading & Writing Quarterly*, 24(2), pp.177-196.

dancing and the visual arts are well-documented. Thus these forms of expression should be encouraged at home.

11. **Spoken English** - English has emerged as a worldwide language and a vital instrument in the process of globalization. Around the world, English has become the de facto language of trade and travel. Juveniles should have regular access to a competent teacher who can instruct them in the art of spoken English as part of the curriculum at the institution where they are housed.
12. **Cultural Gathering** - Weekly cultural meetings should be incorporated into the institution's family-friendly routine. It's crucial to the growth of Juveniles as a whole, too. As a result, children's latent abilities can shine through. The children put on shows each week, showcasing their talents in dancing, theatre, public speaking, and more. A self-disciplined and self-assured group will emerge from this cultural gathering. Furthermore, it helps them develop better abilities, acquire more information, and cultivate a more optimistic outlook.
13. **Drama and Dance practice** - Juveniles' artistic qualities would be detected, and classes would be set up to bring out their hidden talents, in order to enrich the youth on the cultural front.
14. **Gardening, Farming, and Animal Husbandry** - Juveniles who have been presented to farming, gardening, and animal husbandry have a better chance of being self-sufficient upon their eventual release.
15. **Games and Sports** - The old adage that 'Jack, if he doesn't get to play, will become a dull boy' holds true for any child. Physical

activity is essential for them to establish a habit and restore their energy. So, it's important to keep children active on a regular basis without putting their safety at risk.

16. **Fun and games** - Television shows and indoor games might be helpful tools for providing some variety in their day to day daily schedule. This aids in alleviating the monotony and dullness in their daily life.
17. **Individual care plan** - In accordance with Section 39 of the JJ Act⁶⁹ each juvenile is entitled to an individualized plan for their restoration and social reintegration that considers their specific requirements and the range of services available to them. In doing so, their individual requirements can be pinpointed and met more efficiently. Regular reviews of the individualized care plan are necessary to guarantee that it remains flexible and adaptable to the changing requirements of the child.
18. **Rehabilitation through academic training** - Studies have demonstrated that destitution is a major factor in juveniles becoming involved in criminal activity. Self-sufficiency is a critical factor in children's long-term growth and development. Gaining economic independence is best accomplished by helping these children secure jobs in the most desirable settings. It might be possible to establish a bridge between institutions and the professional education offered by universities.

⁶⁹Juvenile The Judiciary (Children's Care and Protection) Act of 2015, § 39, available at <https://cara.nic.in/PDF/JJ%20act%202015.pdf>, accessed 03 Apr. 2023.

19. Post-release follow-up - Every child who is released from an institution should be part of a regular follow-up programme designed to keep them out of trouble. It is crucial that the facility maintains regular communication with the kids and their families. Recidivism can be mitigated through a consistent aftercare programme. Juvenile correctional facilities should hold meetings every six months to discuss the inmates' progress and determine what further services are needed for their rehabilitation. The project's ultimate objective is to preserve the recidivism rate at zero. These initiatives include participation from parents, social workers from similar NGOs, SJPU police officers, and the Superintendent of the Government Juvenile Home for Boys. The project provides both parents and children with access to group and individual therapy sessions, and it maintains contact with participants and their families through periodic follow-up sessions. Children are given a safe space to share their worries and concerns in a social scene, where they can acquire understanding from the experiences of their peers and foster procedures for defeating their fears and achieving their goals for the future.⁷⁰

Challenges in Rehabilitating Children in Conflict with the Law

Getting children in conflict with the law back on the right track is a complex and multifaceted process. Despite the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015, there are several barriers to rehabilitation for children in conflict with the law in India.

The Problem of Overcrowding in Juvenile Homes

⁷⁰Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2015 (India), § 27.

The overpopulation of juvenile homes is a serious problem that must be addressed if children in conflict with the law are to be rehabilitated successfully. The overcrowding that plagues most of India's juvenile homes causes a host of issues, including a lack of privacy for residents, poor sanitation and substandard living circumstances. According to the National Commission for the Protection of Child Rights (NCPCR) in 2018, 12 Indian states had a juvenile home occupancy rate of above 100%, while 4 states had a rate of over 200%.⁷¹

Juvenile home overcrowding denies kids their constitutional protections and slows down their recovery. Due to a lack of facilities, children are restricted from engaging in extracurricular pursuits and are denied access to high-quality academic and vocational education. There is a higher opportunity of physical or sexual maltreatment or double-dealing when there are an excessive number of children in one place.

The government must act rapidly to help the limit of existing juvenile homes and create new ones to solve this problem. It is also crucial to guarantee that the facilities in the juvenile homes are suitable and that the children are well cared for. Community-based rehabilitation programme and other non-traditional approaches to helping troubled youth recover and rejoin society should be explored by the government.⁷²

Procedural Lags in the Judicial System

Rehabilitating children in conflict with the law in India is made more difficult because of the lengthy and complex judicial process. Factors like a lack of

⁷¹The National Commission for Safety of Children Rights (NCPCR), 'Annual Report 2018-2019', (New Delhi, Government of India, 2019), p. 69.

⁷² Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2015 (India), § 4.

skilled people, poor infrastructure, and bureaucratic inefficiencies can add months or even years to the time it takes to investigate, try, and resolve cases involving children. The lengthy time children spend in institutions awaiting trial and case resolution, legal delays might have a negative effect on their chances of successful rehabilitation.

Children's mental health may suffer if the legal process takes too long, increasing their anxiety and terror. As a corollary, children whose cases go on indefinitely in institutional care may grow cynical about the justice system and isolated from their peers. This can be an extra hindrance to their recovery and reintegration into society.

In order to reduce the harmful effects of extended institutionalisation on children in conflict with the law, it is crucial to solve the problem of delays in the legal process and provide a prompt and fair trial for these youth. The architecture of the juvenile justice system, the number of skilled people, and the efficiency of administrative procedures are all areas where improvement is possible. Cases involving Children in conflict with the law might likewise benefit from mediation and restorative justice, two alternative debate goal processes that can help move the legal process along and bring about a quicker settlement.

Lack of Monetary Support

India's juvenile justice system is severely underfunded, understaffed and under-equipped. Overcrowding, poor sanitation and a lack of educational and employment opportunities are only some of the consequences. Care for such children also suffers from a lack of resources for the same reason. Many children miss out on critical medical and mental health care because of a shortage of skilled personnel and adequate facilities. It is also challenging to

offer particular consideration for youngsters with extraordinary requirements, for example, those with impairments or mental health concerns because of lack of resources.

The unequal distribution of resources throughout India's various states and regions exacerbates the country's already serious resource shortage. Some states have fully-staffed and adequately-funded juvenile correctional facilities while others have serious financial shortages.

It will be necessary to provide more financing and resources to the Juvenile Justice system in order to meet this challenge head-on. Funding from the government, collaboration with nonprofits and businesses, and overseas assistance are all viable options. It is also important to work towards a more equitable distribution of resources between states and regions to guarantee that all children in conflict with the law have access to the services they need. Other causes include discrimination, stigma, and a general lack of coordination amongst relevant parties.

Conclusion

The only way to reduce juvenile crime is for the Juvenile Justice Act to be fully implemented, with any necessary revisions made. The juvenile justice system as a whole must be changed before it can successfully rehabilitate juveniles who are in confrontation with the law. Juvenile detention centers and observational homes are in dire need of repair. A national strike is necessary so that all children in the country have access to quality healthcare, education, and living conditions. Numerous other issues exist at the grassroots level, in addition to the plethora of laws pertaining to children. The Government-funded children's homes sometimes have little room for neglected children. In rare cases, children are even locked up. As a result,

the growing number of children in India and the widespread lack of knowledge about their rights pose challenges to the effective implementation of child-related laws and the upkeep of children's homes.

The best way to reduce juvenile crime is to ensure the Juvenile Justice Act is implemented and updated to reflect current realities. It's critical that the general public be made aware of the existence of this societal illness. Juveniles who commit crimes are not bad people; rather, they are innocent bystanders. Careful intervention in the family and the classroom can prevent juvenile delinquency from developing. A child's development as a thinker is greatly aided by the efforts of both parents and educators. Instead of labeling them as 'criminals' or 'delinquents', it would be more effective to help them correct the social and psychological flaws that have contributed to their bad behavior. There is a correlation between the flaws and misalignments in our society and the prevalence of juvenile delinquency. Gradually, the idea that young offenders require humane treatment rather than harsh punishment is gaining traction in our society.

In conclusion, rehabilitating 'Children in conflict with the law' is a complicated and diverse issue that requires a holistic and reformative strategy. The Juvenile Justice (Care and Protection of Children) Act of 2015 which forms the basis of India's juvenile justice system is conducive to a restorative approach to rehabilitation. In spite of this, the rehabilitation of 'Children in conflict with the law' faces substantial obstacles such as congestion in juvenile facilities, delays in the judicial procedure, and a lack of resources. A child-centered approach to rehabilitation, improved stakeholder cooperation, and increased funding for therapy are all necessary to overcome these obstacles.

In the end, the purpose of rehabilitation is to equip ‘Children in conflict with the law’ with the tools they need to move past their adverse circumstances and become contributing members of society. The future of ‘Children in conflict with the law’ can be improved by funding rehabilitation programmes that place a premium on reformative techniques.