



# Rehabilitation Of Juvenile Offenders In Accordance With The Provisions Of Juvenile Justice (Care And Protection Of Children) Act 2015

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## ABSTRACT

Upon examining all facets, including the laws and policies established by the government for individuals under the age of 18 or those who have not yet reached the age of majority, it is indeed feasible to rehabilitate them. Children who are accused of offenses can certainly be reintegrated into society. As established by law, individuals under 18 years of age are classified as minors, indicating that they have not yet attained the level of maturity necessary to distinguish between good and bad, as well as right and wrong.

This indicates that they lack a sufficient understanding that would enable them to comprehend not only the legal implications but also the ethical considerations. Overall, they do not possess the knowledge required to lead a peaceful, virtuous, and religious life, which is essential for fostering good faith and developing the understanding necessary for a meaningful existence.

## INTRODUCTION

As we know that our country is considered to have the largest youth population all over world, after few years in many countries, people become old and the efficiency of the people will decrease and this affects the countries growth, and economy.

Moreover, The young generation is considered to be an asset, not only for the family, but also for the country itself, and if in case the children get charged with offences, this becomes a serious problem for everyone, but after taking proper measures and with proper techniques and guidance, we can rehabilitate them and helps them to come back on the right track and serve the country. That is why various laws have been made, and in fact various policies are also made by the government of India to help the people, especially children to grow and foster in the right direction.

So it is not impossible for children. If charged with heinous offences cannot be rehabilitating. With proper mentorship and proper mechanism, children can be rehabilitated again as we know that they are not the full-fledged criminal because child is one who has not attained the majority, obviously if one minor by proper

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reformatory measures. We can definitely convert them into law-abiding children because their mental state is still growing.

Before thinking of all the factors and circumstances involved with that child, who has committed heinous offence and comes to the conclusion that we cannot rehabilitate that child is completely wrong, that is why the Indian courts also take into consideration all the circumstantial evidences and proper mental assessment of the child before coming to the conclusion.

So, we can definitely rehabilitate children who are charged with heinous offences again with the community so that they can be successful in future removing all the obstructions and social disruptions from the path of the children.

## **DEFINITION OF CHILD ACCORDING TO JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2015**

According to Juvenile Justice (Care and Protection of children) Act, 2015

A child is someone who hasn't attained eighteen years.<sup>2</sup>

## **MEANING OF JUVENILE OFFENDERS**

Juveniles are basically those children who have not attained the majority that is who have not completed the age of 18 years. Since we know and in fact the law also says that those children who are still minor are not considered as adults and they have not developed mature level of understanding, those in which sufficient level of understanding have not been developed can easily be manipulated using both internal and external factors. These factors in result instigates the children to commit a crime.

So, juvenile offenders are those children who have not attained the majority but commit a crime are called juvenile offenders. The law does not treat them as adults and so the government has specially made the provisions to deal with these specofoc children and not to treat them as adults.<sup>3</sup>

The government has specially designed juvenile homes in which proper rehabilitation measures are done to bring back those children on a right track of humanity and making them a law abiding citizen thereby helping them in becoming an asset for the country by living their rest of the life peacefully.

## **REHABILITATION OF JUVENILE OFFENDERS**

Since we know that the juveniles are those children who are below the age of 18 years that is the children who have not attained the majority. So those people who are juveniles, it is definitely and absolutely possible that with the proper rehabilitation, we can help them to become a law abiding citizen p and helps in coming back to the track of humanity.

As we know that the children who once get the stigma of "offender" it is very difficult to removed the tag from them because even if the process of rehabilitation becomes successful on that children and it changed the mind of the children innto the right track but with Those stigmas and discrimination, it is a strong tendency that they will again turn back into the wrong path because if they see themselves as segregated, lack of employment facilities, lack of trust of the people on them, lack of financial support, all these factors significantly contribute them into the wrong path again.

This is the greatest factor where all the government policies, govt made rehabilitation centres go in vain if those children get these types of response from their neighbourhood and from the society as well because

<sup>2</sup> Juvenile Justice (Care and Protection of children) Act, (Act 2 of 2015) s 2 cl 12

<sup>3</sup> The Bharatiya Nyaya Sanhita, 2023 (Act 47 of 2023)

ultimately it is the society where children have to go back to live their lives and if that becomes unfavourable, all the efforts will be of no use.

So, the proper rehabilitation of juvenile offenders are important not only in the government made specialized homes like the juvenile homes, the foster care services but it is equally be put in mind that without the proper management at the society level, rehabilitation is not completely possible. With the proper management and the care services one can definitely rehabilitate those children and helps them to live their life peacefully in the near future.

## COMMON FACTORS LEADING TO JUVENILE DELINQUENCY<sup>4</sup>

Some of the common factors which are leading to juvenile delinquency are-

- **Moral Guidance is not present**

Moral guidance is one of very important factor which should be present in every family while dealing with a child. Lack of moral guidance and not guiding the children about what is right and wrong, what is good and bad by their parents, guardians, the children in those families tend to become violators of law as they don't know what the acceptable standards in the community are. So, proper guidance from the mentors and giving proper and suitable environment to the children so that he/she opens up in the family to tell what he/she is thinking and this ultimately builds a close connection with the minds of the children with that of their family members, which helps them to remain in a right direction.

- **Not providing a friendly environment**

Lack of friendly environment and suitable environment in the families are a common problem which puts negatively affects the mindset of the child to become more prone to the bad activities. Maintaining close bond between child and members of the family are a very important factor to be present in the family to remove the bad impressions from the minds of the children.

- **Drug abuse**

It is a very common factor nowadays in the society which tends to attract the children, especially the teenagers and they get addict with the drugs, alcohol, cigarette smoking, which ultimately ruins the overall development of the child.

- **Lack of mentorship**

Nowadays, due to the lack of mentorship in the lives of the children is a common factor which leads them in a wrong path as they have not attained sufficient maturity, so it becomes very difficult for the wrong people to manipulate the children to go in a wrong direction.

- **Poor education facilities**

Due to the lack of education facilities or the poor education facilities, children are unaware with the issues, acceptable standards of the society, wrong path, right path, and so they become so much confused that it becomes easy for the offenders to manipulate the children by telling them what is wrong, and the children accept that as right due to lack of awareness.

## THE PROCESS OF REHABILITATION IN THE JUVENILE JUSTICE SYSTEM

The juvenile Justice board is basically designed for the children also called as juveniles who are below the age of 18 years. Sometimes, with some influence whether external or internal or having some bad/wrong mindset, juveniles commit crime that is do any act which is prohibited by law for which they have to go to juvenile homes to complete their sentence of imprisonment. The government has specially designed the juvenile homes to separate them from the other major offenders and the habitual offenders. With the help of juvenile homes, the children get rehabilitate to reintegrate back with the society.

<sup>4</sup> Factors of juvenile delinquency, India, available at <https://www.nicewicz.com> (last visited on 1 March 2025)

Rehabilitation is basically the process through which the children gets recover from negative impacts on their mind which forced them to commit a crime. With proper guidance of the experts, and with the specialized technologies, child becomes a law abiding citizen and serves the country wholeheartedly.<sup>5</sup>

The rehabilitative process includes a variety of aspects like proper psychological treatment or guidance is given by the experts and help children to identify every act. They do in their daily life and the crime they have committed, to properly assess and differentiate what is right and what is wrong. Proper healthy environment is provided to the venial and makes them identify what is good for them in life and what should not be done to avoid any wrong act in the near future. In fact, in the rehabilitated process, also includes mind developing activities which are performed by the Children, and which in result helps their mind and mindset to become good, healthy, and positive.<sup>6</sup>

Yoga has a significant aspect of the rehabilitative process, which helps in calming the mind of not only the juvenile, but also of every person who performs yoga with proper concentration. Yoga is a major part of rehabilitative process, which helps in faster and easy recovery of the juvenile and with proper rehabilitation, the juvenile reintegrate back with the society.

Proper rehabilitation helps in the speedy recovery of the juveniles by inculcating positive mindset in the children because as we know, in fact, law also says, below 18 years, children does not know what is good and what is bad. So, with proper rehabilitative measures, help them to become a positive person and a law-abiding citizen which in turn becomes an asset for the country.

## **LEGAL PROVISIONS MADE FOR THE CHILDREN TO REHABILITATE THEM UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION) ACT 2015**

It is specifically designed the care and protection of the children who have not attained the majority.

- Section 3

Under the provisions of this act, the central, state government and other authorities have made certain fundamental principles which are to be taken care of while implementing the provisions under this act like every child shall presumed to be innocent until proved otherwise, be treated with proper human dignity. Every child shall have the opportunity of being heard and has the right to participate in all the proceedings and decisions related to him/ her. Every child has the right to get proper care from their families or in foster care homes and neither the child can waive his or her right and nor discrimination shall be done against any child.<sup>7</sup>

- Section 39

The children are kept in their families or with their guardians, along with their siblings for the proper care and rehabilitation of those children, unless it is required to not to keep them together. It also says that the children who are not placed in their families along with their guardians or siblings are placed in specially organized institutions for their care and well-being. The child, attained or about to attain 18 years, may also be given protection as also given under other section, by giving them financial support to help them to feel confident, which helps them to easily re-integrate with the society.<sup>8</sup>

- Section 40

The competent authority has all the powers to send back any child to his/ her parents or guardian or with someone who has close relationship with that child for the care and protection to help the child to re-integrate with society which ultimately help the child to become a law-abiding citizen in the near future.<sup>9</sup>

<sup>5</sup> Juvenile Justice and Rehabilitation, India, available at <https://juriscentre.com> (last visited on 1 March 2025)

<sup>6</sup> Rehabilitation of Juveniles, India, available at <https://blog.ipleaders.in> (last visited on 1 March 2025)

<sup>7</sup> Juvenile Justice (Care and Protection of children) Act, (Act 2 of 2015) s 3

<sup>8</sup> Juvenile Justice (Care and Protection of children) Act, (Act 2 of 2015) s 39

<sup>9</sup> Juvenile Justice (Care and Protection of children) Act, (Act 2 of 2015) s 40

- Section 44

Moreover, the state government can establish as many open shelters as they want for the need and support of the juveniles. They can either establish for temporary purposes or permanent purposes as they deem necessary for the protection and abuse of juveniles. The foster care services have also been provided by the state government by making proper rules and regulations related to this for the care, well-being and maintenance of the children who are in need of the foster care families to ultimately help them to reintegrate and rehabilitate again with the community. Proper foster care families have been formed to look after those affected children.<sup>10</sup>

- Section 46

The children who are about to complete their 18 years of age may help them financially, which helps them to join and re-integrate and re- rehabilitate again with the society.<sup>11</sup> It shall be the duty of the state government to make observation homes in every district or in a group of districts and proper laws and standards to be maintained for its proper functioning. It shall be the duty of the government to make proper rules for the management of these homes so that proper rehabilitation and reintegration of the juveniles are to be done there.

- Section 53

Under the provisions of this act, the state government may also establish the special homes with proper registration under the government in any district as it deems necessary for the proper care, rehabilitation, and reintegration of the juvenile suffering from any type of abuse or exploitation or delinquency. The special homes are also being made by the state government for the protection of the juvenile. All these rehabilitation and reintegration houses are registered under this act and the state government shall manage these institutions until deemed otherwise. Proper management committee has been set up to look after these institutions that whether these institutions have all types of necessary facilities included in it or not. Some of the necessary facilities like éducation, proper medical facilities, skill development facilities, giving proper education related to different aspects of the society. Proper awareness about what is right, and what is wrong for the person thereby helps to become law-abiding citizen.<sup>12</sup>

- Section 54

Moreover, the state government has also appointed with the inspection committee, who look after whether these institutions have been working rightly and in compliance with the act. If they found any kind of discrepancy, proper report be sent to the state government who in return take strict actions against defaulters.<sup>13</sup>

## LANDMARK JUDGMENTS RELATED TO JUVENILE JUSTICE (CARE AND PROTECTION) ACT, 2015

- *In Gopinath Ghosh versus State of West Bengal*<sup>14</sup>

*“The court held that it is important to know the age of the accused to get to know whether he falls under the category of juvenile or not.”*

- *In Sheela Barse versus Union of India*<sup>15</sup>

*“The Supreme Court held that the children who are below the age of 16 years must not be detained in jails as this affects the children’s mental health and development and so they should not be put in jails like adults who have attained maturity.”*

<sup>10</sup> Juvenile Justice (Care and Protection of children) Act, (Act 2 of 2015) s 44

<sup>11</sup> Juvenile Justice (Care and Protection of children) Act, (Act 2 of 2015) s 46

<sup>12</sup> Juvenile Justice (Care and Protection of children) Act, (Act 2 of 2015) s 53

<sup>13</sup> Juvenile Justice (Care and Protection of children) Act, (Act 2 of 2015) s 54

<sup>14</sup> AIR 1984 SC 237

<sup>15</sup> JT 1986 136



○ *In Jarnail Singh versus State of Haryana*<sup>16</sup>

*“The court held that the rules which are mentioned under the juvenile justice (care and protection) rules relating to the age of the accused can also be applied to protection of children from sexual offences act also.”*

○ *In Jitendra Singh @ Babboo Singh versus State of Uttar Pradesh*<sup>17</sup>

*“The Supreme Court held that the main aim of the criminal justice system regarding to minor is to provide proper measures for them for their re habilitation and reintegration with the society by making them a law abiding citizen.”*

○ *Case : Child in conflict with law through his mother versus the state of Karnataka*

*In this, the Supreme Court held that the time which is provided under Section 14(3) of the Juvenile Justice (Care and Protection) Act 2015 for determining both the physical and the mental capacity of a child who is below the age of 16 years in terms when serious offence is caused, the time which is prescribed is directory only.”*

○ *In Shabnam Hashmi versus Union of India*<sup>18</sup>

*“The Supreme Court held that the parents can adopt any juvenile under juvenile justice act irrespective of any caste, sex, religion etc as right to adopt is a fundamental right under part III of the constitution of India.”*

## RECENT UPDATES OF DIFFERENT COURTS ALL OVER THE INDIA RELATED TO JUVENILE JUSTICE <sup>19</sup>

- The latest Kerala High Court in its ruling has set aside the one year ban, which was there on the couple for doing the adoption of the children, stating that this ban on adoption was arbitrary and with the lack of consideration of all the factors. Therefore, even the one year couple can adopt the children in compliance with the provisions of the act.
- The latest Madras High Court held that the proper reformative measures to be implemented on the juvenile to bring them back with the main stream of the society and making them a law-abiding citizen. So, proper reformative methods should be followed.
- The Allahabad High Court in his recent ruling held that in order to grant bail to a child, who is a juvenile and falls under Juvenile Justice (Care and Protection) Act 2015, court said that the gravity of offence should not be taken into consideration as it is not a relevant factor in granting bail to the child.<sup>20</sup>

## CONCLUSION

While looking into all the aspects, laws, policies made by the government for the children below the age of 18 years or who have not attained the majority, it is definitely possible to rehabilitate them. The children who are charged with offences can definitely be rehabilitate back with the society. As we know even the law says that the people who are below the age of 18 years are considered to be minor, this means that they have yet to develop within themselves such maturity level which helps them to differentiate between what is good and what is bad, what is right and what is wrong.

<sup>16</sup> AIR 2013 SC 3467

<sup>17</sup> AIR 2016 SC (CRIMINAL) 50

<sup>18</sup> AIR 2014 SC 1281

<sup>19</sup> Recent updates on juvenile justice, India, available at <https://www.livelaw.in> (last visited on 3 March 2025)

<sup>20</sup> Juvenile delinquency, India, available at <https://www.hindu.com> (last visited on 4 March 2025)

This simply means that they have not present within them sufficient level of understanding that makes them to understand not only the legal aspects but also the ethical aspects, overall they do not know how to live peaceful, good, religious and along with the life that helps them to live with good faith and helps them to develop that level of understanding which helps them to live a meaningful life.

After all the young generation is considered to be an asset for the society and for the country itself, so with proper techniques, mechanisms, eliminating negative factors and promoting positive ways, we can definitely rehabilitate and reintegrate even those individuals also who are charged with heinous offences in a country like India, where we apply reformatory methods and specific measures and mechanisms to help those children in becoming a law- abiding citizen in the country for not only the pattern and well- being of the children, but also for the progress and development of the country, India itself.

