
ROLE OF INSTITUTIONAL CARE IN THE REHABILITATION AND REINTEGRATION OF CHILDREN IN CONFLICT WITH LAW: A CRITICAL ANALYSIS

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ABSTRACT

Indian juvenile justice law does not treat a child who has come into conflict with law as an adult offender in miniature. The Juvenile Justice (Care and Protection of Children) Act, 2015 requires the State to respond to the act committed, but in a manner that keeps the child's development, dignity and capacity for reform in view. Observation homes, special homes and places of safety are the institutional instruments of that response. Custody within such an institution, however, is not rehabilitation in itself. Rehabilitation is achieved only when the period of placement is used for education, counselling, health care, employable skills, work with the family and structured after-care. This article examines the statutory framework, tests institutional practice against it, identifies the recurring gaps between law and delivery, and proposes measures to make institutional care serve its declared purpose: the safe and lasting return of the child to society.

KEYWORDS: *Children in Conflict with Law; Juvenile Justice; Institutional Care; Rehabilitation; Reintegration; Individual Care Plan; Observation Home; Special Home; After-Care.*

1. INTRODUCTION: Why a Child Requires a Different Legal Response?

Criminal law ordinarily proceeds on the premise that the offender is a mature person who understood the nature and consequence of the act. That premise does not hold for a child. Adolescence is a phase of incomplete physical, emotional and cognitive development, and a child's conduct is frequently shaped by circumstances beyond the child's control: poverty,

neglect, and domestic violence, abuse, dropping out of school, substance use or the pull of an older peer group.

None of this excuses unlawful conduct. It only means that the legal response cannot be borrowed wholesale from the adult criminal process. The 2015 Act, which draws on Articles 15(3) and 39(e)–(f) of the Constitution and on India’s obligations under the United Nations Convention on the Rights of the Child, aims to secure the care, protection, development, treatment and social reintegration of children through a child-friendly process in which the best interest of the child is paramount. Accountability is retained; retribution is not the objective.

The statutory vocabulary reflects this approach. Section 2(13) speaks of a “child in conflict with law”, meaning a child alleged or found to have committed an offence who had not completed eighteen years on the date of the offence. The Act avoids expressions such as “juvenile offender” or “delinquent”, and Section 3 mandates non-stigmatizing language in all proceedings. The label describes a situation the child is in, not an identity the child must carry.

A critical study must therefore go beyond listing the institutions the law creates. The relevant questions are practical. Does schooling continue inside the institution? Is counselling delivered by qualified persons? Are the skills taught of any use outside? Is the family prepared for the child’s return? Does support continue after discharge? The distance between the statutory promise and the child’s lived experience is the true measure of the system.

1.1. The Process of Rehabilitation Journey:



Figure 1: Rehabilitation is a process that runs from entry to reintegration, not a single institutional event.

2. Institutional Care: Meaning and Forms

Institutional care, in this context, means residential care under the juvenile justice framework for a child who cannot, or ought not, remain with the family or community for the time being. The Act provides three principal institutions for children in conflict with law. An *observation home* under Section 47 receives a child during the pendency of an inquiry where the child is not released on bail. A *special home* under Section 48 is meant for the rehabilitation of a child found to have committed an offence and placed there by an order of the Juvenile Justice Board under Section 18. A *place of safety* under Section 49 houses a person above eighteen years, or a child between sixteen and eighteen years, who is accused of or convicted for a heinous offence.

The common thread is purpose. None of these institutions is designed as a prison for children. Section 18(1)(g) itself describes placement in a special home, for a period not exceeding three years, as a period for reformatory services: education, skill development, counselling, behaviour modification therapy and psychiatric support. The law thus defines the institution by what it must deliver, not merely by the fact of custody.

Custody is not the same as Rehabilitation

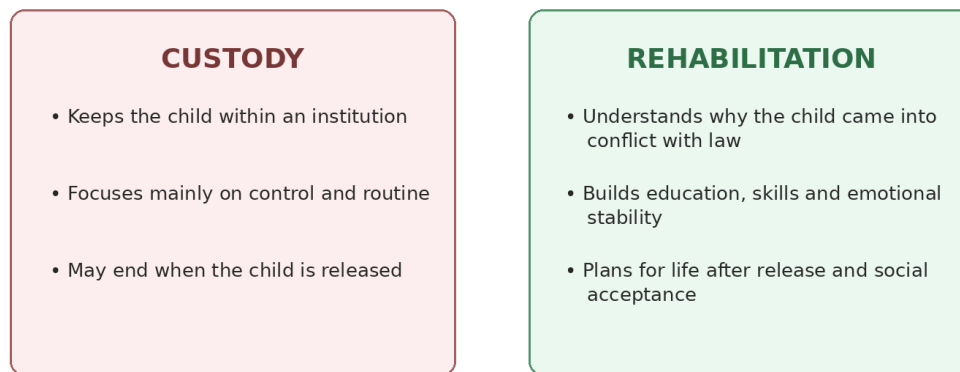


Figure 2: Custody and rehabilitation are distinct concepts.

3. Statutory Framework: Rehabilitation, Not Confinement

Section 3 of the Act lays down sixteen general principles binding on every authority acting under it. They include the presumption of innocence, dignity and worth, the best interest of the child, participation, safety, positive measures, family responsibility, non-stigmatizing semantics, privacy and confidentiality, institutionalization as a measure of last resort, repatriation and restoration, fresh start and diversion. Read together, these principles make it

plain that juvenile justice is not a milder variant of criminal punishment but a distinct regime with a distinct object.

Section 39 is the operative core. It requires rehabilitation and social reintegration to be undertaken on the basis of the child's individual care plan, preferably through family-based care. For a child in conflict with law, Section 39(3) directs that this process be carried out in the observation home where the child is not on bail, and in the special home, place of safety, fit facility or with the fit person where the Board has placed the child. Rehabilitation is therefore not deferred until release; it must run through every form of placement.

Section 53 then specifies the services every registered institution must provide, directly or through referral. These cover basic needs such as food, clothing and medical care; appropriate education, including supplementary and special education; skill development; occupational therapy and life-skill education; mental health interventions, including counselling suited to the child's needs; recreation; legal aid; case management, including preparation and follow-up of the individual care plan; and help with birth registration and proof of identity. The statute thus places on the institution a positive obligation to rehabilitate, not merely to house.

Table 1: Key constitutional and statutory provisions at a glance.

Provision	Subject	Why it matters
A. The Constitution of India		
Article 14	Equality before law; equal protection of laws	A separate juvenile regime rests on reasonable classification by age and maturity.
Article 15(3)	Special provisions for women and children	Constitutional source of a distinct, child-specific justice system.
Article 21	Right to life and personal liberty	Liberty curtailed only by just, fair and reasonable procedure; dignity and humane conditions bind every institution.
Article 21A	Free and compulsory education, 6 to 14 years	Education must continue inside observation and special homes.
Article 39(e) and (f)	Directive Principles: tender age not abused; children to develop in freedom and dignity, protected against exploitation and abandonment	Directs the State towards rehabilitation, not retribution.
Article 47	Duty to raise nutrition, standard of living and public health	Underpins food, health and de-addiction services in institutions.

Provision	Subject	Why it matters
Article 51(c)	Respect for international law and treaty obligations	Imports UNCRC, Beijing, Riyadh and Havana standards into the reading of the Act.
Article 51A(k)	Fundamental duty of parent or guardian to provide education to a child of 6 to 14 years	Grounds family responsibility in restoration and reintegration.
Article 253	Legislation to give effect to international agreements	Supports Parliament's competence to enact the 2015 Act in furtherance of the UNCRC, acceded to by India on 11.12.1992.
B. The Juvenile Justice (Care and Protection of Children) Act, 2015		
Section 1(4)	Overriding application	The Act applies notwithstanding anything in any other law to all matters of children in conflict with law, including detention, prosecution and rehabilitation.
Section 2(13)	Child in conflict with law	Age reckoned on the date of offence; non-stigmatising label.
Section 2(39)	Individual care plan	Defines the comprehensive development plan on which rehabilitation rests.
Section 3	General principles of juvenile justice	Dignity, best interest, family ties, privacy, last resort and fresh start govern every decision.
Section 12	Bail to a person apparently a child	Release is the rule; observation home only where bail is refused.
Sections 15, 18(3) and 19	Preliminary assessment; transfer to and orders of Children's Court for heinous offences (16 to 18 years)	Child kept in a place of safety till 21 years; rehabilitation continues even in the adult-trial route.
Section 18	Orders on a child found in conflict with law	Special home is the last of a graded range of options, capped at three years.
Section 21	Order that may not be passed	No death sentence or life imprisonment without possibility of release.
Section 24	Removal of disqualification on findings	Records destroyed; no disqualification attaches to the child.
Section 39	Rehabilitation and social reintegration	Must rest on an individual care plan and continue in every form of placement.
Section 41	Registration of child care institutions	No institution may house children without registration; non-compliance is punishable under Section 42.

Provision	Subject	Why it matters
Section 46	After-care	Support continues after the child leaves the institution on attaining eighteen years.
Sections 47 to 49	Observation homes, special homes, places of safety	Each institution has a defined rehabilitative, not merely custodial, purpose.
Section 53	Rehabilitation and reintegration services in institutions	Education, skills, counselling, case management and documentation are institutional duties.
Sections 54 and 55	Inspection committees; evaluation of functioning of structures	Statutory machinery to test institutional practice against the Act.
Section 74	Prohibition on disclosure of identity	Name, address, school or any identifying particular cannot be published.
Sections 75 and 82	Cruelty to child; corporal punishment	Staff of institutions are criminally liable for cruelty and corporal punishment.
C. The Juvenile Justice (Care and Protection of Children) Model Rules, 2016		
Rule 25	After-care programme	After-care up to 21 years, extendable in exceptional cases by two more years; education, skills, placement and stay.
Rule 29	Standards of care in child care institutions	Minimum standards for infrastructure, food, clothing, medical care, education, vocational training, counselling and recreation.
Form 7	Individual Care Plan	Prescribed format translating Section 39 into a working plan for each child.
D. Other Statutes		
Bharatiya Nyaya Sanhita, 2023, Sections 20 and 21 (formerly IPC, Sections 82 and 83)	Act of a child under 7 years; act of a child of 7 to 12 years of immature understanding	Sets the threshold of criminal responsibility below which the juvenile process does not arise.
Right of Children to Free and Compulsory Education Act, 2009, Section 3	Right of every child of 6 to 14 years to free and compulsory elementary education	Statutory vehicle for Article 21A inside institutions.
Legal Services Authorities Act, 1987, Section 12(c)	Entitlement of a child to free legal services	Gives effect to the legal-aid service mandated by Section 53 of the 2015 Act.
Mental Healthcare Act, 2017, Section 18	Right to access mental healthcare	Supports counselling, psychiatric care and de-addiction for children in institutions.

Provision	Subject	Why it matters
Registration of Births and Deaths Act, 1969, Section 13	Delayed registration of births	Route to proof of age and identity, a Section 53 service.

4. The Individual Care Plan: One Child, One Plan

Children arrive in the system by very different routes. One has left school to earn for the family. Another is dependent on inhalants. A third has grown up amid violence at home. A fourth comes from a stable household but acted under peer influence. A uniform programme applied to all four may suit administrative convenience; it will rehabilitate none of them.

Section 2(39) defines the individual care plan as a comprehensive development plan built on the child's age, gender-specific needs and case history, prepared in consultation with the child, with the aim of restoring the child's self-esteem and dignity and developing the child into a responsible citizen. The plan must address health and nutrition, emotional and psychological needs, education and training, leisure and play, relationships, protection from abuse, social mainstreaming and follow-up after release.

It is a working document, to be reviewed as the child progresses, and it must answer one operational question: what does this particular child need to return to society safely and stay out of conflict with law? In practice, the plan is too often a form completed at admission and never revisited. A care plan that is not reviewed is not a plan; it is a record.

5. Education: Preventing a Second Loss

Placement in an institution curtails a child's liberty. It should not also end the child's education. An extended break from school makes re-entry harder with each passing month and pushes many children into permanent dropout, a loss that outlasts the placement itself.

Institutional education must therefore be built for continuity: age-appropriate instruction, bridge courses for those who have fallen behind, enrolment through open schooling where regular schooling is not feasible, and recognised certification at the end. The right of children between six and fourteen years to free and compulsory education under Article 21A does not lapse at the gate of an institution. Education also brings routine, self-confidence and a tangible sense of achievement. The test is not whether the institution has a classroom, but whether the child leaves well educated than on arrival.

6. Vocational Training: Skills Must Lead to Work

For older children, particularly those approaching eighteen, vocational training is often the most direct route to a lawful livelihood. Its value depends entirely on relevance. Training

designed only to fill the day, such as repetitive craft work with no market, does little for the child after release.

Courses should be chosen with an eye on local demand: digital literacy, electrical and mobile repair, plumbing, tailoring, food processing, hospitality, automobile servicing and similar trades. Wherever possible, training should lead to certification recognized under the national skill-development framework and be linked to apprenticeship or placement arrangements with employers. A certificate the child can show an employer converts time spent in an institution into an asset.

7. Counselling and Mental Health: Addressing the Cause, Not Only the Conduct

A police file records what a child is alleged to have done. It rarely records why. Many children in conflict with law carry histories of abuse, neglect, violence, addiction, family breakdown or repeated rejection. Aggression, defiance or withdrawal is frequently a symptom of that history rather than a settled trait.

Counselling enables the child to understand behaviours, regulate emotions, make sounder decisions and work through trauma or substance dependence. Section 18(1) (g) expressly contemplates behaviours modification therapy and psychiatric support, and Section 53 requires counselling matched to the child's needs. An institution that relies on discipline alone may suppress behaviours for the duration of the stay without touching its causes. Qualified counsellors, access to psychiatric care and de-addiction services are therefore not optional additions; they are statutory components of rehabilitation.

8. Discipline with Dignity

No residential institution can function without rules, routine and security. Discipline is necessary. What the law forbids is discipline that degrades. Section 82 of the Act makes corporal punishment of a child by any person in charge of or employed in a child care institution a punishable offence, and the principle of dignity and worth in Section 3 applies inside the institution as fully as outside it.

A well-run institution states its rules clearly, applies them consistently and gives children a safe and confidential channel to raise grievances. Fair treatment does not weaken discipline. It teaches the lesson the child most needs to learn: that authority can be exercised through fairness and accountability rather than fear.

9. Family and Community: Reintegration Begins Before Release

Where return to the family is safe and in the child's best interest, work with the family must begin well before the date of release. Prolonged separation weakens bonds. Parents may carry anger, shame or a sense of helplessness; the child may dread the return home as much as he or she longs for it.

Regular visits, family counselling and home assessments by probation officers or social workers prepare both sides for reunion. Restoration is not, however, an automatic default. Where the family environment was itself a source of abuse, exploitation or serious neglect, returning the child without safeguards defeats the purpose of the entire exercise. Every decision on restoration must be governed by the child's safety and best interest.

10. After-Care: When the Gate Opens

The most fragile phase often begins on the day of discharge. Inside, the child had regular meals, classes, counselling and a fixed routine. Outside, the child may return to poverty, stigma, an unstable household or the same peer group that led to the offence.

Section 46 of the Act, read with the Model Rules, provides for after-care support, including financial assistance, to children leaving institutions on attaining eighteen years, so as to ease their entry into mainstream society. In practice, after-care should extend to readmission to school, vocational placement or employment, continued counselling, help in obtaining identity and other documents, and sustained contact with a social worker or probation officer. Rehabilitation that stops on the date of release is rehabilitation left unfinished.

11. Stigma and the Principle of Fresh Start

A child may complete the legal process and still serve a social sentence. Schools, neighbours, employers and even relatives may continue to see the child only through the lens of the case. Such stigma can undo, within weeks, progress made over months.

The Act confronts this directly. Section 74 bars the disclosure, in any newspaper, magazine, news-sheet, audio-visual medium or other form of communication, of the name, address, school or any other particular that may lead to identification of a child in conflict with law. Section 24 provides that a child dealt with under the Act shall not suffer any disqualification attaching to a conviction, and requires the relevant records to be destroyed after the period of appeal, subject to the exception for a child aged sixteen to eighteen found in conflict with law by the Children's Court for a heinous offence. These provisions give legal form to the

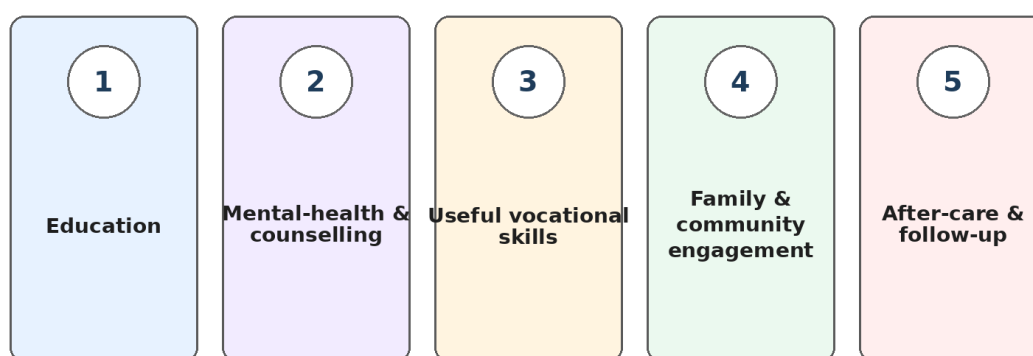
principle of fresh start in Section 3. Law alone, however, cannot end stigma. Families, schools, employers and civil society must allow the child to build an identity beyond the case.

12. Institutionalization as a Measure of Last Resort

Institutional care is sometimes unavoidable. Unnecessary or prolonged institutionalization, however, produces harms of its own: separation from family, disruption of ordinary community life, exposure to children with entrenched patterns of behaviours, and dependence on an artificial environment that bears little resemblance to the world outside.

This is why Section 3 declares institutionalization a measure of last resort, and why Section 18 places a special home at the end of a graded list of options: admonition, group counselling, community service, fine, release on probation of good conduct to a parent, guardian or fit person, and release on probation to a fit facility. Where community-based supervision, counselling, education and family support can safely achieve the objective, those options must be preferred. The Beijing Rules and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty reflect the same standard: deprivation of liberty should be a last resort and last for the minimum necessary period.

Five Pillars of Effective Institutional Care



The aim is not simply a well-managed institution, but a child prepared for life outside it.

Figure 3: Five pillars that convert institutional care into rehabilitation.

13. The Real Challenge: From Statute to Practice:

India has a detailed legislative framework. The weakness lies in delivery. An individual care plan that nobody implements is paper. Vocational training without instructors or equipment is a timetable entry. Counselling without qualified professionals is a formality. An inspection conducted for the register is no inspection at all.

Institutional quality depends on people more than buildings. Superintendents, probation officers, child welfare police officers, counsellors, psychologists, teachers, vocational instructors and medical staff each shape the child's experience. In *Sampurna Behrua v. Union of India*, (2018) 4 SCC 433, the Supreme Court issued wide-ranging directions to make the statutory machinery under the Act functional, including the filling of vacancies and effective monitoring. Monitoring must look beyond cleanliness and registers to measure educational progress, counselling actually delivered, family contact maintained, grievances resolved, skills certified and release plans prepared.

14. A Practical Test for an Effective Institution

The right question is not whether an institution is running, but whether rehabilitation is taking place. Any inspection, social audit or internal review can be anchored in seven questions:-

- Is the child's education continuing, or leading to a recognised qualification?
- Does the child receive counselling and mental-health support matched to need?
- Is vocational training tied to real employment prospects?
- Is the family being prepared for safe reunion?
- Is there a written plan for release and after-care?
- Can the child raise a complaint safely and confidentially?
- On release, is the child better equipped to live independently and lawfully than on admission?

15. Recommendations

(a) Give the individual care plan real content: Fix measurable goals for education, health, counselling, and skills, family contact and release, and review them at fixed intervals.

(b) Protect continuity of education: Keep interruption to the minimum; use bridge courses and open schooling where regular schooling is not possible.

(c) Tie skills to employment: Prefer market-relevant, certified courses with apprenticeship or placement linkages.

(d) Strengthen mental-health services: Ensure need-based counselling, psychiatric referral and de-addiction support through qualified professionals.

(e) Engage families early: Where restoration is safe, begin family counselling and contact well before release.

(f) Plan the exit from admission: Every substantial placement should carry a reintegration strategy from the first day.

(g) Make after-care effective: Support education, employment, counselling and documentation through the transition period.

(h) Enforce confidentiality and fresh start: Apply Sections 24 and 74 strictly so that neither records nor identity follow the child.

(i) Measure outcomes, not activity: Track what happens to children after discharge, including schooling, employment and re-offending, not merely the number of sessions conducted.

16. CONCLUSION

The central question in juvenile justice is not merely whether a child should face consequences for unlawful conduct, but what those consequences are meant to achieve. Rehabilitation and reintegration are two halves of one answer: rehabilitation equips the child for change, and reintegration tests whether that change survives contact with family, school, workplace and community.

If placement only removes a child from society for a period and then returns the child to the same circumstances, with less education and an added stigma, the system has failed on its own terms. Institutional care justifies itself only when the period is used to educate, counsel, train, stabilize and prepare the child for return.

An observation home, special home or place of safety is never the destination. At most, it is one stage on the road back to family and society. The success of juvenile justice lies not in how securely a system holds a child inside an institution, but in how well it prepares that child to live lawfully and with dignity outside it.

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