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A CRITICAL STUDY ABOUT REHABILITATION AND DETERRENCE UNDER JUVENILE ACT

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ABSTRACT

Title: A critical study about rehabilitation and deterrence under juvenile act

This study focuses on the juvenile justice system in India, with special emphasis on balancing rehabilitation and deterrence. Juveniles are individuals below the age of eighteen who are still in a stage of mental, emotional, and psychological development, which makes their treatment under the legal system different from that of adults. The primary objective of this study is to analyze whether the current juvenile justice system in India effectively ensures justice while also providing opportunities for reform and social reintegration.

The research adopts a doctrinal methodology and is based on secondary sources such as books, legal provisions, journal articles, case laws, and online resources. It examines the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015, and evaluates the role of institutions such as the Juvenile Justice Board and Child Welfare Committee in dealing with juvenile offenders.

The study emphasizes the importance of rehabilitation through education, counseling, and skill development, which help juveniles become responsible members of society. At the same time, it also highlights the need for deterrent measures, especially in cases involving serious and heinous offences. The findings suggest that a balanced approach between rehabilitation and deterrence is essential to ensure justice, reduce reoffending, and promote the overall development and reintegration of juveniles into society.

I. Introduction

The juvenile justice system is designed to address offences committed by minors in a manner that ensures both justice and the welfare of the child. Within this system, two important approaches play a significant role, namely rehabilitation and deterrence. These approaches reflect different philosophies in dealing with juvenile offenders and aim to achieve the broader objective of maintaining social order while also protecting the future of

young individuals. Understanding the balance between these two approaches is essential for an effective and fair juvenile justice system.

Rehabilitation focuses on reforming the behaviour of juveniles by providing them with proper guidance, education, counselling, and emotional support. It is based on the belief that juveniles are still in a developmental stage and are capable of change. Many juveniles commit offences due to various external factors such as poverty, family problems, lack of education,

peer pressure, and social influences³⁴². Therefore, instead of imposing harsh punishment, rehabilitation aims to correct their behaviour and help them become responsible members of society. It emphasizes giving juveniles a second chance and creating opportunities for their personal growth and development. On the other hand, deterrence aims to prevent crime by creating fear of punishment. It is based on the idea that strict laws and consequences will discourage individuals from engaging in unlawful activities. In the context of juvenile justice, deterrence seeks to control behaviour by enforcing discipline and making juveniles aware of the seriousness of their actions. The fear of punishment acts as a preventive measure, reducing the likelihood of repeated offences

The debate between rehabilitation and deterrence has been a subject of discussion among legal scholars and policymakers. Both approaches have their own advantages and limitations, and neither can be considered completely effective on its own. A balanced approach that combines elements of both rehabilitation and deterrence is often considered the most suitable method in dealing with juvenile offenders.

I. Meaning of Rehabilitation

In the meaning of rehabilitation, it means helping a juvenile to correct their behaviour and become a responsible person in society. The main aim of rehabilitation is to improve the mindset of children instead of punishment. The main idea behind rehabilitation is that juveniles can change if they are given proper guidance and support. According to me, rehabilitation means giving a second chance to children who have committed offences³⁴³.

Since they are still young and not fully matured in nature, their mistakes can be corrected with

proper care, advice, education, and counselling. The aim of rehabilitation is helping a juvenile to understand the consequences of their actions. This can teach them discipline, values, and social responsibility. Instead of treating them as criminals, the system treats them as individuals and helps the children to recognize their mistakes and develop their self-confidence. In my opinion, rehabilitation is very important because it focuses on long-term improvement. If a child is properly guided, they can become a good citizen, a good human, and contribute positively to society.

II. Types of Rehabilitation Program

There are different types of rehabilitation programs designed by the government with law to help juveniles to change their behaviour and improve their lives. The first method of rehabilitation is counselling. It is also called as the main method of rehabilitation. The purpose of counselling is to understand the juvenile's mindset, feelings, and their problems. In counselling, the juvenile can truly express their feelings and problems without any restrictions³⁴⁴.

According to this, counselling helps them to understand their mistakes and guides them to make better decisions. The second important method in rehabilitation is education. Providing proper education helps juveniles gain knowledge and develop skills. Education is a main goal for juveniles to become disciplined persons. It is also based on their future career.

It also creates awareness about right and wrong, which reduces the chances of committing a crime again. After prison life, this education helps juveniles to survive in normal life. Vocational training is also a key part of rehabilitation. The main aim of vocational training is to teach a juvenile practical skills such as tailoring, computer work, carpentry, yoga, and meditation, along with moral and value-based education. These types of skills

³⁴² Environmental Criminology: This observation aligns with the "Social Disorganization Theory," which suggests that a child's environment—specifically economic hardship and lack of social support—is a stronger predictor of criminal behaviour than individual character.

³⁴³ The Juvenile Justice (Care and Protection of Children) Act, 2015, Section 2(13) and 2(35), defines a "child in conflict with law" as a person who has not completed eighteen years of age on the date of commission of such offence.

³⁴⁴ Psychological Reintegration: Under the Juvenile Justice Act, 2015, counselling is recognized as a mandatory psychological tool to address the "root causes" of delinquency—such as trauma or social neglect—ensuring a juvenile's successful return to the community

help juveniles become independent and earn money for their living³⁴⁵.

Also, these programs help in developing a juvenile into a better person. There are also other programs like group activities, moral education, and personality development. This program helps in building confidence and improving behaviour. According to me, the rehabilitation methods are very effective and useful because they focus on changing the mindset of juveniles rather than punishing them.

III. Meaning of Deterrence

Deterrence refers to the idea of preventing a crime by creating fear of punishment. In simple words, it means when people know that they will be punished for committing a crime, they will think twice before doing it³⁴⁶. In juvenile justice, deterrence is used to stop juveniles from engaging in criminal activities. The main aim is to create discipline and control behaviour through strict rules and consequences.

There are two types of deterrence:

1. Individual deterrence
2. General deterrence

i. Individual Deterrence

Individual deterrence focuses on preventing a particular person from committing crimes again. The main purpose of individual deterrence is to punish a person according to the nature and seriousness of their crime. After receiving punishment, the person develops fear and is discouraged from committing crimes again. This method mainly focuses on ensuring that a single individual does not repeat an offence, using the fear of punishment as a preventive measure.

³⁴⁵ Economic Reintegration: Providing vocational skills is a key part of the "Social Reintegration" process under Indian law, aimed at preventing recidivism by ensuring juveniles have legal means of survival after leaving a correctional home.

³⁴⁶ General vs. Specific Deterrence: In legal theory, this "thinking twice" represents General Deterrence (aimed at the public) and Specific Deterrence (aimed at the individual offender) to prevent future criminal behaviour through the threat of strict legal consequences

ii. General Deterrence

General deterrence refers to preventing people in general from committing crimes by creating fear of punishment. This method is used to warn and discourage others from engaging in similar criminal activities. The main purpose of general deterrence is to prevent crimes in society. However, in the case of juveniles, deterrence alone may not be very effective, since children are not fully mature and may not always understand or think about the consequences before acting.

I think individuals should consider the consequences before acting. According to me, deterrence is necessary to some extent, but it should not be harsh when applied to juveniles. In my opinion, punishment is necessary, but it should vary depending on the nature of the offence. For the most vulnerable and serious crimes, such as rape, murder, and other grave offences, punishment can be stricter. However, for less serious offences, it should not be excessively harsh in comparison.

IV. Types of Punishment for Juveniles

Based on this, punishment for juveniles is different from adult punishment. The main aim is not to harm the child, but to correct their behaviour. The primary purpose of this approach is not only punishment, but also to help change the behaviour of the child³⁴⁷.

Some common forms of punishment include community service, counselling sessions, and placement in rehabilitation centres. These forms of punishment are not harsh; rather, they are designed to teach responsibility and discipline. Juveniles can also be placed under supervision or probation. This means they are allowed to stay in society, but they are monitored by the authorities. According to this, they can lead a normal life with certain conditions.

In some serious cases, juveniles may be sent to special homes or observation homes for a

³⁴⁷ Principle of Non-Stigmatization: Under the Juvenile Justice Act, 2015, any "punishment" or "order" passed against a child must not carry the stigma of a criminal conviction, ensuring their record does not prevent future education or employment.

certain period of time. These institutions aim to provide care, education, and training, rather than harsh punishment.

Juveniles are not given harsh punishments like the death penalty or life imprisonment without the possibility of release, because this system believes that children should be given a second chance to improve their lives and become responsible individuals³⁴⁸. Accordingly, punishment should be balanced, focusing not only on justice but also on reform and social welfare.

V. Need for Rehabilitation

Rehabilitation is essential because juveniles are still in the stage of growth and development. Therefore, they require guidance, support, and opportunities to reform rather than strict punishment. The system believes that behaviour can change with proper guidance and support. In many juvenile cases, children commit crimes due to external factors such as poverty, family problems, or peer pressure. At this age, they may not fully understand the seriousness of their actions.

When harsh punishment is given at such a young age, it can negatively affect their mental health and lead to a poor future. In some cases, it may even make children more aggressive or push them further into criminal behaviour³⁴⁹. The main purpose of rehabilitation is to help and correct these issues by providing education, counselling, and emotional support. This method helps juveniles lead a better life. In my opinion, rehabilitation is the best way to deal with juvenile offenders because it focuses on long-term benefits rather than short-term punishment.

VI. Importance of Deterrence

The main aim of deterrence is to maintain law and order in society. It creates a fear of

punishment, which prevents individuals from committing crimes. Deterrence plays an important role in ensuring discipline and control within society. In the case of juveniles, deterrence can help in controlling behaviour to some extent. It teaches them that actions have consequences. However, deterrence should be applied carefully when dealing with juveniles.

If it is too strict, it may create fear and stress among juveniles and negatively affect their mental health. Harsh punishment at a young age can also lead to long-term negative consequences in their future. Therefore, deterrence should be balanced with rehabilitation. It should act as a warning rather than as harsh punishment. Thus, in juvenile justice, punishment should not be excessively harsh but should focus on reform and development. So in the law punishment is not harsh for juveniles, because it considers their age. According to me, deterrence is necessary but should not be the main source in juvenile justice.

VII. Comparative Analysis

Rehabilitation and punishment are two different approaches in dealing with juvenile offenders³⁵⁰. Both rehabilitation and punishment are some of the most important methods to correct crime in society. However, rehabilitation and punishment are not similar methods, but are opposite approaches.

Rehabilitation focuses on reform, while punishment focuses on control and discipline.

i. Rehabilitation

The main aim of rehabilitation is to correct the behaviour of juveniles and help them become better persons in society. It provides support, guidance, and gives opportunities for improvement. Rehabilitation is necessary for juveniles, because they are still children, they deserve a second chance. Still, juveniles are in a developing stage, so their behaviour can

³⁴⁸ Prohibition of Harsh Sentences: Section 21 of the Juvenile Justice Act, 2015, explicitly prohibits the imposition of the death penalty or life imprisonment without the possibility of release for any child in conflict with the law.

³⁴⁹ Theory of Differential Association: This suggests that criminal behaviour is learned through interaction; therefore, harsh punitive environments often facilitate the learning of more serious criminal techniques from older or more experienced offenders.

³⁵⁰ Parents Patriae Doctrine: This comparative conflict is governed by the legal doctrine of Parents Patriae (parent of the nation), which grants the court the power to act as a guardian for those unable to care for themselves, prioritizing the child's development over traditional punitive measures.

change with proper guidance and support. At this age, juveniles may commit crimes due to external factors such as poverty, family problems, child labour, impact of society, influence of social media, and peer pressure.

They may not fully understand the seriousness of their actions because of their age. So, rehabilitation helps in correcting their issues by providing education, counselling, and emotional support. It helps a juvenile to lead a better life. There are many different types of rehabilitation programs available for juveniles. One of the main methods is counselling. In the counselling section, juveniles can express their feelings and their problems without any fear. So, this section can help them to understand their problems and feelings.

A counsellor can help or assist them to understand their mistakes and guide them a solution to their problems and to guide them towards better decisions. The second main method is education. Providing proper education helps juveniles to gain knowledge and develop skills. Education also creates awareness about right and wrong, which reduces the chances of committing crimes again.

Education makes a juvenile a better person so that they can live a peaceful life after prison. After prison, education helps juveniles to get a job and earn money, so this makes their life normal like others in society. Education and counselling make a juvenile a self-confident person. After prison, they can live easily in society and their fear of society may reduce.

ii. Punishment

On the other hand, punishment aims to stop crime by creating fear. The main focus of punishment is on controlling behaviour through strict rules and consequences of wrong actions, because punishment creates fear in society, which prevents individuals from committing crimes. According to juveniles, punishment helps in controlling their behaviour and

teaching discipline and the consequences of their actions³⁵¹.

In the case of juveniles, deterrence should be used carefully. If it is too strict, it may create fear and stress among juveniles. This can have a negative impact on their mental health. Therefore, punishment should be used carefully. It is important, but it should not be harsh for juveniles because punishment leads a person in the wrong way. So, in the case of juveniles, punishment should be balanced, not harmful. The main aim is not to harm the child but to correct their behaviour. Punishment of juveniles is different from adults because they are still children.

Most of the juveniles should not be kept in prisons. Instead, punishment can be given in the form of community service, counselling sessions, and placement in rehabilitation centres. This punishment is designed to teach responsibility and discipline. Punishment can be defined as giving consequences for their crimes. In serious cases, juveniles may be sent to special homes or observation homes for a certain period of time. According to me, punishment should be balanced and should always aim at reform rather than revenge.

iii. Rehabilitation vs Punishment

In the case of juveniles, compared to punishment, rehabilitation plays a main role. Rehabilitation is more effective because they are still children, so we cannot give harsh punishment to them. Juveniles are in the process of development, so we need to give them a second chance to change³⁵². Through rehabilitation, they can learn from their mistakes and improve their behaviour. However, punishment is also necessary in certain situations, especially in serious offences like rape and murder. So, in such cases, a balanced

³⁵¹Punishment is a method used to prevent crime by imposing penalties on offenders, thereby creating fear and ensuring discipline. It is based on the principle of deterrence, where individuals avoid unlawful acts due to fear of consequences.

³⁵² Theory of Reformation: The legal preference for rehabilitation over punishment in juvenile cases is supported by the "Reformatory Theory of Justice," which argues that since a child's character is still being formed, they are more capable of being corrected than adult offenders

approach is needed. In this kind of case punishment should be ensuring justice, punishment helps in maintaining discipline and makes a person perfect, and it causes fear of again committing an offense. According to me, both approaches are the best approaches; we want to use them together to achieve the best result

VIII. Challenges in Implementation

In implementation, there are several challenges facing the juvenile justice system. One of the most important and main challenges is the lack of proper facilities and resources. In this case, many rehabilitation centers don't have proper adequate infrastructure and trained staff. Another issue is social stigma, where society treats juveniles who have committed an offense negatively. This issue makes it difficult for the juvenile to reintegrate into society. In this case, a lack of education and awareness also creates problems, as many people do not understand the importance of rehabilitation. In addition, there are delays in the legal process; these affect the effectiveness of the system. These challenges need to be addressed to improve the juvenile justice system.

IX. Which is more effective?

According to my point of view, whether rehabilitation or deterrence is more effective is widely debated. My opinion is that both approaches have advantages and limitations. In the case of juveniles, rehabilitation is more suitable because it focuses on long-term improvement³⁵³. It provides a better life for juveniles and gives them a second chance in their life to understand reality, so they are able to live a normal life. Rehabilitation helps in changing behaviour and reducing repeat offenses.

While deterrence, on the other hand, is useful for maintaining discipline and preventing crime to some extent, the main aim of deterrence is to give punishment to offenders to create fear

about committing a crime and also to create a fear of crime within society. In my opinion, rehabilitation is more effective for juveniles because they have the ability to change. Rehabilitation makes a person better and provides a long-term solution. However, deterrence should be used in a balanced way. According to me, the best approach is to combine both methods, but rehabilitation must be used more for juveniles compared to deterrence. This ensures justice is served while also giving juveniles a chance to reform.

X. Suggestions:

1. Strengthen the Comparative Analysis

Create a Comparative Table: To make the "Rehabilitation vs. Deterrence" section more reader-friendly, include a side-by-side comparison table showing how each approach addresses specific issues like recidivism, cost-effectiveness, and psychological impact. Distinguish by Offense Gravity: Explicitly state that rehabilitation should be the "default" for petty and serious offenses, while a hybrid approach involving deterrence is primarily reserved for "heinous" crimes as defined by the 2015 Act.

2. Expand on Modern Delinquency Factors

Digital Influence: Your article mentions social media as an external factor. You should expand this into a modern suggestion: schools and juvenile boards should implement "Digital Literacy and Cyber Ethics" as a mandatory part of rehabilitation to prevent cyber-delinquency. Mental Health Prioritization: Move beyond "counselling" as a general term and suggest that every Juvenile Justice Board (JJB) should have a permanent, resident Child Psychologist to create "Individual Care Plans" rather than using a one-size-fits-all approach.

3. Address Implementation Gaps

Infrastructure Standards: Since you identified a lack of proper facilities as a challenge, suggest a "National Grading System" for observation and special homes to ensure they meet the safety and management standards established in cases like Exploitation of Children in

³⁵³ Reformative Theory of Justice: This approach is based on the legal principle that the objective of the law should be to "kill the crime, not the criminal," especially for juveniles whose character is still in a developmental stage.

Orphanages v. Union of India³⁵⁴. Sensitization Training: Propose mandatory annual sensitivity training for the Special Juvenile Police Units (SJPU) to ensure the first point of contact for a child is reformative rather than intimidating.

4. Enhance the "Aftercare" Framework

Economic Empowerment: Suggest that vocational training should be modernized to include high-demand digital skills like graphic design or basic coding, ensuring juveniles can earn a competitive living post-release. **Community Integration:** To combat social stigma, suggest "Community Mentorship Programs" where reformed individuals are paired with local leaders to help them transition back into society without being judged for their past.

5. Formalize Legal Citations

Table of Cases: Ensure the "List of Cases" from your image is fully integrated into the main text of the article. Specifically, use the Shilpa Mittal case to explain exactly which crimes allow a juvenile to be tried as an adult.

Constitutional Grounding: Explicitly mention Article 15(3) of the Indian Constitution³⁵⁵, which provides the state the power to make special provisions for children, as the legal "root" of your entire study. By incorporating these specific, actionable suggestions, your article will move from a general discussion to a robust policy-oriented research paper that offers real solutions to the Indian juvenile justice system.

REFERENCES (Books & Articles)

- i. Juvenile Justice (Care and Protection of Children) Act, 2015
- ii. Principles of Criminology
- iii. Criminology and Penology
- iv. Penology and Victimology
- v. Criminal Law
- vi. Articles on Reformative Theory and Deterrence Theory in legal journals such as:

- a. Indian Law Institute publications
- b. Journal of Indian Law and Society

IMPORTANT CASE LAWS

1. Salil Bali v. Union of India
2. Dr. Subramanian Swamy v. Raju
3. Shilpa Mittal v. State (NCT of Delhi)
4. Sheela Barse v. Union of India
5. Exploitation of Children in Orphanages v. Union of India
6. Bachpan Bachao Andolan v. Union of India

WEB RESOURCES

Ministry of Women and Child Development

<https://wcd.nic.in>

(Official policies on juvenile justice and child welfare)

National Commission for Protection of Child Rights

<https://ncpcr.gov.in>

(Reports on child rights and juvenile justice)

UNICEF

<https://www.unicef.org>

(Global standards on juvenile justice and rehabilitation)

PRS Legislative Research

<https://prsindia.org>

(Summaries of Juvenile Justice Act and amendments)

SCC Online

<https://www.sconline.com>

(Case laws and legal materials)

Manupatra

<https://www.manupatra.com>

(Judgments and legal research)

³⁵⁴Exploitation of Children in Orphanages v. Union of India, (2017) 7 SCC 578.

³⁵⁵ Article 15(3), Constitution of India, 1950.



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