CHAPTER IV
Reintegration – Understanding and practice

Since the time the term ‘reintegration’ has been coined and inserted into the Juvenile Justice Act and thereafter changed to a new Juvenile Justice (Care and Protection of Children) Act, 2000, there has been much debate on the subject in the public domain. Individuals, organizations and stakeholders have made efforts in their own way and according to their own understanding to ‘reintegrate’ juveniles in conflict with law. The law has not given a detailed meaning of the term, nor has it held any authority responsible for the reintegration process. Against this backdrop of lack of legal clarity and absence of common understanding among professionals and practitioners working in the field, the meaning and practice of reintegration has been extremely varied.

In order to do a justice to the present study of existing practices on reintegration, it is important to understand the perception of the term among practitioners and also the legal perspective attached to it, by analyzing laws related to reintegration of JCLs. This chapter has two parts. The first part dissects the term as in legal documents and the second part analyses the understanding of the term among various stakeholders.

The Chapter ends with a concluding section that wraps up the understanding of reintegration thus generated from the study by analyzing the legal instruments and the perception of stakeholders that form part of the study.

SECTION I: REINTEGRATION IN LEGAL DOCUMENTS

The Juvenile Justice Act was formulated in 1976 when the term ‘rehabilitation’ was used in order to help children return to the community. Even before the formal enactment of this law, children’s acts had been in place in several states of India and voluntary organizations were in place along with a few children’s homes (as they were so-called then) run by government agencies. These agencies had introduced skill-building and vocational training of inmates to equip children with minimum tools towards self-reliance in their lives post their institutional phase.
To name a few international instruments meant for the rights, development and reintegration of juveniles in conflict with law,

i. The Convention on the Rights of the Child adopted by the General Assembly of the United Nations on the 20th November, 1989 and ratified by India on 11th December 1992, emphasizes conferment of rights on children, and reintegration of juveniles and care and protection of vulnerable children, with a view to furthering their right to survival, development, protection and participation;

ii. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules);

iii. The United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990) set the minimum standards to be adhered to in the administration of juvenile justice in respect of juveniles in conflict with law;

iv. The United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) and all other relevant international instruments to focus on the prevention of juvenile delinquency and provide guidelines for the same;

The above stated International instruments have been ratified and adopted by India and hence incorporated in the new the Act of 2000. As Ranjan (2013) says India ratified the UN Standard Minimum Rules for the Administration of Juvenile Justice ('The Beijing Rules') adopted by General Assembly resolution of 40/33 of November 29, 1985, and this led to the enactment of a central legislation for children, the Juvenile Justice Act, 1986. In this Act, the definition of a juvenile was gender-based: below 18 for girls but 16 years for boys. The distinction was based on the Indian Penal Code (IPC) that girls need longer protection. However, the UN Convention on the Rights of the Child, 1989, defined everyone below 18 years as a juvenile irrespective of sex. India adopted it in 1992, and so, the JJ Act, 1986, was replaced by a new Act in 2000 that defined both boys and girls below 18 years as juveniles. Under it, Model Rules were formulated in 2007. According to rule 12, documentary evidence of age gets priority over the medical test. The reasoning was that the medical test is not foolproof either, and there is a possibility of variation of two years, above or below, of the real age. So, the documentary evidence is to be relied upon unless it is shown to be forged.

Thus as stated above, to give effect to the provisions of the Constitution and relevant international instruments, the Juvenile Justice (Care and Protection of Children) Act, 2000 came into force and was thereafter amended to form the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006. This was enacted to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their developmental needs, and by adopting a child friendly approach in the
adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation and for matters connected therewith or incidental thereto, through institutional as well as non-institutional measures enumerated under the said Act. (Model Rules 2007)

Thus the amended act introduced two new concepts – children in need of care and protection, that is, children who are vulnerable and may or may not be found on the streets but have not committed any legal offence, and juveniles in conflict with law, that is, those who are alleged to have committed an offence under the criminal law. The term *reintegration* has been introduced with an intention of arrest recidivism.

However, the data collected has highlighted the fact that in many places, juveniles in conflict with law and children in need of care and protection are kept together under the same shelter. Further, counseling, vocational training, developmental workshops and celebration of festivals are also practiced together. As a psychologist said to the researcher,

> We counsel all children who come to the Home – they may be children who have committed an offence or children in need of care and protection; this is because even children in need of care and protection are vulnerable and may be on the verge of committing an offence, so we keep them altogether and counsel them, too; Of course children in conflict with law who may be requiring a deeper intervention are given so in addition

The Act also mentions that the composition of the Juvenile Justice Board (JJB) should consist of one judicial magistrate and two social workers one of whom should be a woman, forming a bench. Although the signing authority lies with the principal magistrate, the social workers’ opinion should be taken at every step. However, in practice, it has been noticed that in many places, the magistrate does not refer to the social worker and although a bench, it more or less operates as a ‘one-man-show’. To quote one of the respondents in the study,

> When we started working with the juvenile justice system, we noticed that there were many places where we need to make changes - the first and foremost being the way in which the JJB was performing. The magistrate would come and pass an order even without the social workers. He would pay no heed to their opinions. So we had to start working from there, to make the JJB functional as mentioned in the Act.

It has been mentioned under the Act that ‘No Magistrate shall be appointed as a member of the Board unless she has special knowledge or training in child
psychology or child welfare’. However, it has been observed that this is lacking in many states. To quote a judicial magistrate,

I come here straight from the courtroom, after attending adult cases there. I have to rush to this place. I do not have any time to attend such trainings and there has been no circular from the high court on this.

When this issue was discussed with another respondent who happened to be an advocate and is also a member of the JJB, she agreed

The JJB in most cases is a punishment posting here in the state of West Bengal. Therefore the magistrate who is appointment as the principle magistrate for the board always remains very irritated. He is most insensitive and passes orders on his own without referring to anybody else in the bench. It has been my constant challenge to deal with such a system and exert powers of the rest of the members of the bench.

According to the definition of the Juvenile Justice (Care and Protection of Children) Amendment Act 2006, a juvenile delinquent is a child who has not completed eighteen years of age and is alleged to have committed an offence. However in the state of West Bengal, it has been learnt that children who are victims of trafficking from across the border are treated as juvenile delinquents. Such cases are difficult to be tried and require more time owing to the involvement of cross-country issues. This leads to a high rate of pending cases in the state. As a respondent stated about the problems associated with such cases,

Many a times these are just children who are not victims of trafficking but mistakenly cross the border while grazing their cows. Many a times the Bangladesh Government does not accept them as Bangladeshi children while they claim to be; even their families are not ready to take them back. There are lots of issues. Without a valid citizenship record we cannot release them. They keep lying here in the observation home for years. These children cannot even be sent outside to attend schools etc since they are booked as JCLs. Their childhood gets lost this way.

The Act also states that the any member of the JJB can be dismissed from his/her job after establishing charges against him, as per the details below

The appointment of any member of the Board may be terminated after holding inquiry, by the State Government, if –

i. he has been found guilty of misuse of power vested under this act,

ii. he has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or he has not been granted full pardon in respect of such offence,

iii. he fails to attend the proceedings of the Board for consecutive three months without any valid reason or he fails to attend less than three-fourth of the sittings in a year.

(Part II, Section 4.5)
This is put into practice by organizations working on issues of reintegration of JCLs. The ‘systems-based’ approach in urban and rural parts of Maharashtra has made efforts to put this into practice while their approach is to enhance the juvenile justice system and hence ensure better delivery of services. One of the respondents of the organization proudly shares such a feat that has been achieved with their efforts in Mumbai,

...the magistrate of the JJB was a very big problem for us- he was not at all child friendly, he was passing very odd and horrible decisions, giving police custody of children, he also passed orders like jin bachhon ka koi nahi hai unka case khatam karke unko raste pe chor do (close down cases of children who do not have any guardian and leave them out on the streets); not even like if these children have nobody I will make the case nil and transfer the case to CWC not even that. Then he would never ask for probation officers report, then the lady probation officer who used to give the reports he once shouted at her saying, “aap toh ime moti ho, mujhe nahi lagta aap field pe sach mein gaye honge (you are so fat that I doubt you ever go for home visit).

With regard to orders that may be passed against JCLs, the JJ (C&P) Amendment Act 2006, 15(1) states,

Order that may be passed regarding juvenile.- (1) Where a Board is satisfied on inquiry that a juvenile has committed an offence, then notwithstanding anything to the contrary contained in any other law for the time being in force, the Board may, if it thinks so fit,-
(a) allow the juvenile to go home after advice or admonition following appropriate inquiry against and counselling to the parent or the guardian and the juvenile;
(b) direct the juvenile to participate in group counselling and similar activities;
(c) order the juvenile to perform community service;
(d) order the parent of the juvenile or the juvenile himself to pay a fine, if he is over fourteen years of age and earns money;”

(Gazette of India, Act No. 56 of 2000: 5).

This section of the Act is followed by the JJBs in many parts of the country. One of the judicial magistrates proudly claims,

I give very innovative tasks to such children based on their offences and their backgrounds. Thus if a child has stolen a mobile I would ask the child to explore why a child of his age would want to steal and children have made brilliant presentations. This way the child learns himself why such acts are not desirable and what are the social consequences etc….there are many such reformatory acts that I have assigned to a JCL.

The magistrate also shared copies of his orders with the researcher. Article 15(2) of The Juvenile Justice (Care and Protection of Children) Amendment Act 2006 also mentions that

The Board shall obtain the social investigation report on juvenile either through a probation officer or a recognised voluntary organisation or otherwise, and shall take into consideration the findings of such report before passing an order”

(Gazette of India, Act No. 56 of 2000: 6).
It was observed that the probation officers pay home visits to prepare the social investigation reports of cases and then submit the same to the JJB. The orders of the JJB are given based on such reports. A probation officer in an observation home shared,

*I myself make home visits of children who come here in this observation home. They generally belong to the areas around Pune city, so it is not difficult to make home visits. However in some cases when children belong to other states, it becomes difficult, in such cases it takes a long time, and I have to delegate the task to some social worker of an NGO to do the task.*

Article 15(1g) of the Act discussed here also mentions that

The Board shall make an order directing that the relevant records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period as prescribed under the rules, as the case may be

(Gazette of India, Act No. 56 of 2000:.6).

As far as written records are concerned, the above provision is followed in observation homes of all the states from where data was collected. However, it has been observed and shared by children that these cases remain alive in the memories of the police; they pick up these children on and off on suspicion and this leads to their harassment. As one child shared,

*Didi (referring to the researcher), whenever the police gets news about some crime in the locality, they pick us up even in the middle of the night and take us to the jail. It is only later on production of age-proofs we are transferred to observation home.*

One of the respondents of the systems-based model acknowledged the above fact and shared,

*The police pick up children even on apprehension and this vicious cycle continues. So in the minds of the police and the community around, these children get labeled as criminals. Through our interventions and working closely with the system, we have made one difference in this approach of the police. What we have told the police is that even if you require to pick up a child do not do so give us a call even if it is in the middle of the night and we will update you on the whereabouts of the child that particular day/ time so that it is explained where the child was during the said period. This has made a difference in this area where we are working.*

Further, Article 15(3) of the Act states,

*Where an order under clause (d), clause (e) or clause (f) of sub-section (1) of the Act (discussed here) is made, the Board may, if it is of opinion that in the interests of the juvenile and of the public, it is expedient so to do, in addition make an order that the juvenile in conflict with law shall remain under the supervision of a probation officer named in the order during such period”*  

(Gazette of India, Act No. 56 of 2000:.6).
In acknowledgement of the above provision of the Act, one probation officer shared about the case of a child who had no family support,

This boy Sanjay (name changed) had been lying here in the observation home for a few years since he had nowhere to go. He had already crossed school-going age by this time and was getting violent out of frustration of no work. I was observing him for quite sometime and realised that he needed to be sent out for some industrial training that he might be interested in. However since he was a child under the category of JCL therefore he cannot be sent out without a guardian. Now in the absence of a known guardian, I took up his guardianship with permission from the JJB and guaranteed for his safety even when left out. Thereafter he was enrolled for the industrial training. He did remarkably well during the training and gained trust of the authorities there. So much trustworthy he became that this boy who had been sent to the observation home on charges of theft three times, was sent to the city here with cash worth Rs. 10000/- to buy some stuff for the small scale industry. He kept their trust alive and completed his task and then also completed his training of one year. Now he is well settled in life and has set up his own trading business.

The above case also proved how ‘trust’ and non-labeling as criminal works positively and helps in reintegration of a delinquent juvenile.

The provisions discussed above are those that specifically talks of ‘reintegration’ aspects of JCLs. The present study shows that provisions of the Juvenile Justice (Care and Protection of Children) Amendment Act 2006 are followed in many instances and in some cases, still not followed even after eight years of the amended Act. This leads to scope of further intervention to make effective ‘reintegration’ possible.

SECTION II: CONCEPT OF REINTEGRATION

The first and foremost point that emerged from the study is the definition and implication of the meaning of the term ‘reintegration’. ‘Reintegration’ is used as a key term for vulnerable children in the sector of child protection in India. Ever since the Juvenile Justice Act has been amended in the year 2000 and later in 2006 and the Model Rules were formulated in 2007, the term reintegration is commonly being used among various stakeholders in the child rights’ sector.

A number of respondents have been interviewed to understand the concept of reintegration as they claim to be implementing the amended act. The study has also brought to limelight the status of reintegration of juveniles in conflict with law in
India. The key findings on the various perceptions of reintegration are highlighted below.

The key concern, however, is what the word means to practitioners working in the field; it has been observed that despite the introduction of the term reintegration in the Juvenile Justice Act, the term continues to be practiced from the old world viewpoint by practitioners. The meaning of the term assigned by practitioners and academicians to the comparatively newer concept would therefore determine the approaches to ‘reintegration’ and specifically to juveniles in conflict with law.

**Repatriation**

In various instances during the data collection process, it was observed by the researcher that the concept of reintegration is coined as another word for the previously known concepts of ‘reunion with family’ or ‘repatriation’. It is worth noting here that other stakeholders not directly related to projects on reintegration, have been found to be linking reintegration with reunification with families.

‘We have sent a number of children back to their families and that we can call as our success in reintegration’, admitted an academician who is also active on the issue of child protection. However, when briefed about work on reintegration in some other parts of the country, he acknowledged,

*Such in-depth work is difficult to get in this part of the country. For such level of work there has to be a lot of commitment from voluntary organizations and tremendous amount of cooperation from government functionaries. However some other kinds of work in other capacities are done by some organizations.*

One important observation when rethinking about such practices is that they were more in use where cross-border issues were at play. It was observed that the juvenile justice system in Kolkata was dealing with hundreds of cases of cross-border trafficking of children. Such cases, owing to the inherent complexities involved, have led to ‘pendency’ emerging as a major problem in the juvenile justice system in West Bengal. It should be noted that these children are not trafficked only for purposes of sex trade, domestic labour or illegal reasons. As one of the respondents shared,

*…many a times these children cross the border mistakenly while grazing their cows since the border between India and Bangladesh is very porous at some places and then*
Thus, ‘repatriation’ becomes an important and immediate need in such cases. However, many such children keep waiting for their turn to get repatriated due to the host country’s unwillingness to accept them as their own citizens for want of documents proving their residence in their country of origin. This involves detailed work and mutual cooperation between the governments of both countries, with voluntary organizations working on both sides of the border and other stakeholders (if any) involved in the process. Repatriation in such cases is seen as ‘reintegration’.

Voluntary organizations were observed to be taking credit in instances where children have been reunited with their families. However, the best interest of the children was not taken into consideration. There were instances when a child who had run away from home and landed on the streets of a city and then run into trouble with law had been picked up by the police and given shelter in a children’s home. Thereafter, the child was repatriated to his family but was found to have run away again and landed up into trouble/caught by the police yet again. This cycle repeated itself a few times. As one such repeated offender (so to say), a survivor of trafficking who had run away from home shared,

* I had been sent back home after rescue; it was my brother-in-law who had trafficked me. I had told so many times not to send me back home; my sister and brother-in-law stay there itself (my brother-in-law is the one who had sold me off, but here at home everybody eat together, sit and talk together in such merrymaking and fun as if nothing had ever happened; but I cannot gulp my food down my throat.*

The above instances highlight cases and also draw a pattern of instances in which *reintegration* overlaps with *repatriation* or *reunion with families*. There are other implications of the term detailed below.

**Rehabilitation**

‘Rehabilitation’ is another term that is used interchangeably with the concept of *reintegration* by many practitioners. When probed further about this interchangeability of words, they acknowledged that ‘rehabilitation’ was directly linked with vocational training. It was learnt that certain trades were commonly used
in almost all homes across the country such as ‘candle-making’, ‘basket-making’, ‘tailoring’ and a few others. In most cases, even these trades were not taught seriously and children had lost interest in learning any of them, due to the apathy among teachers teaching the same. As one child (now an adult) who had been part of a ‘reintegration program’ says,

_During those days, the situation inside the home was not good. Even in the tailoring class, we were asked to make uniforms for children inside the home, but you cannot call it vocational, you cannot use that skill to use it elsewhere, since we were not taught good, finishing, we just knew how to use the sewing machine, that’s it. Teachers were there but she just made us sit in rows, in silence; she also used to just keep sitting there. After lunch again sit the same way till 4pm._

In another instance, a government official from Jharkhand who was interviewed stated,

_Our programme is completely different from common rehabilitation programs that were offered earlier. In the former programme there were certain common trades that were invariably used in observation homes and the interest/skill of the child was not taken into account. Moreover these were age old vocations that neither had any practical relevance in providing economic independence, nor had a scientific logic behind designing such programs. Our programme has scientific explanation of its relevance in positively influencing the life of a delinquent/neglected juvenile._

In the above case, although the term ‘rehabilitation’ is used in place of reintegration, it is acknowledged that the latter recognizes the skills and interests of the individual as well emphasizes on the ‘individual’ as an important component of the concept of reintegration.

There are yet other individuals who emphasize on ‘the individual’ while explaining the concept of reintegration. They have identified ‘reintegration’ with linking individuals (to be reintegrated) with services or networks that are available – according to them, reintegration goes hand-in-hand with rehabilitation. They believe that rehabilitation means providing options/services while making them capable of accessing services, thus boosting their self-confidence and skillful to access such services. Reintegration is explained as the attainment of confidence to use community resources and support systems. As one respondent said,

_Reintegration is not putting the child into the home and is not even rehabilitation. So we needed a programme to rehabilitate a child by linking him/her to mainstream services, how to help him/her for recovery from inside/within. So the reintegration programme had to have both the components: i. Rehabilitation – linking him/her to services that is his/her right and working with him/her to be able to access these services. You might have hundreds and thousands of services but she would not be accessing them._
A retired police officer links the individual to be reintegrated with the understanding of the term ‘reintegration’ very skillfully. He says,

The point is here, instead of discarding a person, understanding the person is most important. Here the understanding of the person comes only when you have the capability to understand – the second is how capable is the person who wants to rehabilitate, the person/agency/institution who undertakes rehabilitation, is the most important, not the individual who is to be rehabilitated because the person has lived through crime, they have been victims and offenders both. I am yet to come across a child in all my 35 years of service who has committed a crime and that person was not a victim earlier.

In the above understanding of the term reintegation and using it interchangeably with the term rehabilitation, an important observation is that gradually the ‘individual’ starts merging the two terms. Rehabilitation is used loosely by allocating a few services in children’s institutions and the individual child’s interests are not taken into consideration. Accessibility to services, being able to make use of them at a later point of time so as to be fully independent began to emerge with the emphasis on the ‘individual’. It began to be acknowledged that the ‘individual’ is an important aspect of the ‘reintegration’ process.

Reintegration

After the recognition of ‘the individual’ emerged the recognition of other stakeholders in the process of reintegation. This had a clear objective, which is to reduce the rate of recidivism along with creating self-reliance in the individual by accessing and making use of services/training offered to him/her.

One of the respondents explained that reintegation is a process. To quote in her own words,

Yes there is difference between rehabilitation and reintegation; because when we are talking about an individual as one who has committed an offence then the first step according to me is correction. Unless the child recognize or probably just the fact that he has committed a mistake, we can’t talk about rehabilitation. So kind of awareness is required and children know that they have committed a mistake, only thing is that they need to recognize it as well. Once that is recognize the next step is correction and once that correction is inculcated in the person then after that the step towards rehabilitation. The efforts that are taken for that by the child and the system is rehabilitation to make the child somber and in most cases it is done by inculcating some skills in the child assuming that the life of the child wouldn’t be the same as it was before he committed the offence. After that when the child is absolutely confident that I don’t want to do this again and want to go back to my previous life again, the whole community has to stand up for that, he cannot do it himself. Then the role of the JJ system, the family and the community is more important in the complete process of reintegation. Thus you
definitely need active support from all the functionaries because anyways reintegration
cannot be done in a vacuum.

The present study has also looked into the understanding of the term ‘reintegration’
according to heads of institutions and social workers working in organizations that
offer reintegration programmes. As one of them says,

If there is a jigsaw puzzle and one of the pieces in it has been taken/thrown/gone out for
some external reason, then what is to be done is to re-fit the piece into the place it has
gone out from, in order to complete the puzzle. So if this piece has moved out from the
puzzle and then for some reason, say, some child has played with the piece and the
original shape has broken somehow, the edges has been chipped off then, you have to fit
it back into that place, there is no other way out; the place where it has broken/chipped
off from, that you have to somehow repair and then fit it back at the same place – only
then will actual reintegration happen.

This implies that if one cannot give back what this individual (in question) rightfully
owned before his/her entry into the justice system, ‘reintegration’ cannot be claimed
to have happened in its true essence. The other definition that emerged was
‘something (referring to the delinquent child) was good, it got bad and you have to
revert conditions so that it becomes good again’. An activist working with trafficked
victims and children in conflict with the law for more than decade says,

It is interesting to note that they are seeing the ‘individual’ and ‘whatever happened’ to
the individual as two separate things because the person remains the same, so you have
to restore their identity

She explained that such individuals have lost their trust and confidence on the society.
Reintegration involves remaining by their side and assuring them that they are
supported by society so that they get the inner-strength to reintegrate themselves in
society. In her words, ‘she will not ask for help because she doesn’t know that she can
– that she can scream and somebody will stand with her and scream.’

This understanding is supported by another respondent in a different context and
dealing with juvenile delinquents saying,

We listen to all they have to say and we keep telling them that come and shout at us if
your anger goes out of control, when they are in process of getting reintegrated because
that is a very vulnerable situation for them during those times and they need strong-hand
holding support at such times.

Analysis of the various meanings of the term reintegration as understood by various
stake-holders shows that it based on the various practices being followed by them.
The practices that have been studied as part of the research are the ones that fit into the internationally understood and accepted definition of *reintegration*.

The duty of society does not end with a prisoner's release. There should, therefore, be governmental or private agencies capable of lending the released prisoner efficient after-care directed towards the lessening of prejudice against him and towards his social rehabilitation.

(United Nations 2006).

**Conclusion**

In light of the legal instruments and all the above perceptions on *reintegration* highlighted by various stakeholders in the study the interpretation of the concept *reintegration* is drawn. Thus *reintegration* for juveniles in conflict with law can be conceptualized as the process of reinstating children from the juvenile justice system back into the community in the best interest of the child. The process involves unconditional acceptance by the community and includes efforts undertaken by various stakeholders’ right from the point of entry of the child into the juvenile justice system. This acceptance thus implies efforts made by the community for the constructive development of the child thereof. It may be noted here that the child while exiting the juvenile justice system might have attained eighteen years of age at that point of time, *reintegration of JCLs* include such category of children as well. The aim of *reintegration* is included in its concept and includes *recidivism* as the main objective.