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# **Rights of Children in Conflict with Law: A Critical Study of Juvenile Justice Reforms**

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## **ABSTRACT**

The juvenile justice system occupies a unique and sensitive position within the broader legal framework, premised on the foundational belief that children in conflict with law deserve reformation rather than retribution. This research critically examines the evolution of juvenile justice in India, traversing its legislative journey from the Reformatory Schools Act of 1897 to the landmark Juvenile Justice (Care and Protection of Children) Act of 2015 and its subsequent amendment in 2021. The study interrogates the conceptual tension between the rehabilitative philosophy enshrined in international instruments and the punitive impulses that increasingly infiltrate domestic legislation, particularly in the context of heinous offences committed by children between the ages of sixteen and eighteen. By analysing landmark judicial pronouncements, comparative legislative frameworks, and empirical data on juvenile crime trends, this paper endeavours to offer a comprehensive and nuanced evaluation of the existing juvenile justice architecture. Furthermore, it examines the adequacy and functionality of institutional mechanisms such as Juvenile Justice Boards, Child Care Institutions, and the newly constituted Children's Courts, while also highlighting structural deficiencies including inadequate infrastructure, undertrained personnel, and inconsistent implementation across states. The research advocates for a balanced approach that respects the child's constitutional rights, particularly under Articles 14, 15, 21, and 39(f) of the Indian Constitution, while simultaneously addressing legitimate societal concerns regarding safety and accountability. Concrete recommendations are advanced for strengthening the rehabilitative framework, improving institutional capacity, and ensuring uniformity in the application of juvenile justice principles across the country.

**Keywords:** Juvenile Justice, Children in Conflict with Law, JJ Act 2015, Reformation, Rehabilitation, Child Rights, Article 21, UNCRC, Heinous Offences, Juvenile Justice Board

## INTRODUCTION

Children occupy a distinct and privileged position within the legal order of every civilized society. Recognized as vulnerable members requiring special protection, children who come into conflict with the law present a profound challenge: how does society respond to wrongdoing committed by those who are themselves products of neglect, poverty, abuse, or circumstance? The international community has long acknowledged that children, by virtue of their developmental immaturity, are inherently less culpable than adults and that their capacity for reformation is significantly greater.<sup>1</sup>

India's engagement with juvenile justice has traversed a considerable historical arc. Colonial-era institutions, reflective of punitive and custodial philosophies, gave way to increasingly welfare-oriented frameworks in the post-independence period. The enactment of the Juvenile Justice (Care and Protection of Children) Act, 2000, represented a significant alignment with international norms, particularly those articulated in the United Nations Convention on the Rights of the Child (UNCRC) and the Beijing Rules.<sup>2</sup>

However, the horrific gang rape case in Delhi in December 2012, in which one of the accused was a juvenile aged seventeen years and six months, ignited an intense national debate about the adequacy of existing juvenile justice law. Public outrage, amplified by media discourse, created irresistible pressure for legislative reform. The response was the Juvenile Justice (Care and Protection of Children) Act, 2015, which departed markedly from its predecessor by introducing the controversial provision for trying children between the ages of sixteen and eighteen, accused of heinous offences, as adults before Children's Courts.

This research seeks to examine the historical evolution of juvenile justice in India, critically analyse the provisions of the JJ Act 2015, evaluate the functioning of institutional mechanisms, and propose reforms to ensure that the juvenile justice system remains true to its foundational rehabilitative purpose while addressing contemporary challenges.

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<sup>1</sup>United Nations Convention on the Rights of the Child (UNCRC), 1989, Article 1.

<sup>2</sup>United Nations Standard Minimum Rules for the Administration of Juvenile Justice ('The Beijing Rules'), G.A. Res. 40/33 (1985).

## **A DETAILED EXAMINATION OF THE EVOLUTION OF JUVENILE JUSTICE IN INDIA**

The concept of differential treatment for child offenders is by no means a modern innovation. Ancient legal texts in India recognized the reduced culpability of minors, while colonial legislation formalized these instincts into institutional structures. The Reformatory Schools Act of 1897 marked the first systematic attempt to separate child offenders from adult criminals, establishing reformatory schools as an alternative to conventional imprisonment.

The post-independence period witnessed a gradual shift from custodial to welfare-oriented thinking. The Children Act, 1960, applicable to centrally administered territories, established Juvenile Courts and Children's Homes, and prohibited the sentencing of juveniles to imprisonment. This legislation served as a model for state-level enactments, though the absence of a uniform national framework resulted in significant inconsistencies in both law and practice.

A decisive intervention by the Supreme Court in *Sheela Barse & Ors. v. Union of India & Ors.* exposed the appalling conditions in which juvenile offenders were detained, often alongside hardened adult criminals, and directed the government to establish separate facilities and enact comprehensive national legislation.<sup>3</sup>

The Juvenile Justice Act of 1986 responded to these directives, defining a juvenile as a person below sixteen years of age in the case of boys and eighteen years in the case of girls — a distinction subsequently criticized as arbitrary and discriminatory. The Act created Juvenile Welfare Boards and Observation Homes and emphasized care and reformation over punishment.

India's ratification of the UNCRC in 1992 created fresh obligations to align domestic law with international standards mandating uniform protection for all children below eighteen years of age. The Juvenile Justice (Care and Protection of Children) Act, 2000, enacted in response to this imperative, raised the age of juvenile protection uniformly to eighteen years for all children, established Juvenile Justice Boards with magistrates and social workers, and foregrounded rehabilitation and social reintegration as the central objectives of the system.

The Supreme Court's decision in *Pratap Singh v. State of Jharkhand & Anr.* further clarified that the benefit of the JJ Act 2000 would be applicable to all persons who were below the age of

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<sup>3</sup>Sheela Barse & Ors. v. Union of India & Ors., AIR 1986 SC 1773.

eighteen at the time of commission of the offence, regardless of whether they had attained majority by the time of trial — a ruling that significantly expanded the protective scope of the legislation.<sup>4</sup>

The enactment of the JJ Act 2015, against the backdrop of the 2012 Delhi gang rape case, marked a paradigm shift. The legislation retained the rehabilitative framework for the majority of child offenders while introducing a parallel punitive track for children between sixteen and eighteen years accused of heinous offences. The 2021 amendment to the Act further extended the authority of District Magistrates in matters of adoption and child protection, and strengthened the accountability of Child Care Institutions.

## **JUVENILE JUSTICE IN THE DIGITAL AND CONTEMPORARY ERA: ISSUES AND STRATEGIC SOLUTIONS**

### **The Heinous Offence Provision and the Adolescent Offender**

Perhaps the most contentious feature of the JJ Act 2015 is Section 15, which empowers the Juvenile Justice Board to conduct a preliminary assessment of a child aged between sixteen and eighteen years accused of a heinous offence — defined as an offence carrying a minimum sentence of seven years' imprisonment — to determine whether the child should be tried as an adult.<sup>5</sup>

Critics have argued that this provision fundamentally undermines the rehabilitative philosophy of juvenile justice. The reliance on a preliminary assessment by the JJB, rather than a comprehensive psychological and social evaluation, has been questioned. The assessment criteria, centring on the child's mental and physical capacity and the circumstances of the alleged offence, are insufficiently defined, leaving enormous discretionary room that may be exercised inconsistently and with inadequate expertise.

Moreover, the transfer of a juvenile to an adult criminal court and, upon conviction, to an adult correctional facility after the age of twenty-one, exposes the child to the well-documented criminogenic effects of imprisonment, substantially diminishing prospects of rehabilitation. Research consistently demonstrates that incarceration alongside hardened criminals accelerates criminal socialization rather than arresting it.

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<sup>4</sup>Pratap Singh v. State of Jharkhand & Anr., (2005) 3 SCC 551.

<sup>5</sup>Juvenile Justice (Care and Protection of Children) Act, 2015, Section 15.

## **Institutional Deficiencies and Infrastructure Gaps**

Official data reveals a deeply troubling picture of the institutional landscape. Annual reports published by the Ministry of Women and Child Development indicate chronic shortfalls in the number of functioning Observation Homes, Special Homes, and Place of Safety facilities across Indian states.<sup>6</sup>

Juvenile Justice Boards in numerous districts operate without the requisite Principal Magistrates or without qualified social workers, rendering their composition non-compliant with statutory mandates. The quality of legal representation available to children before JJBs is frequently inadequate, with legal aid lawyers often unfamiliar with the specialized principles governing juvenile proceedings. In many states, the infrastructure of Child Care Institutions remains decrepit, overcrowded, and devoid of meaningful educational, vocational, or therapeutic programming.

## **Socio-Economic Determinants of Juvenile Delinquency**

A critical reading of juvenile justice cannot proceed without confronting the structural conditions that produce juvenile delinquency. Analysis of crime data consistently reveals that children who come into conflict with law are disproportionately drawn from the most economically and socially marginalized sections of society — children from families below the poverty line, children who have dropped out of school, children engaged in child labour, and children from Scheduled Caste and Scheduled Tribe communities.

This reality compels a recognition that juvenile justice cannot function as a substitute for broader failures of child welfare, education, and poverty alleviation. A system that criminalizes poverty and social deprivation, rather than addressing its root causes, will inevitably reproduce the conditions of its own futility.

## **Social Media, Online Radicalization, and Emerging Threats**

The contemporary digital environment has introduced new dimensions to juvenile delinquency that existing legislative frameworks are ill-equipped to address. Exposure to violent and extremist content through social media platforms, online peer pressure, cyberbullying, and the radicalization of impressionable adolescents through curated digital propaganda represent emerging challenges.

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<sup>6</sup>Ministry of Women and Child Development, Annual Report on Juvenile Justice (2022–23), Government of India.

Children increasingly become both victims and perpetrators in the digital sphere, blurring conventional boundaries and demanding a sophisticated, multi-stakeholder response.

### **Corporate Accountability and Child Victimization**

Private actors, including digital platforms and media companies, bear a substantial but underexplored responsibility in shaping the environment in which juvenile delinquency occurs. Algorithmic amplification of violent, misogynistic, or criminal content to adolescent users, inadequate age verification mechanisms, and the monetization of user engagement without regard to psychological harm raise serious questions of corporate accountability. The absence of robust regulatory frameworks governing the intersection of children's digital rights and juvenile justice represents a significant lacuna in Indian law.

### **Weak Grievance Redressal and Victim Support Mechanisms**

Juvenile justice systems are predominantly oriented towards the offender, often at the cost of adequate attention to victims. Existing mechanisms for victim assistance, compensation, and counselling are rudimentary and inconsistently implemented. Children who are victims of crimes committed by juvenile offenders, and their families, frequently report inadequate information about proceedings and limited access to support services, undermining confidence in the system's fairness.

The JJ Act 2015 provides for a statutory framework for child care and protection, but the operationalization of its provisions — particularly concerning follow-up care, after-care programmes, and community reintegration — remains weak. The promise of rehabilitation is frequently extinguished by the absence of structured post-release support, leaving children vulnerable to recidivism.

### **Strategic Solutions**

Addressing the systemic deficiencies of juvenile justice in India requires a multi-pronged approach grounded in constitutional values, empirical evidence, and international best practices. The following measures are proposed:

**Reforming the Heinous Offence Framework:** The criteria and process for assessing whether a child should be tried as an adult require substantial revision. Assessment must be conducted by qualified child psychologists and social workers alongside legal professionals, and must be guided by

internationally recognized developmental and forensic standards. The presumption must remain in favour of rehabilitation, with transfer to adult courts reserved for only the most exceptional circumstances.

**Strengthening Institutional Infrastructure:** States must be held accountable through mandatory compliance timelines for establishing and maintaining Observation Homes, Special Homes, and Places of Safety meeting statutory standards. Independent inspection mechanisms should be empowered to close non-compliant facilities and mandate remedial action.

**Investing in Early Intervention and Diversion:** Diversion from formal proceedings, through community service, restorative justice processes, and counselling programmes, should be significantly expanded. Research demonstrates that diversion, when properly resourced, reduces recidivism more effectively than formal adjudication and incarceration.

**Mandatory Specialization for JJB Personnel:** All members of Juvenile Justice Boards, as well as lawyers, prosecutors, and police officers regularly dealing with juvenile cases, must undergo mandatory specialized training in child rights, adolescent psychology, and trauma-informed practice.

**Addressing Digital and Emerging Risks:** A dedicated legislative framework governing the exposure of children to harmful digital content, and establishing clear accountability for platform operators, is urgently needed. The intersection of the JJ Act 2015 and information technology law must be explicitly addressed.

## **RIGHT OF CHILDREN IN CONFLICT WITH LAW AS AN INTEGRAL PART OF THE INDIAN CONSTITUTION**

The Indian Constitution provides a rich normative foundation for the rights of children in conflict with law, though its full potential remains insufficiently realized in legislative and executive practice. Article 21, guaranteeing the right to life and personal liberty, has been interpreted by the Supreme Court to encompass within it a constellation of rights essential to a life of dignity — including the right of a child to education, health, and freedom from exploitation.

In *Bachpan Bachao Andolan v. Union of India*<sup>7</sup>, the Supreme Court affirmed the State's obligation under Article 21 read with Article 39(f) to protect children from exploitation and to provide them opportunities for healthy development. The Court emphasized that the constitutional promise extended not merely to protection from harm but to the active creation of conditions enabling the realization of each child's potential.

Article 15(3) empowers the State to make special provisions for children, while Article 39(f) specifically directs the State to ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity. Read together, these provisions impose an affirmative obligation on the State to design and implement a juvenile justice system that is genuinely rehabilitative, adequately resourced, and professionally administered.

The Supreme Court's decision in *Gaurav Kumar v. State of Haryana* reinforced the principle that juvenile justice proceedings must be conducted with strict adherence to procedural safeguards, and that the failure to constitute a properly composed Juvenile Justice Board vitiated the entire proceedings — underscoring that procedural compliance is not merely technical formality but a substantive guarantee of the child's rights.<sup>8</sup>

The connection between the juvenile justice framework and Article 21 was authoritatively addressed in the context of the age determination controversy. The Supreme Court, in a series of decisions, has consistently held that the benefit of the JJ Act must be liberally construed in favour of the child, and that any ambiguity in the determination of age must be resolved in the child's favour, consistent with the constitutional mandate to prioritize the best interests of the child.

In *Salil Bali v. Union of India & Anr.*<sup>9</sup>, the Supreme Court was called upon to assess the constitutional validity of raising the age of juvenile protection to eighteen years. Upholding the provision, the Court articulated the principle that the juvenile justice framework must be evaluated not through the lens of the gravity of the offence but through the lens of the child's capacity for reformation and the State's constitutional obligation to provide every child an opportunity for redemption and rehabilitation.<sup>10</sup>

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<sup>7</sup> *Bachpan Bachao Andolan v. Union of India*, (2011) 5 SCC 1.

<sup>8</sup> *Gaurav Kumar v. State of Haryana*, (2012) 12 SCC 490.

<sup>9</sup> *Salil Bali v. Union of India & Anr.*, (2013) 7 SCC 705.

Any legislative or policy measure that restricts a child's access to the rehabilitative framework of the JJ Act must, therefore, be subjected to rigorous scrutiny under Article 21. The test of proportionality — as articulated in constitutional jurisprudence — demands that such restrictions pursue a legitimate objective, are rationally connected to that objective, represent the least restrictive available means, and do not impose a disproportionate burden on the child's fundamental rights. The heinous offence provision of the JJ Act 2015, as currently framed, arguably fails to satisfy this exacting standard.

## **CONCLUSION**

The evolution of juvenile justice in India reflects a continuing negotiation between competing imperatives: the rehabilitative philosophy that has historically animated child-focused law, and the punitive impulses generated by public outrage over crimes of exceptional gravity. The JJ Act 2015, while retaining much of the rehabilitative architecture of its predecessor, has introduced provisions that carry the risk of fundamentally compromising the system's foundational commitment to the best interests of the child.

The challenges confronting juvenile justice in India today are formidable. Institutional infrastructure remains inadequate, specialized capacity is chronically underdeveloped, and the socio-economic conditions that generate juvenile delinquency are insufficiently addressed by a system focused primarily on adjudication rather than prevention. The emergence of digital environments as sites of both victimization and radicalization adds new complexity to an already demanding landscape.

Yet the constitutional framework provides a sound foundation for reform. Articles 14, 15, 21, and 39(f), interpreted purposively and generously, impose on the State a positive obligation to invest in a juvenile justice system that genuinely realizes the promise of rehabilitation. Judicial oversight, informed by a commitment to constitutional values and international standards, will be essential in holding the State to this obligation.

India's enactment of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, signals continued legislative attention to the system's functioning. But legislative reform alone is insufficient. Sustained investment in institutional capacity, rigorous implementation of existing safeguards, and a cultural transformation in the attitudes of all those who interact with children in

conflict with law — police, prosecutors, lawyers, magistrates, and care workers alike — are equally essential. The measure of a just society lies, ultimately, in how it treats its most vulnerable members; and few are more vulnerable than the child who has transgressed, and who stands in need not of condemnation, but of guidance, care, and a renewed opportunity for a dignified life.

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