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# **REFORMING JUVENILE JUSTICE LAW BALANCING REHABILITATION AND ACCOUNTABILITY**

AUTHORED BY - MANISHA

## **ABSTRACT**

The Indian juvenile justice system has changed considerably over the years with an increasing focus on reconciling the twin ideals of rehabilitation and accountability. The academic article examines the law and philosophical perspectives of child justice reform in India, in reference to the Juvenile Justice (Care and Protection of Children) Act, 2015. The study interrogates shifting understandings of delinquency in juveniles, theoretical conceptions, as well as emerging norms at an international level, for example, the UN Convention on the Rights of the Child (UNCRC) and Beijing Rules, and its relevance for fulfilling India's obligation under norms from the international world. It explores the chronological evolution of legislation, starting from the Juvenile Justice Act of 1986 to the harsher provisions adopted in 2015, which enable children between the ages of 16 and 18 to be prosecuted as adults for heinous crimes. The article critically evaluates the function of Juvenile Justice Boards (JJBs), Child Welfare Committees (CWCs), and the classification of offences, acknowledging both procedural merits and systemic faultlines. A comparative analysis of juvenile justice models in nations such as the USA, UK, and Scandinavian countries is presented to draw lessons for reform. The research concludes with suggestions for infrastructural development, more trained staff, and the importance of maintaining the rehabilitative essence of juvenile justice in the face of increasing demands for punitive responses.

**Keywords:** Juvenile Justice, Rehabilitation, Accountability, Juvenile Justice Act 2015, Child Welfare

## **1. INTRODUCTION**

The juvenile justice system in India has long stood at the intersection of two frequently clashing legal and moral imperatives: the imperative to rehabilitate children in conflict with the law and the imperative of accountability, particularly in the context of heinous crimes. This precarious balance has become a central theme in legal, political, and social debate, particularly in the

aftermath of high-profile cases involving juvenile offenders that have evoked popular outrage and demands for harsher laws.<sup>1</sup> The Juvenile Justice (Care and Protection of Children) Act, 2015, which brought about sweeping changes to the pre-existing legal code, such as the option of trying certain juveniles as adults, testifies to this increasing inclination toward punitive action. Yet, these developments have also raised questions regarding the compatibility of such provisions with the rehabilitative spirit that underlies juvenile justice systems across the globe.<sup>2</sup> In historical terms, Indian juvenile justice developed from a colonial-inspired welfare approach to legislation, to a better-organized system of law more attuned to the rights of children as upheld in the Indian Constitution and through international documents like the United Nations Convention on the Rights of the Child (UNCRC). The Juvenile Justice Act of 2000 was a major step towards harmonizing domestic law with international norms, focusing on care, protection, and the best interests of the child. But the 2012 Delhi gang rape case, where one of the accused was a juvenile, served as a watershed moment that prompted the amendment of the law in 2015. The new law brought in the potential for treating 16- to 18-year-olds like adults when committing heinous crimes, thus undermining the presumption that juveniles are inherently different from adults in cognitive ability and moral culpability.<sup>3</sup>

The move towards accountability has given rise to some legal and ethical issues. Critics say that the new provisions undermine the rehabilitative basis of juvenile justice and may infringe on the constitutional right of equality and the right to life with dignity. In addition, the assessment of whether a juvenile has the mental capacity to comprehend the implications of their actions has been entrusted to Juvenile Justice Boards, which usually do not possess the requisite psychological professionals. It has resulted in fears of arbitrary judicial decisions and the potential danger of exposing vulnerable children to the criminal justice system of adults without necessary precautions. Conversely, the reformers argue that the juveniles accused of serious offenses need to face the proper punishments and that the safety of people cannot be risked for rehabilitation purposes only.<sup>4</sup>

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<sup>1</sup> Admin, "JUVENILE JUSTICE: BALANCING REHABILITATION AND PUNISHMENT » Lawful Legal" Lawful Legal, 2024 available at: <https://lawfullegal.in/juvenile-justice-balancing-rehabilitation-and-punishment/> (last visited April 11, 2025).

<sup>2</sup> Ayush Verma, "Introduction and Overview of the Juvenile Justice Care and Protection Act, 2015" iPleaders, 2022 available at: <https://blog.iplayers.in/introduction-overview-juvenile-justice-care-protection-act-2015/> (last visited April 11, 2025).

<sup>3</sup> Manupatra, "Articles – Manupatra" available at: <https://articles.manupatra.com/article-details/Understanding-Juvenile-Justice-A-Path-to-Rehabilitation-for-Minors> (last visited April 11, 2025).

<sup>4</sup> Admin, "Juvenile Justice Reform: Balancing Accountability And Rehabilitation » Lawful Legal" Lawful Legal, 2025 available at: <https://lawfullegal.in/juvenile-justice-reform-balancing-accountability-and-rehabilitation/> (last visited April 11, 2025).

This conflict between rehabilitation and accountability is not specific to India. Comparative analysis indicates that various jurisdictions have taken different approaches depending on their social, cultural, and legal environments. While nations like the United States have traditionally preferred punitive models, others like Sweden and Norway focus on reintegration and restorative justice. In the Indian context, however, enforcement of juvenile justice laws is hampered by some additional challenges, such as lack of infrastructure, absence of trained professionals, ineffective monitoring, and social stigma that juvenile offenders are subject to. These systemic gaps tend to yield poor rehabilitation and impede the reintegration of juveniles into mainstream society.<sup>5</sup>

In light of these intricacies, it is essential to scrutinize the current legal framework regulating juvenile justice in India and determine whether it adequately reconciles the twin goals of rehabilitation and accountability. The current study aims to investigate the philosophical underpinnings of juvenile justice, critique the development and present status of the law in India, and analyze its strengths and weaknesses in practice. It also seeks to recognize gaps within the legal and institutional frameworks and recommend reforms on the basis of comparative jurisprudence, empirics, as well as child rights-based planning. The overall aim is eventually to promote an evidence-based nuanced juvenile justice system that protects children's rights along with ensuring the delivery of justice to victims as well as to society in general.

### *Objectives of the Study*

1. To analyze the evolution and framework of juvenile justice laws in India, with particular reference to the Juvenile Justice (Care and Protection of Children) Act, 2015, and its departure from earlier legislative approaches.
2. To evaluate the legal and constitutional validity of treating juveniles aged 16 to 18 as adults for heinous offences under Sections 15 and 18(3) of the Juvenile Justice Act, 2015, in the context of the right to equality, due process, and child rights jurisprudence.
3. To examine the practical implementation and challenges of the preliminary assessment process conducted by Juvenile Justice Boards, including the availability of expert guidance, procedural safeguards, and the consistency of decision-making.

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<sup>5</sup> “The Juvenile Justice System,” The National Academies Press *available at*: <https://nap.nationalacademies.org/read/9747/chapter/7> (last visited April 11, 2025).

4. To propose recommendations for reforming the juvenile justice system in India, aimed at achieving a more balanced and rights-based approach that ensures both effective rehabilitation of juvenile offenders and accountability to victims and society.

### *Research Methodology*

The present research employs a doctrinal approach of research, which entails the systematic examination of statutory laws, judicial rulings, and academic writings on juvenile justice in India. The research depends mainly on critical analysis of direct legal sources such as the Juvenile Justice (Care and Protection of Children) Act, 2015, the Indian Constitution, and connected judgments of the Supreme Court and High Courts. Secondary sources such as law review articles, committee reports, and international documents such as the UNCRC have been employed to substantiate an all-round understanding of the topic and to suggest relevant legal reform.

### *Related works*

**Ganguli, P. (2024).**<sup>6</sup> In this paper, P. Ganguli critically examines the juvenile justice system in India, focusing on its objectives, inherent failures, and possible reforms. The study presents an analysis of the system's historical development and the factors contributing to its current challenges, including the inadequacies of the legal framework and institutional support. Ganguli discusses the tensions between rehabilitation and accountability and offers practical suggestions for reform, particularly in the areas of education, training, and judicial reforms.

**Raghavendra, P. P. (2024).**<sup>7</sup> This article by P. P. Raghavendra explores the role of restorative justice in the juvenile justice system, with a focus on its potential for reducing recidivism and fostering reconciliation between the offender and the community. The study assesses international restorative justice models and their applicability within the Indian context. Raghavendra emphasizes the need for rehabilitation-focused justice over punitive measures and suggests that restorative justice practices can better address the psychosocial needs of juvenile offenders.

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<sup>6</sup> Ganguli, P. (2024). Juvenile Justice System in India: Aims, Objectives, Failures, and Suggestions for Reform. Objectives, Failures, and Suggestions for Reform (October 15, 2024). [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4988602](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4988602)

<sup>7</sup> Raghavendra, P. P. (2024). The Effectiveness of Restorative Justice on Juvenile Justice System: An Analysis. Issue 1 Int'l JL Mgmt. & Human., 7, 1695. [https://heinonline.org/hol-cgi-bin/get\\_pdf.cgi?handle=hein.journals/ijlmhs27&section=141](https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/ijlmhs27&section=141)

**Vasishta, S. (2024).**<sup>8</sup> S. Vasishta's article delves into the gendered dimensions of juvenile justice reform in India. It analyzes how the juvenile justice system often fails to address the specific needs of female juveniles and discusses the challenges they face within the system. Vasishta argues for gender-sensitive reforms, including the establishment of separate facilities for female juveniles and the inclusion of gender equality in rehabilitation strategies, so that the system becomes more inclusive and responsive to the realities of both male and female juvenile offenders.

**Sharma, S. (2021).**<sup>9</sup> Sharma's work offers a comprehensive analysis of the Indian juvenile justice system, examining its historical evolution and its intersection with policing practices. It contrasts India's juvenile justice framework with systems in other nations and highlights gaps in the system, particularly in terms of police training and the treatment of juveniles in detention. Sharma advocates for legal reforms, including clearer distinctions between juvenile and adult crime and enhanced juvenile police training for better treatment of minors in the criminal justice system.

## 2. CONCEPTUAL FRAMEWORK

### Definition of Juvenile and Juvenile Delinquency

The word "juvenile" means an individual who has not reached the age of majority, and in the context of juvenile justice, it specifically denotes children in trouble with the law. Under Section 2(35) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter "JJ Act, 2015"), a "juvenile" or "child" means a person who has not reached the age of eighteen years. The Act also classifies such children into two large categories: "children in conflict with law" and "children in need of care and protection" under Section 2(13) and Section 2(14), respectively.

The phrase "juvenile delinquency" means criminal offences committed by persons who are legally juveniles. In the Indian context, a juvenile delinquent is defined as a child offender in conflict with the law who has committed an offence under the Bharatiya Nyaya Sanhita or any

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<sup>8</sup> Vasishta, S. (2024). Gendered Realities: Reforming Juvenile Justice in India. DME Journal of Law, 5(01), 32-41. <https://www.dmejournals.com/index.php/DMEJL/article/view/392>

<sup>9</sup> Sharma, S. (2021). Juvenile justice system, reforms and policing system in India: Origin, dialectics, comparisons, and way forward. International Annals of Criminology, 59(2), 179-199. <https://www.cambridge.org/core/journals/international-annals-of-criminology/article/juvenile-justice-system-reforms-and-policing-system-in-india-origin-dialectics-comparisons-and-way-forward/BBC8BA003BFDDDBCEA52C651B2803177B>

other penal legislation. The etiology of juvenile delinquency is multi-factorial and includes socio-economic disadvantages, family dysfunction, peer influence, psychological disturbances, and absence of educational opportunities. The JJ Act, 2015 offers a legal and procedural mechanism to deal with such juveniles keeping in view reformatory instead of punitive action. India's response to juvenile delinquency has undergone a sea change over the years, from a welfare-oriented approach to a rights-oriented legal system that acknowledges the developmental immaturity of juveniles. The 2015 amendments, however, brought in provisions for differential treatment of juveniles between 16 and 18 years of age in the case of heinous crimes, indicating a move towards increased accountability.

### **Theories of Juvenile Justice: Rehabilitation vs. Retribution**

Juvenile justice is informed by two contrasting theories: retribution and rehabilitation. The theory of rehabilitation comes from the assumption that juveniles are amenable to change and can be shaped. The theory supports intervention methods encouraging education, skills acquisition, counseling, and reintegration into society. It subscribes to the doctrine of *parens patriae*, where the state as a parent focuses on the child's best interests. The JJ Act, 2015 captures this principle in provisions like Section 18(1), which provides for rehabilitative action for children found guilty by the Juvenile Justice Board.<sup>10</sup>

While the retributive theory is concerned with punishment as a mechanism of deterrence and justice to the victim, this school of thought also takes into consideration that there are crimes committed by juveniles that are so serious in nature that they must be met with proportionate punishment regardless of the age of the offender. Section 15 was introduced in the 2015 Act, whereby a preliminary assessment of a child between 16-18 years old, who is suspected of being involved in a heinous crime, can be made by a Juvenile Justice Board. If the Board is satisfied that the child has the mental and physical capacity to commit such an offence and knows what it entails, the case can be sent to the Children's Court under Section 18(3) to be tried as an adult.<sup>11</sup>

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<sup>10</sup> Pragyan Prasanjita Sahoo, "JUVENILE JUSTICE LAWS IN INDIA AND THE NEED FOR ITS SYSTEMATIC CHANGES" unknown, 2017 available at: [https://www.researchgate.net/publication/332538937\\_JUVENILE\\_JUSTICE\\_LAWS\\_IN\\_INDIA\\_AND\\_THE\\_NEED\\_FOR\\_ITS\\_SYSTEMATIC\\_CHANGES](https://www.researchgate.net/publication/332538937_JUVENILE_JUSTICE_LAWS_IN_INDIA_AND_THE_NEED_FOR_ITS_SYSTEMATIC_CHANGES) (last visited April 11, 2025).

<sup>11</sup> Diva Rai, "Retributive theory of punishment" iPleaders, 2024 available at: <https://blog.iplayers.in/theories-of-punishment-a-thorough-study/> (last visited April 11, 2025).

Aspect	Rehabilitation	Retribution
Objective	Reform and reintegrate the juvenile	Punish to ensure justice and deterrence
Legal Provisions	Section 18(1), Individual Care Plans, Rehabilitation Homes	Sections 15 and 18(3) for trial as an adult in heinous cases
Focus	Child's welfare, psychological and social development	Accountability and societal protection
Underlying Principle	Parens patriae and child rights	Proportionality and justice for victims

The incorporation of both these theories within the JJ Act, 2015 represents an endeavour to strike a balance between the twin imperatives of child protection and public safety. This duality, however, has been the matter of much academic and legal discourse.

### **International Standards on Juvenile Justice (UNCRC, Beijing Rules, etc.)**

India's juvenile justice system is influenced significantly by global standards, foremost among them the United Nations Convention on the Rights of the Child (UNCRC), the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.<sup>12</sup>

The UNCRC, which India ratified in 1992, spells out holistic rights of children and lays down guiding principles for juvenile justice. Article 40 of the Convention establishes that children who are alleged or known to have violated penal law should be dealt with in a way that is consistent with the development of their sense of dignity and worth, promoting their reintegration into society. Article 37 forbids torture or cruel, inhuman treatment and requires that detention of children should be resorted to only as a last resort and for the shortest suitable period.

The Beijing Rules (1985) set out specific guidelines regarding the administration of juvenile justice. Rule 5 stresses the need for a responsive juvenile justice system that serves the needs of children and adolescents and fosters their well-being. Rule 17 requires the disposal of cases

<sup>12</sup> "United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)," OHCHR *available at*: <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-standard-minimum-rules-administration-juvenile> (last visited April 11, 2025).

in a way that does not involve formal judicial procedures wherever possible, and Rule 19 promotes non-institutional treatment.

The Riyadh Guidelines (1990) emphasize preventive approaches and the intervention of social institutions such as family, school, and community to curb juvenile delinquency. The guidelines advise states to use educational and development interventions more than punitive measures.

Although the JJ Act, 2015 does embrace much of these international principles—most notably those concerning the right of the child to dignity, protection, and development—issues persist regarding the compatibility of its provisions (notably Section 15 and 18(3)) with the spirit of the UNCRC and Beijing Rules. The provision for trying some juveniles as adults can be interpreted as inconsistent with the use of detention and trial by adults only as a last resort.<sup>13</sup> India, being a signatory to these global instruments, is bound to align its domestic legislation with international norms. Any departure from these standards has to be supported by cogent legal and empirical reasoning, especially in the context of the doctrine of evolving capacities that is an integral part of international child rights jurisprudence.

### **3. EVOLUTION OF JUVENILE JUSTICE LAWS IN INDIA**

#### **Historical Background**

The history of the evolution of juvenile justice in India is rooted in colonial rule, with initial laws being influenced by British law and the social reform ideology. Under the British Raj, juvenile offenders were generally treated as small adults and were given the same legal procedures and punishments as adults. The call for a distinguished approach arose from a concern with child welfare and reform over retribution.

The earliest major judicial acknowledgment of Indian juvenile justice appeared in the form of the Apprentices Act of 1850, which decreed that young children under 15 years found guilty of minor offenses could be apprenticed and not imprisoned. This was the earliest legislative move to rehabilitate juvenile offenders via vocational training as opposed to penalization.

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<sup>13</sup> Diva Rai, “Implementation of the Beijing Rules, 1985 in the Juvenile Justice (Care and Protection) Act, 2015” iPleaders, 2021 *available at*: <https://blog.ipleaders.in/implementation-beijing-rules-1985-juvenile-justice-care-protection-act-2015/> (last visited April 11, 2025).

Later developments comprised the Reformatory Schools Act, 1897, enabling the creation of reformatory schools for youthful offenders who were below the age of 15. The reformatory schools were aimed at reforming delinquents via education, discipline, and morality. Nevertheless, the enforcement remained weak and with limited coverage.

Upon the Indian Constitution's adoption in 1950, juvenile justice gained a more solid platform. Article 15(3) granted power to the State to enact special provisions in favor of children, whereas Article 39(e) and (f) of the Directive Principles of State Policy instructed the State to ensure children are not induced into economic exploitation and are provided with opportunities for growth in a healthy environment. These constitutional measures formed the basis for a larger juvenile justice system that was further evolved through legislations.<sup>14</sup>

### **Juvenile Justice Act, 1986**

The Juvenile Justice Act of 1986 was the initial uniform law passed after independence to establish a uniform juvenile justice system in India. It abolished many state legislations and sought to establish an integrated national system for the care, protection, treatment, and rehabilitation of juveniles.

This Act classified a "juvenile" as a boy below the age of 16 and a girl below the age of 18. It proposed the bifurcation of juveniles into two groups—juveniles in conflict with law and neglected juveniles. It concentrated on non-penal treatment, institutional care, and protective custody under state guardianship. The Act called for the institution of Juvenile Welfare Boards and Juvenile Courts to handle exclusively cases relating to children, retaining their rehabilitation as the central concern.

The 1986 Act, however, was faulted for a lack of harmonization with international child rights standards, particularly following India's ratification of the United Nations Convention on the Rights of the Child (UNCRC) in 1992. The anomalous definition of age, procedural deficits, and inefficient rehabilitation interventions created the need for a more extensive legal framework in consonance with international standards.

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<sup>14</sup> "Constitutional Provisions in Relation to Juvenile in India," International Journal of Law Management & Humanities, 2023 *available at*: <https://ijlmh.com/paper/constitutional-provisions-in-relation-to-juvenile-in-india/> (last visited April 11, 2025).

### **Juvenile Justice (Care and Protection of Children) Act, 2000**

The passing of the Juvenile Justice (Care and Protection of Children) Act, 2000 was a landmark development in the juvenile justice jurisprudence of India. The Act was formulated to align national laws with international commitments under the UNCRC. The Act embraced a rights-oriented approach and widened the legal definition of "juvenile" to include any person under the age of 18 years, thereby eliminating the previous gender-based discrimination.<sup>15</sup>

The Act provided sharper lines of demarcation between "children in conflict with law" and "children in need of care and protection," and provided for the establishment of Juvenile Justice Boards (JJBs) and Child Welfare Committees (CWCs) under Sections 4 and 29, respectively. The emphasis was placed even more on social reintegration, and institutional care was limited to cases where it was absolutely necessary.

Major provisions included the institution of Individual Care Plans, adoption-based rehabilitation, sponsorship, and foster care, and provisions for the engagement of Special Juvenile Police Units (SJPU) under Section 63. The Act also stressed child-friendly procedures, protecting privacy, legal aid, and immunity from stigmatization.

In spite of these developments, the implementing of the Act, shortage of infrastructure, absence of trained staff, and the increasing number of juveniles committing ghoulish crimes, raised concerns. Public and legislative debate heightened when juveniles were involved in sensationalized crimes, leading to amendments and the requirement of a more rigorous framework.

### **Amendments and the Juvenile Justice (Care and Protection of Children) Act, 2015**

The Juvenile Justice (Care and Protection of Children) Act, 2015 replaced the 2000 act and brought major reforms, including provisions that made it possible to try juveniles between 16 and 18 years as adults in heinous offences. This was a seminal shift from the strictly rehabilitative approach to one that included accountability for serious crimes.<sup>16</sup>

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<sup>15</sup> Swagata Raha, "Treatment of Children as Adults under India's Juvenile Justice (Care and Protection of Children) Act, 2015" Brill, 2019 *available at*: [https://www.researchgate.net/publication/337628979\\_Treatment\\_of\\_Children\\_as\\_Adults\\_under\\_India's\\_Juvenile\\_Justice\\_Care\\_and\\_Protection\\_of\\_Children\\_Act\\_2015](https://www.researchgate.net/publication/337628979_Treatment_of_Children_as_Adults_under_India's_Juvenile_Justice_Care_and_Protection_of_Children_Act_2015) (last visited April 11, 2025).

<sup>16</sup> John Kelly, "India's Care and Protection of Children Act Tries Teenagers as Adults" The Imprint, 2016 *available at*: <https://imprintnews.org/featured/trying-indias-teenagers-adults-deterrence-vengeance/18653> (last visited April 11, 2025).

Under Section 15, the Juvenile Justice Board can order a preliminary inquiry to test the mental and physical ability of a juvenile to commit a serious offence, whether he or she can understand the implications, and under what circumstances the offence was committed. If so satisfied, the Board may commit the case to the Children's Court under Section 18(3) for trial as an adult, yet with child-sensitive procedures.

The 2015 Act kept and made more robust care, protection, adoption, foster care, and sponsorship scheme provisions. It also made institutionalized mechanisms like Child Welfare Committees, Special Juvenile Police Units, and District Child Protection Units a norm, ensuring holism and decentralization. Significantly, it brought the idea of Children's Homes, Open Shelters, and Observation Homes under Sections 49 to 54, ensuring differentiated rehabilitation places for children based on their needs and circumstances.

The Act also introduced tighter controls on adoption of children under Chapter VIII, simplifying the procedure and making the Central Adoption Resource Authority (CARA) the nodal agency. It also established provisions for penalties in cases of cruelty to children, employment of children for begging, and sale of children for unlawful purposes, under Sections 75 to 81.<sup>17</sup>

The following table compares the key features of the 1986, 2000, and 2015 legislations:

Aspect	JJ Act, 1986	JJ Act, 2000	JJ Act, 2015
<b>Age Definition</b>	Boys <16, Girls <18	Uniform <18 for both genders	Uniform <18; 16–18 may be tried as adults
<b>Primary Focus</b>	Custodial Reform	Rights-based Rehabilitation	Balance between Rehabilitation and Accountability
<b>Institutions</b>	Juvenile Courts, Welfare Boards	JJBs, CWCs, SJPU	JJBs, CWCs, SJPU, DCPUs, CARA
<b>Trial as Adult Provision</b>	Not Applicable	Not Applicable	Section 15 & 18(3) for heinous offences

<sup>17</sup> "SIMPLIFICATION OF THE PROCEDURE FOR CHILD ADOPTION," available at: <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1907184> (last visited April 11, 2025).

<b>Adoption Provisions</b>	Limited	Expanded	Streamlined via CARA
<b>International Alignment</b>	Partial	UNCRC Compliant	Mixed—some inconsistencies with UNCRC

The 2015 legislation has triggered extensive debate in legal, academic, and child rights circles, particularly regarding its compatibility with international standards such as the UNCRC and the Beijing Rules. While it represents a response to public demand for accountability, it also raises critical concerns about the potential for re-victimization and stigmatization of juveniles tried as adults.<sup>18</sup>

#### **4. CRITICAL ANALYSIS OF THE CURRENT JUVENILE JUSTICE FRAMEWORK IN INDIA**

##### **Salient Features of the 2015 Act**

The Juvenile Justice (Care and Protection of Children) Act, 2015 brought a holistic legal framework that seeks to balance protection of the child with accountability in serious offenses. The uniform age of juvenility is one of the key features of the Act, which is below 18 years, aligning with international standards. But it differentiates between minor, grave, and atrocious offences under Section 2(33), 2(54), and 2(45) respectively, to enable differential treatment depending on the seriousness of the offence.

The other significant feature is the provision for the introduction of the preliminary assessment mechanism under Section 15, which gives powers to the Juvenile Justice Board (JJB) to evaluate if a child between 16 and 18 years can be tried as an adult in serious offences. Additionally, Section 18(3) allows such cases to be transferred to the Children's Court, which operates as a session court with child-friendly procedures.

The Act reiterates a child-oriented rehabilitation system by including provisions such as individual care plans (Section 38), foster care (Section 44), aftercare services (Section 46), and non-institutional options. The Act obliges the establishment of Child Welfare Committees

<sup>18</sup> “Juvenile Justice and the Convention on The Rights of the Child,” available at: <https://legalserviceindia.com/legal/article-7233-juvenile-justice-and-the-convention-on-the-rights-of-the-child.html> (last visited April 11, 2025).

(CWCs) under Section 27 and Special Juvenile Police Units (SJPU) under Section 63. Further, the Act gives power to the Central Adoption Resource Authority (CARA) under Section 68 to manage adoptions.<sup>19</sup>

### **Provisions for Heinous Offences and Children between 16–18 Years**

The most contentious part of the 2015 Act is in its treatment of juveniles between the ages of 16–18 who are implicated in atrocious offences, which are established in Section 2(33) as being punishable with a minimum sentence of seven years or more. Section 15 provides that a preliminary inquiry is made by the JJB to ascertain whether the child possessed the mental and physical faculties to commit such an offence, was aware of the consequence, and the environment under which the offence was committed.

If the JJB is so pleased on these points, the child can be remitted to the Children's Court under Section 18(3), where the trial is conducted more in an adult-like manner, though with some protective measures for children. This is a hybrid model of justice that amalgamates some retributive and some rehabilitative features.

Nevertheless, critics contend that such provisions go against the intent of the UN Convention on the Rights of the Child (UNCRC), which promotes the absolute non-criminalization of children under 18 and the elimination of adult trials for children. The deviation from a strictly reformatory approach in the Act has attracted significant legal and ethical debate.

### **Role of Juvenile Justice Boards and Child Welfare Committees**

Juvenile Justice Boards (JJBs) and Child Welfare Committees (CWCs) are the two pillars of the implementation structure under the 2015 Act. According to Section 4, every district must have at least one JJB, with a Metropolitan Magistrate and two social workers, one of whom should be a woman. The Board is accountable for all inquiries concerning children in conflict with law and is actively involved in adjudication, rehabilitation, and ensuring procedural safeguards.<sup>20</sup>

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<sup>19</sup> Diva Rai, "Procedure followed for Rehabilitation and Social Reintegration of Children" iPleaders, 2020 available at: <https://blog.iplayers.in/procedure-to-be-followed-for-rehabilitation-and-social-reintegration-of-the-children/> (last visited April 11, 2025).

<sup>20</sup> "JJB, CWC & DCPU under JJ Act 2015 – manipurpcpr.com," available at: <https://manipurpcpr.com/jjbcwc-dcpu-under-jj-act-2015/> (last visited April 11, 2025).

Section 27 provides for constituting CWCs for each district to deal with cases of children in need of care and protection. CWCs are vested with the authority to pass orders on placement, restoration, sponsorship, and adoption, and they must operate in a child-friendly, non-judicial setting.

Though essential institutions, both JJBs and CWCs experience poor infrastructure, a lack of trained officers, and an absence of regular monitoring, which influences the efficiency in delivering justice and rehabilitation services. Their overload with caseloads and bureaucratic inefficiencies dilute the otherwise good intentioned system.

Body	Statutory Reference	Primary Function	Key Challenges
Juvenile Justice Board	Section 4–9	Adjudicate cases of children in conflict with law	Overload of cases, lack of psychological experts
Child Welfare Committee	Section 27–30	Handle care/protection cases, decide rehabilitation	Inadequate training, poor coordination

### Criticism and Constitutional Challenges

The 2015 Act has been under consistent criticism on legal and constitutional lines. One of the main points of concern is the arbitrary discretion conferred upon JJBs in Section 15, which has no uniform standard or guidance to assess a juvenile's capacity and understanding. This leaves room for subjective judgments, which raise Article 14 (Right to Equality) of the Constitution issues.<sup>21</sup>

Additionally, critics say that juvenile trials as adults go against the right to life and liberty of the person under Article 21, particularly when the penalty involves long-term imprisonment without proper focus on rehabilitation. The distinction between children depending on the nature of their offense, and not their stage of development, is considered incompatible with child psychology and international human rights standards.

<sup>21</sup> “Section-15-of-Juvenile-Justice-Act,-2015-does-not-violate-fundamental-rights.,” available at: <https://supremetoday.ai/issue/Section-15-of-Juvenile-Justice-Act,-2015-does-not-violate-fundamental-rights>. (last visited April 11, 2025).

Moreover, the law's focus on punishment in some cases may blur the distinction between juvenile and adult offenders, thus rendering the principle of best interest of the child a mere formality.

### Case laws

The Indian juvenile justice system concentrates more on rehabilitation than retribution, seeking to rehabilitate young offenders into productive citizens. But this line of thinking has come under scrutiny, particularly where juveniles commit very heinous offenses. The key example is *Mukesh & Anr vs State For Nct Of Delhi & Ors*<sup>22</sup>, wherein one of the criminals was a juvenile. Despite his brutal act, he got a sentence of just three years as per the Juvenile Justice Act, 2000, leading to nationwide outrage. The critics contended that the punishment was disproportionately light, considering the seriousness of the crime. This prompted the Juvenile Justice Act, 2015, which enabled children between 16 and 18 years to be tried as adults for serious crimes after due evaluation.

A recent case, *X vs. State of Maharashtra Criminal*<sup>23</sup>, involved a minor driving under the influence and causing multiple deaths. The case raised similar arguments regarding accountability, particularly when the criminal's act displayed evident recklessness and disrespect for life. Legal analysts questioned whether such minors should receive the same leniency reserved for lighter crimes.

In the well-known *Mohd. Akhtar vs the State of Jammu & Kashmir*<sup>24</sup>, the Supreme Court held that the juvenile accused of brutally gangraping and killing an eight-year-old girl must be tried as an adult. The ruling was passed by a Bench headed by Justices Ajay Rastogi and J.B. Pardiwala. While drafting the judgment, Justice Pardiwala wondered if the rehabilitative nature of the Juvenile Justice (Care and Protection of Children) Act, 2015—designed to reform youthful offenders—had ended up becoming a shield for juveniles to perpetrate heinous crimes without proportionate punishment. He stated that the benevolent system of the law should not be used as an alibi, especially in instances of serious offenses.

In *Sheela Barse v Union of India*<sup>25</sup>, the Supreme Court emphasized the need for humane

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<sup>22</sup> *Mukesh & Anr vs State For Nct Of Delhi & Ors*. 2017 (6) SCC 1 (Nirbhaya case)

<sup>23</sup> *X vs. State of Maharashtra Criminal Writ Petition No.2372 OF 2024* (Pune car crash)

<sup>24</sup> *Mohd. Akhtar vs the State of Jammu & Kashmir* (CR.NO.1928 of 2022) (Kathua gangrape case)

<sup>25</sup> *Sheela Barse v Union of India* (1986), AIR 1986 SC 1773

treatment of juveniles and requested the setup of special detention centers for children. This case solidified the principle of reformatory justice so that juveniles are given proper rehabilitation instead of punitive procedures.

In *Pratap Singh v State of Jharkhand*<sup>26</sup>, the Supreme Court explained the scope of the application of the Juvenile Justice Act by holding that the age of juvenility has to be determined as of the date of commission of the offence. This judgment reaffirmed the principle that the juvenile should be treated differently than an adult with a focus on rehabilitation rather than punishment.

In *Roper v Simmons*<sup>27</sup>, the United States Supreme Court ruled that the death penalty for juveniles under 18 violates the Eighth Amendment's prohibition on cruel and unusual punishment. The judgment emphasized the diminished culpability of juveniles, citing their lack of maturity and vulnerability to external influences, and affirmed the focus on rehabilitation rather than retribution.

In *Shilpa Mittal v State of NCT of Delhi*<sup>28</sup>, the Supreme Court addressed the confusion over the classification of "heinous offenses" under the Juvenile Justice Act, 2015. The judgment struck a balance between protecting societal interests and rehabilitating juveniles, emphasizing the need for individualized evaluations.

## 5. BALANCING REHABILITATION AND ACCOUNTABILITY

### Philosophical and Legal Tensions

The balancing act between rehabilitation and accountability in juvenile justice legislation has been a subject of philosophical and legal controversy for a long time. At the core of the matter is the basic question: should juveniles be treated as vulnerable persons in need of reform or as persons responsible for their actions who need to be punished?

Philosophically, advocates of rehabilitation place emphasis on the belief that children are pliable, can change, and that the state is obligated to shield them from punitive actions that can stifle their potential for reform. The Juvenile Justice (Care and Protection of Children) Act, 2015 abides by this principle, emphasizing non-punitive interventions, including care,

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<sup>26</sup> *Pratap Singh v State of Jharkhand* (2005), SCC 551

<sup>27</sup> *Roper v Simmons* (2005), 543 US 551 (USSC)

<sup>28</sup> *Shilpa Mittal v State of NCT of Delhi* (2020), 2 SCC 787

protection, and rehabilitation. The Act acknowledges the need for individualized care plans in Section 38 and encourages alternatives to institutional care, such as foster care and sponsorship (Sections 44-46).<sup>29</sup>

The impetus on the other side is the demand for accountability from alarm at high rates of juvenile crime and perceptions of failure by rehabilitation systems. The critics argue that some very serious crimes perpetrated by juveniles have to be answered with punishment in order to ensure the safety and integrity of society. The 2015 Act provides for juveniles between the ages of 16 and 18 to be tried as adults for serious crimes under Section 15, which brings in an initial evaluation mechanism to check the mental maturity of the juvenile. This balancing act between rehabilitation and accountability underscores the philosophical conflict between upholding child welfare and upholding justice for the victims. Therefore, the legal system attempts to find a fine balance between retributive justice (punishment) and restorative justice (rehabilitation), which is a multifaceted and developing concern.

### **Comparative Study: Juvenile Justice Models in Foreign Nations**

Comparative study of juvenile justice systems in foreign nations indicates a number of divergent strategies to balance rehabilitation and accountability.

In America, juvenile justice historically was more punitive in nature, especially after the 1980s when America started diverting juveniles to adult court for severe offenses. The Juvenile Justice and Delinquency Prevention Act (JJDP) of 1974 introduced a reform and deinstitutionalization trend with a focus on community-based rehabilitative efforts. Unfortunately, current trends indicate a renewed focus on punitive interventions, particularly against juveniles committing violent offenses, indicating an increasingly retributive tendency.<sup>30</sup> In the United Kingdom, the Children and Young Persons Act, 1933 set the framework of a welfare-oriented approach, making sure juveniles were regarded as offenders who needed reforming, not as criminals. But reforms like the Youth Justice and Criminal Evidence Act, 1999 brought provisions for the accountability of serious offenders, particularly for children over the age of 10 years. The UK is predominantly rehabilitative but incorporates robust measures of retribution for violent crimes.

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<sup>29</sup> Law Notes, "Juvenile Justice System and Rehabilitation in India" LAW Notes, 2 April 2024.

<sup>30</sup> "The Juvenile Justice System," The National Academies Press *available at*: <https://nap.nationalacademies.org/read/9747/chapter/7> (last visited April 11, 2025).

In Scandinavian nations like Norway and Sweden, juvenile justice focuses on rehabilitation more than anything else. In Norway, youths are not imprisoned but are taken to reforming institutions that provide education, therapy, and vocational training. Reintegration into society is their focus. Sweden also has a rehabilitative system that eschews adult trials and focuses on social reintegration through different support schemes.

The contrast points out that although nations such as the U.S. and UK might prioritize accountability, Scandinavian models continue to be rehabilitation-oriented. India, by its 2015 Act, appears to follow a hybrid model, attempting to balance both values in reaction to both global standards and local issues.

### **Psychological and Sociological Perspectives**

Psychologically, rehabilitation of juveniles calls for comprehension of adolescent development. Studies have indicated that young people possess underdeveloped cognitive and emotional abilities than adults, resulting in lack of self-control and poor decision-making. This is evident from the acknowledgment by law that juveniles, especially those under 18, must not be given the same criminal culpability as adults. The 2015 Act, in part through its reintegration and rehabilitation provisions, conforms to the view that young offenders are individuals who can be changed, if the appropriate support is provided.<sup>31</sup>

From a sociological perspective, social context—familial, educational, and peer influence—is seen to be an important contributor to juvenile delinquency. The emphasis of the Act on out-of-institutional options like foster care (Section 44) and aftercare services (Section 46) is grounded in a sociological perspective, namely that caregiving in an environment outside that of an institution improves the chances for successful reunification. Nevertheless, the increase in abhorrent juvenile crimes has fueled controversies surrounding the effectiveness of rehabilitation schemes, prompting demands for higher accountability for some crimes, especially when the offence has had extreme consequences on the victim and society.

## **6. CHALLENGES IN IMPLEMENTATION**

### **Lack of Infrastructure and Trained Personnel**

Even though the Juvenile Justice (Care and Protection of Children) Act, 2015, is progressive

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<sup>31</sup> “NCBI,” WWW Error Blocked Diagnostic *available at*: <https://www.ncbi.nlm.nih.gov/books/NBK545476/> (last visited April 11, 2025).

in many ways, one of the biggest issues is the lack of proper infrastructure. Juvenile Homes and other establishments are frequently overcrowded, lacking in basic amenities, and staff not being properly trained. Section 49 of the Act requires juveniles to be kept in homes giving them proper care and protection, but enforcement of this provision continues to be unbalanced between states. The Central Adoption Resource Authority (CARA) also experiences difficulties in bringing adoptive homes up to required standards of care.<sup>32</sup>

### **Rehabilitation vs. Punitive Measures in Practice**

The operational realization of the Juvenile Justice Act is made problematic by the conflict between the competing objectives of rehabilitation and accountability. Most juvenile homes, in spite of the rehabilitative spirit of the law, resort to punitive action out of compulsion because of the absence of resources and training. Further, the provisions for the trial of juveniles between 16 and 18 years as adults in the case of serious offences, although brought in to provide accountability, blur the distinction between rehabilitation and punishment. This creates a situation where the system's focus on rehabilitation can be undermined by social and political pressures to impose even harsher punitive alternatives.

### **Media, Public Opinion, and Political Pressure**

The influence of media and public opinion in shaping juvenile justice policy cannot be avoided. Sensational cases, including the Nirbhaya case and the release of the juvenile accused, have generated a public atmosphere of anger, calling for stronger laws. These responses frequently lead to political pressure to revise legislation, such as the revisions to the Juvenile Justice Act in 2015 permitting juveniles to be tried as adults. These media-influenced changes do not always follow best practices in child psychology or rehabilitative principles of juvenile justice.

### **Recidivism and Reintegration Barriers**

Perhaps the most topical issue in juvenile justice is recidivism, or the re-offending of juvenile offenders. Failure to have effective reintegration programs and support from family usually leads to young offenders going back to their criminal ways. The aftercare services described in Section 46 of the Act are intended to help juveniles reintegrate into society, but these services tend to be underfunded and inadequate to address all juveniles' needs. Lack of employment

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<sup>32</sup> Ayush Verma, "Introduction and Overview of the Juvenile Justice Care and Protection Act, 2015" iPleaders, 2022 available at: <https://blog.iplayers.in/introduction-overview-juvenile-justice-care-protection-act-2015/> (last visited April 11, 2025).

opportunities, social discrimination, and dysfunctional family functioning add up to the deterrence juveniles experience when attempting to integrate successfully back into society.<sup>33</sup>

### Tables for Implementation Challenges

Challenge	Key Issues	Relevant Provisions
<b>Infrastructure Deficiencies</b>	Overcrowded homes, lack of staff training	Section 49 (Juvenile Homes), Section 64 (SJPU's)
<b>Punitive Measures vs Rehabilitation</b>	Mixed objectives leading to inconsistent practices	Section 15 (Adult Trials for 16-18-year-olds)
<b>Media Influence and Public Opinion</b>	Political pressures for tougher laws	Amendments to 2015 Act, Section 18(3)

## 7. CONCLUSION

The Indian Juvenile Justice system, particularly under the Juvenile Justice (Care and Protection of Children) Act, 2015, attempts to balance the need to protect child rights with dispensing justice for the victims of serious offenses. The changing jurisprudence and legislative changes symbolize a continuing effort to comply with changing societal realities while maintaining an anchor of the fundamental spirit of juvenile welfare, rehabilitation, and reform.

This paper has examined key legal definitions and categorizations under the Act, highlighting the difference between 'child in conflict with law' and 'child in need of care and protection.' The classification of offences—petty, serious, and heinous—is an important factor in deciding the procedure for inquiry and the quantum of rehabilitation or punitive action that can be invoked. Particular focus has been directed at children aged 16–18 years, who could be tried as adults for serious offences. This constitutes a significant philosophical shift in the juvenile justice strategy, in which the aim of reformity increasingly struggles against the call for responsibility in egregious cases.

The functioning of Juvenile Justice Board (JJB) and Child Welfare Committees (CWCs) has been examined to see how their administrative and quasi-judicial roles are fulfilled, with a focus on requiring specialization, sensitivity, and procedural protection. In spite of statutory

<sup>33</sup> ANGELA A ROBERTSON et al., "Recidivism Among Justice-Involved Youth: Findings From JJ-TRIALS - PMC," 47 Criminal justice and behavior.

provisions for child protection and rehabilitation, operational difficulties in the form of the absence of infrastructure, trained staff, and sufficient funding devalue the system. Media representation and popular opinion usually tend to dramatize juvenile offenses, putting extra pressure on following more punitive instead of rehabilitative measures.

A comparative analysis with juvenile justice models in countries such as the USA, UK, and the Scandinavian region revealed alternative approaches, ranging from punitive to welfare-oriented frameworks. These international experiences offer valuable insights, especially in areas such as reintegration, recidivism prevention, and psychological support systems. Indian jurisprudence can benefit from such models while adapting them to suit its socio-cultural context.

The philosophical and legal conflicts between responsibility and rehabilitation are still raising nuanced challenges. Still, for the juvenile justice system to remain just, it needs to be established on the ideas of equity, proportionality, and the conception that children, even when engaging in criminal offenses, can improve. Institutional capacity building, investment in social work and child psychology, and societal attitude reforms regarding juvenile criminals are essential if the system has to serve its actual function—reintegration and restoration instead of retribution.

### ***Recommendations***

In light of the analysis presented in this study, several key recommendations are proposed to enhance the effectiveness, fairness, and rehabilitative potential of the juvenile justice system in India.

1. There is an urgent need for uniform training and sensitization of members of the Juvenile Justice Board (JJB) and Child Welfare Committees (CWCs). These organizations should be made up of trained professionals with a background in child psychology, social work, and juvenile law to facilitate well-informed, child-friendly decision-making. The selection process should be such that competency, empathy, and lawfulness are given the highest priority.
2. Development of infrastructure should be given priority, such as the setting up of well-facilitated Observation Homes, Special Homes, and rehabilitation centers throughout the nation. These facilities should not only offer basic care but also substantial

education, vocational training, and psychological counseling to aid long-term reformation and reintegration.

3. Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015, permitting children between the ages of 16–18 to be tried as adults in the case of heinous crimes, needs to be reconsidered. Accountability is necessary, but any departure from the rehabilitative method should be based on scientific evaluation and not public opinion or political expediency.
4. A robust post-release monitoring and reintegration structure should be enforced. Transitional support schemes, mentorship, and follow-up evaluations should be in place to minimize recidivism and enable juveniles to rejoin society effectively.
5. Public information campaigns need to be initiated to create a more rehabilitative mindset among the masses and media. Sensationalism must be substituted with informed debate that focuses on child rights and potential for change.
6. Information gathering and study on trends of juvenile crime, results, and policy effects should be institutionalized to allow for evidence-based policy-making and ongoing system improvement.

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