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JUVENILE DELINQUENCY IN INDIA: A CRITICAL LEGAL ANALYSIS OF THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015

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Abstract: -

Juvenile delinquency presents a persistent challenge to criminal justice systems, particularly in developing societies where socio-economic inequality, educational exclusion, and family disintegration significantly influence youth behaviour. In India, increasing concern over serious offences committed by children has intensified debate regarding the adequacy of the juvenile justice framework. The enactment of the Juvenile Justice (Care and Protection of Children) Act, 2015 marked a significant legislative shift by introducing a differentiated approach towards children in conflict with law, including the possibility of adult trial in exceptional cases.

This paper undertakes a doctrinal and analytical examination of juvenile delinquency in India, with a specific focus on the objectives, structure, and implementation of the Juvenile Justice Act, 2015. It analyses key judicial interpretations, constitutional safeguards, and the functioning of Juvenile Justice Boards and Child Welfare Committees. The study further engages in a comparative analysis with international standards under the United Nations Convention on the Rights of the Child and selected practices in the United Kingdom and the United States.

The paper argues that while the 2015 Act seeks to respond to public concerns surrounding serious juvenile crime, its effectiveness ultimately depends on consistent implementation, professional capacity building, and sustained judicial oversight. It concludes that a rehabilitative and rights-based approach remains essential to ensuring that child protection and

social reintegration are not compromised by punitive impulses.

Keywords: Juvenile Delinquency, Juvenile Justice Act 2015, Child in Conflict with Law, Juvenile Justice Board, UNCRC, Rehabilitation.

Introduction

Children are one of the most precious divisions of any society, their example no longer remains the moral conscience of the current generation but also the social and economic prospect of the future society. The realisation of child vulnerability led to the development of special frameworks to ensure the protection of children against exploitation, neglect, and criminalisation in modern legal systems in the world. The problem of juvenile delinquency takes a critical place in the criminal jurisprudence in India as it is connected to the questions of social justice, rights of a child, safety of the population, and a rehabilitative government.

Juvenile delinquency is a term that is used to imply the involvement of underage children in the behaviour that is against the criminal law or social norms. Although the juvenile crime rate in India is still lower than the adult one, recent statistics and judicial findings indicate that the number and the severity of crimes committed by children gradually rise. This trend has brought a new question on the juvenile justice system, especially in its capacity to prevent crime and at the same time meet its welfare-oriented responsibility.

The Indian legal approach to juvenile justice has historically been reformatory rather than punitive. Even prior to independence, colonial legislation such as the Reformatory Schools Acts sought to segregate juvenile offenders from adult criminals and emphasise correction over punishment. Post-independence, this philosophy found constitutional backing through provisions guaranteeing equality before law, protection from exploitation, and the right to education under Articles 14, 15(3), 21A, and 24 of the Constitution of India.¹

The establishment of Juvenile Justice Act, 1986 was the first national law to address the issue of juvenile offenders. Nevertheless, its differentiating age criteria of boys and girls, as well as its irregular implementation on the state level, were criticized. In response, the Juvenile Justice (Care and Protection of Children) Act, 2000 was enacted to align domestic law with India's

¹ INDIA CONST. arts. 14, 15(3), 21A, 24.

obligations under the United Nations Convention on the Rights of the Child (UNCRC), which defines a child as any person below the age of eighteen.²

Although the 2000 Act was progressive in nature, it was faced with challenges that were not easily practical such as poor infrastructure, untrained staff, and delays in the process. Public confidence in the juvenile justice system was severely shaken following the 2012 Delhi gang-rape case, where one of the accused was a juvenile and was released after serving a maximum of three years in a reformatory institution.³ The event caused much popular furor and led to a legal change, which ended with Juvenile Justice (Care and Protection of Children) Act, 2015. Another controversial legislative measure is given by the 2015 Act according to which children between sixteen and eighteen years of age can be tried as adults regarding the heinous crimes on the condition of the initial evaluation by the Juvenile Justice Board. This was a major diversion concerning the old-time welfare-focused model and cast grave doubts on its compatibility with the constitutional guarantees and international child rights standards. Indian courts have since been tasked with interpreting the scope and limits of this provision, often emphasising that rehabilitation remains the cornerstone of juvenile justice jurisprudence.⁴

Judicial pronouncements such as *Sheela Barse v. Union of India* underscored the State's obligation to provide special protection and procedural safeguards to children in detention, while decisions like *Pratap Singh v. State of Jharkhand* clarified the determination of juvenility based on the date of commission of the offence.⁵ These decisions all indicate the efforts of the judicial system to weigh the interests of the society and those of the best interest of the child.

From a comparative perspective, international legal instruments and foreign jurisdictions reinforce the principle that juvenile justice systems must prioritise reintegration over retribution. The UNCRC mandates that detention of children be used only as a measure of last resort and for the shortest appropriate period.⁶ In the same vein, other jurisdictions, including the United Kingdom and the United States, have specialised juvenile courts but their treatment of serious juvenile crime differs greatly.

² Convention on the Rights of the Child art. 1, Nov. 20, 1989, 1577 U.N.T.S. 3.

³ *Mukesh v. State (NCT of Delhi)*, (2017) 6 SCC 1.

⁴ *Subramanian Swamy v. Raju*, (2014) 8 SCC 390.

⁵ *Sheela Barse v. Union of India*, (1986) 3 SCC 596; *Pratap Singh v. State of Jharkhand*, (2005) 3 SCC 551.

⁶ Convention on the Rights of the Child art. 37(b), Nov. 20, 1989, 1577 U.N.T.S. 3.

It is against this background, that the current research paper will be a critical legal examination of juvenile delinquency in India with a view to the Juvenile Justice Act, 2015 and the practical implications of the act. It discusses the extent to which the existing statutory framework is efficient in dealing with the factors of juvenile offenses, protecting constitutional and international commitments, and realizing its remedial goals. The paper aims to make a meaningful contribution to the modern discourse in the area of juvenile justice reform in India by combining the doctrinal and judicial interpretation and comparative perspectives on the issue.

Concept and Causes of Juvenile Delinquency in India

Juvenile delinquency is a social phenomenon that is complex in its nature as it is influenced by a complex interaction of individual, family, and economic as well as institutional factors. Juvenile criminality cannot be explained in the simple terms of culpability or deterrence; there is the need to look at the developmental vulnerability, social conditioning, and systemic failure. Indian courts have repeatedly acknowledged that children who come into conflict with law are often “products of circumstances rather than conscious criminals,” thereby necessitating a justice framework that addresses causation rather than mere punishment.⁷

Meaning and Scope of Juvenile Delinquency

The term “juvenile delinquency” broadly refers to participation by minors in acts that violate criminal law or socially accepted norms. In the Indian legal context, the Juvenile Justice (Care and Protection of Children) Act, 2015 does not explicitly define juvenile delinquency; instead, it classifies a “child in conflict with law” as a person below eighteen years alleged or found to have committed an offence.⁸

This definitional shift is significant, as it avoids stigmatising language and aligns with the rehabilitative philosophy underpinning juvenile justice legislation.

Criminological literature distinguishes juvenile delinquency from adult crime on the basis of psychological immaturity, susceptibility to peer influence, and limited capacity for long-term consequence evaluation. Indian jurisprudence has echoed this understanding, emphasising that children lack the same degree of mens rea as adults and must therefore be treated differently

⁷ *Sheela Barse v. Union of India*, (1986) 3 SCC 596.

⁸ Juvenile Justice (Care and Protection of Children) Act, 2015, § 2(13).

within the criminal justice system.⁹

Socio-Economic Factors Contributing to Juvenile Delinquency

Socio-economic deprivation is one of the most outstanding causes of juvenile delinquency in India. Unemployment of parents, poverty, inaccessibility to good education and poor housing conditions are some of the major factors that contribute to the high chances of children establishing themselves into deviant behaviour. The National Crime Records Bureau (NCRB) data consistently indicates that a substantial proportion of juveniles apprehended for offences come from economically weaker sections of society.¹⁰ Economic marginalisation often pushes children into informal labour markets at an early age, exposing them to exploitation and criminal networks. In *Sheela Barse v. Union of India*, the Supreme Court acknowledged that children living in destitution are particularly vulnerable to delinquent behaviour due to neglect, abuse, and lack of institutional support.¹¹ The Court stressed that criminalisation of such children without addressing their living conditions amounts to a failure of the welfare state.

Family Environment and Socialisation

Children are mainly socialised in a family set up, and a failure in the family set up has a direct relation to juvenile delinquency. Domestic violence, drug abuse within the family, neglect, lack of parental supervision and dysfunctional families are the factors that lead to behavioural problems among children. Experience in India shows that the juvenile delinquents often belong to families characterized by lack of stability and emotional deprivation.

e juvenile behaviour. Courts have observed that children exposed to violence or criminal behaviour within the household are more likely to internalise such conduct as normal or acceptable.¹² This understanding reinforces the need for counselling, family-based interventions, and community support mechanisms rather than custodial measures.

Educational Exclusion and Peer Influence

Education functions as both a protective and corrective mechanism against delinquency. School dropout rates, poor quality of education, and lack of vocational training opportunities

⁹ *Pratap Singh v. State of Jharkhand*, (2005) 3 SCC 551.

¹⁰ NAT'L CRIME RECORDS BUREAU, CRIME IN INDIA 2022, at 112–15 (2023).

¹¹ *Sheela Barse v. Union of India*, (1986) 3 SCC 596, 602–03.

¹² *Gopinath Ghosh v. State of W.B.*, (1984) 1 SCC 254.

increase the likelihood of juveniles engaging in unlawful activities. Children who are excluded from formal education systems often gravitate towards peer groups that provide a sense of belonging, even if such groups engage in delinquent behaviour.

Peer pressure plays a particularly influential role during adolescence, a stage characterised by identity formation and risk-taking tendencies. Indian courts have noted that juveniles often commit offences under the influence of peers without fully comprehending the legal or moral consequences of their actions.¹³ This reinforces the argument that punitive responses fail to address the underlying social dynamics driving juvenile crime.

Institutional Failures and Systemic Gaps

Institutional shortcomings within the juvenile justice system itself can exacerbate delinquency. Inadequate observation homes, lack of trained probation officers, overcrowding, and delayed inquiries undermine the rehabilitative intent of the law. Reports of abuse and neglect within juvenile institutions further erode their corrective potential, sometimes resulting in reoffending rather than reintegration.

The Supreme Court has repeatedly directed state governments to improve juvenile justice infrastructure, highlighting that poor institutional conditions violate the dignity and fundamental rights of children.¹⁴ These observations underscore that juvenile delinquency cannot be addressed solely through legislative reform; effective implementation and administrative accountability are equally critical.

Psychological and Developmental Factors

The adolescence is characterized by emotional variability, impulsivity and poor impulse control. Mental health disorders, substance dependency, exposure to violence, and psychological mechanisms like trauma are also major factors that determine the behaviour of the juveniles. The Indian law is increasingly appreciating the necessity of incorporating mental health assessment in the juvenile justice processes especially when conducting the preliminary assessment in the 2015 Act.

¹³ *Hari Ram v. State of Rajasthan*, (2009) 13 SCC 211.

¹⁴ *In re Exploitation of Children in Orphanages*, (2014) 8 SCC 485.

The requirement of psychological evaluation before transferring a juvenile for adult trial reflects an acknowledgment that developmental maturity varies significantly among children of the same chronological age.¹⁵ Nevertheless, there are still issues related to the accessibility of qualified mental health practitioners and uniformity of such assessment in different jurisdictions.

Concluding Observations on Causation

Juvenile delinquency in India is not the result of a single cause but a convergence of social disadvantage, familial dysfunction, educational exclusion, and institutional failure. Any legal response that ignores these root causes risks transforming a child welfare issue into a criminal justice problem. The emphasis on rehabilitation within the juvenile justice framework must therefore be supported by broader social reforms aimed at poverty alleviation, educational inclusion, family support, and institutional strengthening.

This contextual explanation forms the basis of assessing the usefulness of the Juvenile Justice Act, 2015, which is discussed in the following sections of this paper.

Evolution of Juvenile Justice Law in India

The creation of juvenile justice law in India is an evasion of a progressive yet resolute shift in the criminalistic colonial strategies in favor of a welfare-driven and rights-based approach to juvenile justice. This has been modified by the shifting social realities, constitutional requirements, judicial action and international obligation of India towards child protection. This historical development is crucial to the current juvenile justice regime and critically assessing the current regime based on the Juvenile Justice (Care and Protection of Children) Act, 2015.

Pre-Independence Framework and Colonial Approach

The colonial period was characterized by the way the children who were in conflict with the law were treated as miniature adults in terms of the criminal justice system. Early legal instruments such as the Indian Penal Code, 1860 recognised limited age-based immunity by exempting children below seven years from criminal liability and applying qualified immunity

¹⁵ Juvenile Justice (Care and Protection of Children) Act, 2015, § 15.

to children between seven and twelve years, subject to their maturity of understanding.¹⁶ However, these provisions addressed criminal responsibility rather than rehabilitation.

The first reformatory attempts emerged through enactments such as the Reformatory Schools Act, 1897, which provided for the detention of young offenders in reformatory institutions instead of prisons. While progressive for its time, the Act was limited in scope and primarily custodial in nature, focusing more on segregation than on holistic rehabilitation.¹⁷ Provincial Children Acts enacted during the early twentieth century further attempted to introduce juvenile courts and protective measures, but their implementation remained inconsistent and region-specific.

Post-Independence Constitutional Vision

After independence, the Indian Constitution laid the normative foundation for child-centric governance. Fundamental Rights and Directive Principles collectively emphasised equality, dignity, protection from exploitation, and the promotion of childhood welfare. Articles 15(3), 21, 21A, 23, 24, 39(e) and 39(f) reflect a constitutional commitment to safeguarding children against abuse and ensuring conditions conducive to their healthy development.¹⁸

The Supreme Court has repeatedly held that juvenile justice legislation must be interpreted in light of constitutional values, particularly the right to life with dignity under Article 21.¹⁹ This constitutional orientation necessitated the creation of a uniform, national framework to address juvenile delinquency in a manner consistent with child welfare principles.

Juvenile Justice Act, 1986

The Juvenile Justice Act, 1986 was the first national law that concerned juvenile offenders in India. It established distinct processes, juvenile institutions, and jurisdiction, which further promoted the philosophy of juvenile justice which is reformatory. However, the Act defined juveniles differently on the basis of gender, treating boys below sixteen years and girls below eighteen years as juveniles.²⁰

¹⁶ Indian Penal Code, 1860, §§ 82–83.

¹⁷ Reformatory Schools Act, 1897.

¹⁸ INDIA CONST. arts. 15(3), 21, 21A, 23, 24, 39(e)–(f).

¹⁹ *Sheela Barse v. Union of India*, (1986) 3 SCC 596.

²⁰ Juvenile Justice Act, 1986, § 2(h).

This differential age standard attracted widespread criticism for violating the principle of equality and for failing to align with international norms. Additionally, the Act suffered from poor implementation, lack of trained personnel, and inadequate infrastructure. Judicial interpretation attempted to mitigate some of these deficiencies, but structural limitations ultimately necessitated legislative reform.

Influence of International Obligations and the JJ Act, 2000

In 1992, India signed the United Nations Convention on the Rights of the Child, and this move was a turning point in reforming juvenile justice. The Convention mandates that all persons below eighteen years be treated as children and emphasises rehabilitation, reintegration, and the best interests of the child as guiding principles.²¹

To align the domestic law with these commitments, the Juvenile Justice (Care and Protection of Children) Act, 2000 was enacted by parliament. The Act changed its age limit to eighteen years and was opened up to also include not only children in conflict with the law but also children not in conflict but in need of care and protection. It established Juvenile Justice Boards and Child Welfare Committees as special organisations to adjudicate and oversee cases of children.

The Supreme Court consistently interpreted the 2000 Act in a liberal and child-friendly manner. In *Pratap Singh v. State of Jharkhand*, the Court clarified that the determination of juvenility must be based on the date of commission of the offence rather than the date of trial, thereby extending the protective ambit of the law.²² Similarly, in *Hari Ram v. State of Rajasthan*, the Court held that even pending cases must benefit from the enhanced age limit introduced by the 2000 Act.²³

Challenges and Criticism of the 2000 Act

Although the 2000 Act had a progressive structure, it had some practical issues. The lack of sufficient institutional capacity, inquiry delays, lack of good rehabilitation programmes and lack of coordination between authorities diluted the effect of the Act. Moreover, public perception increasingly viewed the law as overly lenient, particularly in cases involving serious

²¹ Convention on the Rights of the Child arts. 3, 40, Nov. 20, 1989, 1577 U.N.T.S. 3.

²² *Pratap Singh v. State of Jharkhand*, (2005) 3 SCC 551.

²³ *Hari Ram v. State of Rajasthan*, (2009) 13 SCC 211.

offences.

The 2012 Delhi gang-rape case sparked more criticism towards the juvenile justice system after one of the culprits who was a minor was free after the maximum allowable time in the institutions. This incident sparked widespread public debate on the adequacy of the existing legal framework and the need to reassess the balance between child welfare and societal protection.²⁴

Legislative Shift Towards the Juvenile Justice Act, 2015

Following the increased social apprehension and the recommendations given by the various expert committees, the Parliament passed the Juvenile Justice (Care and Protection of Children) Act, 2015. The Act still had the rehabilitative basis of the previous legislations but created a differentiated approach to children who were between the ages of sixteen to eighteen years who committed heinous offences. It gave Juvenile Justice Boards the power to do preliminaries examination of the mental and physical strength of the child, other circumstances of the offence and ability to comprehend the consequences.

This legislative shift marked a significant departure from the uniform protection model of the 2000 Act and has since been the subject of intense constitutional and academic debate. The Supreme Court, while upholding the validity of the provision, has cautioned that the power to transfer juveniles for adult trial must be exercised sparingly and in strict compliance with statutory safeguards.²⁵

Concluding Observations on Legislative Evolution

This development of laws of juvenile justice in India shows that there has always been an attempt to strike a balance between child welfare and social protection. From colonial custodial models to constitutional reformism and international rights-based approaches, Indian juvenile justice jurisprudence has progressively recognised children as rights-bearing individuals rather than mere subjects of control. However, the shift introduced by the 2015 Act raises critical questions about whether the trajectory remains firmly anchored in rehabilitation or risks drifting toward punitive justice.

²⁴ *Mukesh v. State (NCT of Delhi)*, (2017) 6 SCC 1.

²⁵ *Subramanian Swamy v. Raju*, (2014) 8 SCC 390.

In the next section, the author is going to analyze the main provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 and analyze its practical and constitutional aspects.

Juvenile Justice (Care and Protection of Children) Act, 2015: Key Provisions and Mechanism

The Juvenile Justice (Care and Protection of Children) Act, 2015 is a major change in Indian attitude towards children in conflict of law. Although it maintains the rehabilitative principle of the previous laws, the Act brings a differentiated and organized framework to treat grave juvenile delinquencies. This part discusses the fundamental provisions of the Act, the institutional structure it creates, and its legal consequences of its application.

Classification of Offences Under the 2015 Act

A major innovation of the 2015 Act is the classification of offences into three distinct categories—petty, serious, and heinous—based on the severity of punishment prescribed under the Indian Penal Code or any other law.²⁶ The petty offences include those with imprisonment up to a period of 3 years, serious offence with imprisonment of between 3-7 years and heinous offence with imprisonment of seven years or more.

This categorisation aims to ensure proportionality in the treatment of juveniles and to prevent indiscriminate punitive responses. However, the classification has also generated interpretative challenges, particularly in cases where the maximum punishment prescribed is death or life imprisonment. The Supreme Court addressed this ambiguity in *Shilpa Mittal v. State (NCT of Delhi)* by holding that offences punishable with a maximum of life imprisonment, but no minimum sentence of seven years cannot be treated as heinous offences under the Act.²⁷

Juvenile Justice Boards: Composition and Functions

The Juvenile Justice Board (JJB) is the major adjudicating court that handles children in conflict with the law. Under the 2015 Act, every JJB consists of a Metropolitan Magistrate or Judicial Magistrate of the First Class and two social workers, at least one of whom must be a woman.²⁸ This composition reflects the Act's emphasis on combining judicial expertise with social welfare perspectives.

²⁶ Juvenile Justice (Care and Protection of Children) Act, 2015, § 2(45)–(47).

²⁷ *Shilpa Mittal v. State (NCT of Delhi)*, (2020) 2 SCC 787.

²⁸ Juvenile Justice (Care and Protection of Children) Act, 2015, § 4(2).

The JJB exercises exclusive jurisdiction over all proceedings involving juveniles, ensuring that children are not exposed to the formal and intimidating environment of regular criminal courts. Proceedings before the Board are required to be child-friendly, confidential, and guided by principles such as presumption of innocence, dignity, and best interests of the child.²⁹ It has always been emphasized in Indian courts that the inability to comply with such procedural protection undermines the validity of the juvenile justice process.

Preliminary Assessment Under Section 15

Possibly, the most contentious aspect of the 2015 Act is the establishment of preliminary assessment in Section 15. This gives the Juvenile Justice Board the authority to make an evaluation of the child who is between the ages of sixteen and eighteen years, who is accused of committing an heinous offence. The assessment focuses on four key factors: the child's mental capacity to commit the offence, physical capacity, ability to understand the consequences of the offence, and the circumstances in which the offence was allegedly committed.³⁰

In case, after such determination, the Board decides that the child should be tried like an adult, then this case is brought to the Children Court. This provision marked a clear departure from the uniform protective approach under the 2000 Act and has been criticised for diluting the rehabilitative ethos of juvenile justice. Courts have therefore emphasised that the assessment must be strictly procedural and cannot be equated with a trial or determination of guilt.³¹

Role of Children's Courts

Children's Courts, designated under the 2015 Act, are responsible for conducting trials of juveniles transferred for adult trial following a preliminary assessment. Even in such cases, the Act mandates that the child be placed in a place of safety and not in a regular prison until the age of twenty-one.³² The Court must also regularly monitor the progress of the child and decide whether his or her further institutionalisation or release would be in the best interests of rehabilitating the child.

²⁹ Id. § 3.

³⁰ Id. § 15.

³¹ *Subramanian Swamy v. Raju*, (2014) 8 SCC 390.

³² Juvenile Justice (Care and Protection of Children) Act, 2015, § 19.

Court rulings have made it clear that despite a juvenile being tried in adulthood the sentencing framework has to be adult sensitive taking into consideration the age of the child as well as chance of reform. The emphasis on periodic review underscores the Act's attempt to balance accountability with rehabilitation.

Child Welfare Committees and Children in Need of Care and Protection

Besides dealing with the problem of juvenile delinquency, the 2015 Act also gives a major focus on children who require care and protection. Child Welfare Committees (CWCs) are empowered to adjudicate matters relating to abandoned, abused, trafficked, or orphaned children.³³ By extending the scope of juvenile justice beyond criminality, the Act acknowledges that preventive intervention is essential to reducing delinquency.

CWCs are quasi-courts and are very crucial in promoting rehabilitation by providing foster care, adopting, sponsoring and institutional support. The success of CWCs is therefore a constituent element of the success of the juvenile justice system.

Procedural Safeguards and Principles

The 2015 Act codifies several guiding principles, including the principles of presumption of innocence, best interests of the child, family responsibility, fresh start, and restoration.³⁴ These principles are regarded as interpretative means and provide a positive obligation to the authorities to put the welfare of the child first in all the steps of the procedure.

The Supreme Court has reiterated that deviation from these principles undermines both the legality and legitimacy of juvenile justice proceedings. Procedural safeguards such as confidentiality of records, prohibition on joint proceedings with adults, and the right to legal assistance are essential to protecting children from secondary victimisation within the justice system.³⁵

Concluding Observations on the 2015 Framework

The Juvenile Justice Act, 2015 seeks to respond to changing patterns of juvenile crime while retaining a rehabilitative core. However, the discretionary power vested in Juvenile Justice

³³ Id. §§ 27–30.

³⁴ Id. § 3(i)–(xii).

³⁵ *Sheela Barse v. Union of India*, (1986) 3 SCC 596.

Boards, particularly under Section 15, raises concerns regarding subjectivity, inconsistency, and potential erosion of child rights. The success of the Act ultimately depends on careful judicial oversight, availability of trained professionals, and faithful adherence to its guiding principles.

The next section analyses judicial interpretation of the 2015 Act and examines how courts have navigated the tension between welfare and punishment in juvenile justice jurisprudence.

Judicial Interpretation and Case Law Analysis

The judges have been instrumental in the type of jurisprudence in juvenile justice in India. The courts have always been the protectors of the rights of children such that legislative changes do not weaken constitutional guarantees and international commitments. This part examines some of the landmark court rulings that have construed the legislation of juvenile justice, especially the Juvenile Justice (Care and Protection of Children) Act, 2015 and its controversial clauses.

Constitutional Foundations of Juvenile Justice Jurisprudence

It has been a long-range goal of Indian courts to appreciate that juvenile justice is not just statutory but also a constitutional requirement. The Supreme Court has held that the treatment of children in conflict with law must conform to Articles 14 and 21 of the Constitution, ensuring equality before law and the right to life with dignity.³⁶ Juvenile justice legislation is therefore required to embody principles of fairness, proportionality, and humane treatment.

In *Sheela Barse v. Union of India*, the Court underscored the State's obligation to provide special care and protection to juveniles in detention, holding that custodial neglect violates fundamental rights.³⁷ This decision laid the groundwork for judicial oversight of juvenile institutions and reinforced the reformatory philosophy underlying juvenile justice laws.

Determination of Juvenility

The definition of juvenility has been one of the most litigated elements of the juvenile justice law. In *Pratap Singh v. State of Jharkhand*, the Supreme Court clarified that the relevant date

³⁶ INDIA CONST. arts. 14, 21.

³⁷ *Sheela Barse v. Union of India*, (1986) 3 SCC 596.

for determining juvenility is the date of commission of the offence, not the date of trial or conviction.³⁸ This interpretation significantly expanded the protective scope of juvenile justice legislation and prevented arbitrary exclusion of children due to procedural delays.

The Court reaffirmed this position in *Hari Ram v. State of Rajasthan*, holding that even cases pending at the time of enactment of the Juvenile Justice Act, 2000 would benefit from the enhanced age limit of eighteen years.³⁹ These rulings reflect the judiciary's commitment to substantive justice over technical formalism.

Judicial Response to Heinous Offences by Juveniles

The effective engagement of underage persons in grave offenses has raised problematic issues to the courts especially on matters of safety and reasonableness. In *Subramanian Swamy v. Raju* The constitutional validity of not differentiating between all juveniles regardless of the seriousness of the crime was questioned by Raju. The Supreme Court upheld the validity of the Juvenile Justice Act, 2000, emphasising that rehabilitation, not retribution, is the cornerstone of juvenile justice.⁴⁰

The Court noted that children are not like adults in their psychological maturity and ability to make decisions and putting them to adult punishment would contravene the goals of reformation. This ruling had a significant impact on the debate in parliament before the 2015 Act.

Interpretation of Section 15 of the 2015 Act

Section 15 of Juvenile Justice Act, 2015 brought in mechanism of preliminary assessment whereby Juvenile Justice Boards can now decide whether to put on trial a child of age between sixteen and eighteen years as an adult person over offences of heinous nature. This has been a sensitive provision in the eyes of courts and they have understood that it can degrade the rights of kids in case it is used in a mechanized manner.

In *Shilpa Mittal v. State (NCT of Delhi)*, the Supreme Court clarified the scope of heinous

³⁸ *Pratap Singh v. State of Jharkhand*, (2005) 3 SCC 551.

³⁹ *Hari Ram v. State of Rajasthan*, (2009) 13 SCC 211.

⁴⁰ *Subramanian Swamy v. Raju*, (2014) 8 SCC 390.

offences and restricted arbitrary application of Section 15.⁴¹ The Court also believed that the number of cases that could be engaged in preliminary assessment was restricted since only offences with a minimum of seven-year sentence or more could be considered heinous. This ruling had a considerable effect of restraining prosecutors who exceed their authority and strengthened protection in the statutes.

High Courts have also indicated that preliminary assessment is not a trial, but a procedure providing a guarantee, and it must be conducted with the help of psychologists or psychosocial specialists. Failure to conduct a proper assessment has been held to vitiate subsequent proceedings.⁴²

Sentencing and Post-Trial Safeguards

In situations where the juveniles are sent to be tried as adults, the courts have continued to hold that the sentencing should not be different, but instead it should be done in line with the rehabilitative nature of juvenile justice. Section 19 of the 2015 Act mandates periodic review of the child's progress and allows release based on reformatory potential.

Judicial pronouncements have stressed that imprisonment of juveniles in adult prisons violates constitutional norms and international standards. In *Sheela Barse* and subsequent cases, the Supreme Court directed strict segregation of juveniles from adult offenders and mandated monitoring of institutional conditions.⁴³

Alignment with International Standards

Indian courts have frequently relied on international instruments such as the UNCRC to interpret domestic juvenile justice law. The Supreme Court has held that international conventions ratified by India can be used to inform constitutional interpretation, provided they are not inconsistent with domestic law.⁴⁴ This approach has strengthened child rights jurisprudence and ensured conformity with global standards.

⁴¹ *Shilpa Mittal v. State (NCT of Delhi)*, (2020) 2 SCC 787.

⁴² *Jitendra Singh v. State of U.P.*, 2019 SCC OnLine All 3894.

⁴³ *Sheela Barse v. Union of India*, (1986) 3 SCC 596.

⁴⁴ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241.

Concluding Observations on Judicial Trends

Judicial interpretation of juvenile justice laws in India reveals a consistent effort to prioritise rehabilitation, dignity, and proportionality. While courts have upheld the constitutionality of the 2015 Act's differentiated approach, they have simultaneously imposed strict procedural safeguards to prevent misuse. The judiciary thus functions as a crucial balancing force, mediating between societal demands for accountability and the constitutional mandate to protect children.

The second section will involve a comparative study of the juvenile justice systems of some of the foreign jurisdictions and will also assess the standing of India in the international legal system.

Comparative and International Perspective on Juvenile Justice

Juvenile justice is not just an internal issue of law but an international issue of long-lasting interaction. Comparative analysis offers a good insight into how various legal systems strike a balance between the efforts to rehabilitate the offender, hold them accountable and keep them safe in the community in cases involving juvenile offenders. In this section, the author considers international standards on juvenile justice and compares the Indian action with the action of selected jurisdictions, especially the United Kingdom and the United States.

International Legal Framework: United Nations Convention on the Rights of the Child

The United Nations Convention on the Rights of the Child (UNCRC) is the foundation of child rights jurisprudence at the international level. Ratified by India in 1992, the Convention obligates State parties to ensure that the best interests of the child remain a primary consideration in all actions concerning children.⁴⁵

Article 40 of the Convention is directly related to juvenile justice and states that children suspected of violating the penal law should be treated with regard to their dignity and value with a focus on their acceptance back into the community.

⁴⁵ Convention on the Rights of the Child art. 3, Nov. 20, 1989, 1577 U.N.T.S. 3.

The UNCRC further requires that deprivation of liberty be used only as a measure of last resort and for the shortest appropriate period.⁴⁶ It has discouraged the punitive incarceration and promotes alternatives like counselling, education and community-based rehabilitation. The United Nations Committee on the Rights of the Child has on numerous occasions warned that there is a danger of lowering criminal responsibility age or exposing young offenders to adult criminal proceedings.

The Indian courts have continuously used the UNCRC in the interpretation of the local juvenile justice laws. In *Sheela Barse v. Union of India*, the Supreme Court explicitly recognised India's international obligations toward child protection and directed authorities to align domestic practices with global standards.⁴⁷

Juvenile Justice in the United Kingdom

The UK has a distinct juvenile justice system that incorporates accountability, coupled with welfare-based intervention. In England and Wales, the criminal responsibility age is ten years old and this has been subject to criticisms by international bodies. The system however includes Youth Courts, Youth Offending Teams (YOTs) and community-based rehabilitation programmes that are used to deter recidivism.

Youth Courts in the UK function separately from adult courts and adopt informal procedures to reduce intimidation. Sentencing options prioritise community orders, restorative justice, and supervision, reserving custodial sentences for exceptional cases. Even where juveniles are detained, emphasis is placed on education and behavioural reform rather than punishment.⁴⁸

While the UK permits custodial sentencing of juveniles for serious offences, it does not adopt a blanket approach to transferring juveniles to adult courts. This restraint reflects adherence to international principles discouraging adult treatment of child offenders.

Juvenile Justice in the United States

Juvenile justice system in the United States is associated with high level of diversity between states. Historically the system had focused on the idea of rehabilitation by use of juvenile courts but in the late twentieth century, crime rates had increased so much that many states were now

⁴⁶ Id. art. 37(b).

⁴⁷ *Sheela Barse v. Union of India*, (1986) 3 SCC 596.

⁴⁸ Crime and Disorder Act 1998, c. 37 (U.K.).

embracing transfer mechanisms where juveniles are tried as adults in serious crimes.

The U.S. Supreme Court has played a critical role in moderating punitive trends. In *Roper v. Simmons*, the Court held that imposing the death penalty on juveniles violates the Eighth Amendment prohibition against cruel and unusual punishment.⁴⁹ Subsequently, in *Graham v. Florida*, the Court prohibited life imprisonment without parole for juveniles in non-homicide cases.⁵⁰ These decisions underscore recognition of juveniles' diminished culpability and greater capacity for reform.

Despite these safeguards, the American system continues to permit adult trials of juveniles under certain circumstances, leading to outcomes that often conflict with international child rights standards. Comparative scholars frequently cite the U.S. experience as a cautionary example of excessive penalisation of juvenile offenders.

Comparative Evaluation with the Indian Framework

India's juvenile justice framework occupies a middle ground between the UK's welfare-oriented system and the more punitive elements of the U.S. approach. By introducing preliminary assessment under the Juvenile Justice Act, 2015, India allows limited adult trials of juveniles while retaining procedural safeguards and institutional review mechanisms.

In contrast with the U.S., the Indian legislation requires the juveniles sent to trial as adults to be confined in places of safety and ensures that the progress of the rehabilitation be periodically reviewed. At the same time, India's adherence to the UNCRC places constitutional and moral constraints on punitive excess. Indian courts have repeatedly affirmed that adult trials of juveniles must remain exceptional and not the norm.

Concluding Observations on Comparative Standards

Comparative analysis demonstrates that no juvenile justice system can entirely eliminate juvenile delinquency through punitive measures alone. International norms overwhelmingly favour rehabilitation, reintegration, and child-sensitive procedures. India's challenge lies in ensuring that the flexibility introduced by the 2015 Act does not undermine these principles.

⁴⁹ *Roper v. Simmons*, 543 U.S. 551 (2005).

⁵⁰ *Graham v. Florida*, 560 U.S. 48 (2010).

The second part is a critical analysis of the practical issues, institutional flaws, and human rights issues associated with implementing the Juvenile Justice Act, 2015.

Critical Issues, Implementation Challenges, and Human Rights Concerns

The Juvenile Justice (Care and Protection of Children) Act, 2015 is progressive in nature but encounters numerous challenges during implementation. These problems bring serious issues on the consistency, institutional capacity, and adherence to the constitution and international standards of child rights. This chapter critically looks into practical and normative concerns that are brought about by the operating juvenile justice system of India.

Inconsistent Application of Preliminary Assessment

One of the most contentious aspects of the 2015 Act is the discretionary power vested in Juvenile Justice Boards under Section 15 to conduct preliminary assessments. While the provision was intended to address exceptional cases involving heinous offences, its application across jurisdictions has been inconsistent. Variations in assessment standards, lack of uniform guidelines, and differing levels of expertise among Board members often lead to arbitrary outcomes. Courts have cautioned that preliminary assessment is not a determination of guilt and must not resemble a mini-trial.⁵¹ However, in practice, reliance on police reports rather than independent psychological evaluations undermines the objectivity of the process. This raises concerns under Article 14 of the Constitution, as similarly situated juveniles may be treated differently based on subjective assessments.

Shortage of Trained Professionals and Infrastructure

Effective implementation of the juvenile justice framework depends heavily on the availability of trained professionals, including psychologists, probation officers, social workers, and counsellors. Many states suffer from acute shortages of such personnel, resulting in perfunctory assessments and delayed inquiries.

Institutional infrastructure remains inadequate in several parts of the country. Observation homes and places of safety often suffer from overcrowding, poor living conditions, and lack of educational or vocational programmes. Judicial inspections and committee reports have documented instances of abuse and neglect within these institutions, directly contradicting the

⁵¹ *Shilpa Mittal v. State (NCT of Delhi)*, (2020) 2 SCC 787.

rehabilitative objectives of the Act.⁵²

Procedural Delays and Access to Justice

Timely disposal of cases is critical in juvenile justice proceedings, as prolonged uncertainty adversely affects a child's psychological well-being and prospects for reintegration. However, procedural delays caused by understaffed Boards, administrative inefficiencies, and lack of coordination between agencies continue to plague the system.

Access to competent legal representation is another area of concern. Although the Act guarantees legal aid to juveniles, many children remain unaware of their rights or are represented by overburdened legal services lawyers. This compromises procedural fairness and undermines the child-friendly nature of the justice process.

Risk of Stigmatisation and Erosion of Rehabilitation

The possibility of adult trial under the 2015 Act risks stigmatising juveniles and exposing them to long-term social exclusion. Labelling theory in criminology suggests that formal criminalisation of juveniles increases the likelihood of recidivism by reinforcing deviant identity. Indian courts have acknowledged this risk and emphasised the principle of "fresh start," which mandates expungement of juvenile records to facilitate reintegration.⁵³ However, public discourse and media coverage of juvenile crime often adopt a punitive tone, influencing institutional responses and eroding the rehabilitative ethos of juvenile justice. This tension between public sentiment and child rights presents an ongoing challenge for policymakers and adjudicatory bodies.

Human Rights and International Law Concerns

From a human rights perspective, the differentiated treatment introduced by the 2015 Act raises questions about compatibility with the UNCRC. International bodies have consistently opposed subjecting juveniles to adult criminal procedures, even for serious offences.⁵⁴ The discretionary nature of preliminary assessment further amplifies the risk of rights violations. Indian courts have sought to reconcile domestic law with international standards by interpreting the Act narrowly and imposing procedural safeguards. Nonetheless, continued vigilance is necessary

⁵² *In re Exploitation of Children in Orphanages*, (2014) 8 SCC 485.

⁵³ Juvenile Justice (Care and Protection of Children) Act, 2015, § 3(xiv).

⁵⁴ Convention on the Rights of the Child art. 40, Nov. 20, 1989, 1577 U.N.T.S. 3.

to ensure that juvenile justice reform does not drift toward punitive populism at the expense of constitutional morality.

Role of State Accountability and Monitoring

The effectiveness of the juvenile justice system ultimately depends on state accountability and institutional oversight. Although the Act mandates regular inspection of institutions and submission of periodic reports, enforcement remains uneven. Independent monitoring mechanisms, including judicial oversight and civil society participation, are essential to ensuring transparency and compliance.

Concluding Observations on Challenges

The challenges confronting India's juvenile justice system highlight the gap between legislative intent and practical reality. While the Juvenile Justice Act, 2015 provides a structured framework to address juvenile delinquency, its success hinges on consistent implementation, trained personnel, and unwavering commitment to child rights. Addressing these shortcomings is imperative to preserving the rehabilitative foundation of juvenile justice.

The following section proposes reforms and recommendations aimed at strengthening the juvenile justice system and enhancing its effectiveness.

Suggestions, Reforms, and Policy Recommendations

A robust juvenile justice system must respond not only to instances of delinquency but also to the structural conditions that give rise to juvenile offending. While the Juvenile Justice (Care and Protection of Children) Act, 2015 provides a comprehensive legal framework, targeted reforms are necessary to strengthen its rehabilitative orientation and ensure consistent implementation. This section proposes legal, institutional, and preventive reforms aimed at enhancing the effectiveness of India's juvenile justice system.

Strengthening Preliminary Assessment Safeguards

Given the far-reaching consequences of preliminary assessment under Section 15 of the 2015 Act, it is imperative to establish uniform and detailed guidelines governing the assessment process. Mandatory involvement of qualified psychologists and child development experts should be ensured in every case involving potential transfer for adult trial. Written, reasoned

orders must clearly demonstrate how each statutory factor has been evaluated, thereby reducing arbitrariness and enhancing judicial accountability.

Periodic training programmes for Juvenile Justice Board members should be institutionalised to familiarise them with child psychology, trauma-informed assessment, and international best practices. Judicial oversight through appellate scrutiny can further ensure that preliminary assessments remain an exception rather than a routine practice.

Institutional Capacity Building and Infrastructure Development

Institutional inadequacies remain one of the most significant barriers to effective juvenile justice administration. Governments must prioritise the establishment and modernisation of observation homes, special homes, and places of safety. These institutions should provide adequate educational, vocational, and mental health services to facilitate genuine rehabilitation. Recruitment and training of probation officers, social workers, and counsellors must be scaled up to meet statutory requirements. Dedicated budgetary allocations and transparent utilisation mechanisms are essential to prevent resource constraints from undermining child welfare objectives.

Enhancing Access to Legal Aid and Child-Friendly Procedures

Access to competent legal representation is a cornerstone of procedural fairness in juvenile justice proceedings. Legal services authorities should deploy trained child-rights lawyers and ensure that juveniles and their families are adequately informed of their rights. Child-friendly procedures, including simplified language, informal settings, and confidentiality safeguards, must be strictly enforced at all stages of inquiry.

Use of technology, such as digital case management systems, can reduce procedural delays and improve coordination between Juvenile Justice Boards, Child Welfare Committees, and law enforcement agencies.

Preventive and Community-Based Interventions

Preventing juvenile delinquency requires addressing its root causes through community-based interventions. Educational inclusion, vocational training, family counselling, and substance abuse prevention programmes play a critical role in reducing vulnerability among at-risk children. Schools and local bodies should collaborate with child welfare authorities to identify

and support children exhibiting early signs of behavioural distress.

Diversion and restorative justice mechanisms, such as mediation and community service, should be expanded to provide alternatives to formal adjudication, particularly for petty and first-time offences. These approaches align with international standards and reduce the risk of stigmatisation.

Harmonising Domestic Law with International Standards

India's juvenile justice framework must remain consistent with its international obligations under the UNCRC. Legislative and judicial interpretation should continue to prioritise the best interests of the child, ensuring that punitive measures do not overshadow rehabilitative goals. Periodic review of the 2015 Act in light of empirical data and international recommendations can facilitate adaptive reform.

Public Awareness and Sensitisation

Public perception plays a significant role in shaping juvenile justice policy. Awareness campaigns highlighting the objectives and successes of rehabilitative justice can counter punitive narratives and foster community support for reform-oriented approaches. Media guidelines should be strengthened to prevent sensationalised reporting of juvenile crime and protect the identity and dignity of children.

Concluding Observations on Reform

Reforming juvenile justice is an ongoing process that demands sustained commitment from legislators, courts, administrators, and society at large. By strengthening safeguards, enhancing institutional capacity, and investing in preventive strategies, India can reinforce a juvenile justice system that balances accountability with compassion and constitutional morality.

The final section concludes the study by synthesising the key findings and reaffirming the centrality of rehabilitation in juvenile justice jurisprudence.

Conclusion: -

Young offenders in India have proved a complex issue that is at the cross-button of criminal justice, child welfare and social reform. The history of the juvenile justice legislation is

consistent with the Indian continuing struggle between the necessity to have safety in the society and its constitutional and moral duty to safeguard children. Since the early reformatory paradigms, Indian jurisprudence has always acknowledged that the children in conflict with the law are inherently not equal to adult lawbreakers, and thus, they need a different treatment approach which is rehabilitative in nature.

The 2015 Act can be seen as a serious response to shifting trends of juvenile offending, especially in the distinction of how children with alleged heinous crimes are handled. Although this strategy attempts to solve the issues that the society has about severe juvenile offenses, it also brings legal and ethical challenges. Judicial interpretation has been very crucial in maintaining the rehabilitative essence of juvenile justice through the setting of procedural protection, demystification of statutory ambiguities and the harmonization of domestic law with the constitutional principles and international standards.

The discussion conducted in this paper shows that the issue of juvenile delinquency cannot be adequately solved by punitive solutions. Social-economic poverty, dysfunctional family, lack of education and inefficient institutions still influence the behaviour of juveniles and lead to offending trends. Any justice system that ignores these root causes will run the risks of recidivism and marginalisation cycles.

These comparative views also support the rehabilitation and reintegration as the key elements of juvenile justice systems across the globe. The significance of child-sensitive procedures and proportional accountability is emphasized by international documents like the United Nations Convention on the Rights of the Child, as well as practices in such jurisdictions as the United Kingdom and judicial protections created in the United States. The juvenile justice system of India, though progressive in most aspects, should also be careful of punishment drift and be adherent to the provisions of child rights. Finally, the juvenile justice system, which is the focus of this paper, requires not only design but also successful execution, institutional capacity, and support of reformatory justice in society. Empowering the procedures, investing in the rehabilitating infrastructure and the prevention and community-based approaches are the keys to achieving the goals of the Juvenile Justice Act. The role of a justice system in aiding the interests of youngsters is not only critical to the interest of the juvenile, but also towards the overall aim of establishing a just and inclusive society.

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