

JUVENILE JUSTICE IN INDIA: A CRITICAL LEGAL ANALYSIS OF DELINQUENCY, REFORM, AND ACCOUNTABILITY

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ABSTRACT

This paper critically examines the legal framework governing juvenile delinquency in India, with a focus on the Juvenile Justice (Care and Protection of Children) Act, 2015. It traces the historical evolution of juvenile justice laws from their colonial origins to the present-day rights-based approach, highlighting India's alignment with international instruments such as the United Nations Convention on the Rights of the Child (UNCRC) and the Beijing Rules. The research analyzes landmark judicial pronouncements and explores how courts have interpreted key issues such as age determination, bail, and the constitutionality of trying juveniles as adults for heinous offences.

The study further investigates the underlying socio-economic and psychological causes of juvenile delinquency, including poverty, broken families, peer pressure, and mental health challenges. It critiques the systemic shortcomings in the implementation of the juvenile justice framework, pointing to infrastructural gaps, lack of trained personnel, and insufficient rehabilitative services. Special emphasis is placed on the contentious provision allowing juveniles aged 16–18 to be tried as adults, raising concerns over the potential erosion of the reformatory intent of juvenile law.

The paper concludes by advocating for a balanced approach that ensures both child protection and legal accountability, without compromising on the foundational principle of reformation. It calls for institutional strengthening, enhanced training, and the broader use of restorative justice mechanisms to create a more humane and effective juvenile justice system.

Keywords: Juvenile Delinquency, Juvenile Justice Act, 2015, Reformatory Justice, Heinous Offences, Child Rights

1. INTRODUCTION

1.1. DEFINITION AND CONCEPT OF JUVENILE DELINQUENCY

Juvenile delinquency refers to the participation of minors—typically defined as individuals under the age of 18—in unlawful behaviors that would be considered criminal if committed by adults. According to Section 2(13) of the Juvenile Justice (Care and Protection of Children) Act, 2015, a "juvenile in conflict with law" is a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence. The term encompasses a wide range of behaviors from minor offences like truancy and petty theft to serious crimes including assault, rape, and even homicide.

Criminologists like Edwin H. Sutherland emphasize that delinquency is not just a legal but also a sociological concept—rooted in the intersection of deviance, social disorganization, and poor institutional support systems (Sutherland & Cressey, 1978). In the Indian context, juvenile delinquency is often linked with socio-economic conditions such as poverty, broken families, substance abuse, peer influence, and lack of access to education and rehabilitation services (Kusum, 2007).

1.2. SIGNIFICANCE OF STUDYING DELINQUENCY THROUGH A LEGAL LENS

The significance of studying juvenile delinquency from a legal standpoint lies in its deep entanglement with the principles of justice, human rights, and child welfare. Unlike adult offenders, juveniles are presumed to be less culpable due to their developmental immaturity and greater potential for rehabilitation. The Indian legal system, drawing inspiration from international conventions such as the United Nations Convention on the Rights of the Child (UNCRC), has adopted a reformative and rehabilitative approach towards juveniles.

However, the increasing involvement of juveniles in heinous crimes has led to a shift in public discourse—challenging the tension between protection and accountability. The amendment in the Juvenile Justice Act in 2015, allowing for juveniles aged 16–18 to be tried as adults in certain serious crimes, has sparked legal and ethical debates (Bajpai, 2019). Hence, a legal study of juvenile delinquency is vital to examine whether current laws adequately balance the dual objectives of justice and reformation.

1.3. OBJECTIVES AND RESEARCH QUESTIONS

This research aims to critically examine the legal framework dealing with juvenile delinquency in India, assess its effectiveness, and explore its alignment with constitutional and international child rights standards.

1.4. OBJECTIVES

- 1) To analyze the statutory and judicial framework governing juvenile justice in India
- 2) To evaluate the effectiveness of the Juvenile Justice Act, 2015 in handling cases of juvenile delinquency
- 3) To identify gaps between legal theory and implementation on the ground
- 4) To provide recommendations for legal reform and policy enhancement

2. RESEARCH QUESTIONS:

How has the Indian legal system evolved in its approach to juvenile delinquency?

Does the current juvenile justice framework adequately address the root causes and rehabilitation needs of delinquents?

What are the legal and ethical implications of trying juveniles as adults in serious crimes?

How does India's juvenile justice system compare with international legal standards?

3. METHODOLOGY AND LIMITATIONS

This research adopts a doctrinal legal methodology, primarily relying on the analysis of statutes, case laws, constitutional provisions, and international instruments. Key legal texts include the Juvenile Justice (Care and Protection of Children) Act, 2015, Indian Penal Code, 1860, and landmark judgments from the Supreme Court and various High Courts. Secondary sources include law commission reports, academic articles, and NGO publications. Additionally, a comparative legal approach is used to understand how other jurisdictions (such as the USA, UK, and Scandinavian countries) address similar issues. Where available, empirical data from the National Crime Records Bureau (NCRB) and reports by the National Commission for Protection of Child Rights (NCPCR) are also incorporated.

4. LIMITATIONS

The study does not include field-based empirical data or interviews with juvenile offenders or officials.

Rapid legal and policy changes post-2015 make it challenging to assess long-term impact.

Regional disparities in law enforcement and rehabilitation measures may not be comprehensively covered.

5. LEGAL FRAMEWORK GOVERNING JUVENILE DELINQUENCY IN INDIA

5.1. HISTORICAL EVOLUTION OF JUVENILE JUSTICE LAWS

The legal treatment of juveniles in India has evolved significantly from the colonial era to the present day. The Apprentices Act of 1850 was the first legislation aimed at juvenile offenders, allowing courts to assign convicted children to apprenticeships rather than imprisonment. Subsequently, the Reformatory Schools Act, 1897 introduced a system of reformatory institutions for children under the age of 15.

Post-independence, the focus shifted towards rehabilitation rather than punishment. The landmark Children Act, 1960 was enacted, mandating the establishment of juvenile courts and welfare boards. However, it was applicable only to Union Territories, prompting various states to pass their own children acts with differing standards.

To unify these frameworks, the Juvenile Justice Act, 1986 was introduced. It provided a pan-India legal framework for juvenile care, but lacked alignment with international conventions. The need for a rights-based and child-centric approach led to the Juvenile Justice (Care and Protection of Children) Act, 2000, which for the first time aligned with India's obligations under the United Nations Convention on the Rights of the Child (UNCRC).

In response to the public outcry after the 2012 Delhi gang rape case (Nirbhaya case), and concerns over juveniles committing heinous offences, the law was revised. This culminated in the Juvenile Justice (Care and Protection of Children) Act, 2015, which introduced significant reforms, including the provision to try juveniles aged 16–18 as adults for heinous crimes.

5.2. KEY LEGISLATION: JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015

The Juvenile Justice (Care and Protection of Children) Act, 2015 is the cornerstone of juvenile justice in India today. It classifies children into two categories:

- Children in Conflict with Law (CCL), and
- Children in Need of Care and Protection (CNCP).

5.3. KEY FEATURES

- Defines a "child" as any person below 18 years of age (Section 2(12)).
- Introduces the concept of heinous offences (punishable with 7 years or more) and empowers the Juvenile Justice Board (JJB) to conduct a preliminary assessment of the child's mental and physical capacity to commit such an offence (Section 15).
- Ensures that children tried as adults are not awarded death penalty or life imprisonment without remission (Section 21).
- Mandates constitution of Child Welfare Committees (CWC), Juvenile Justice Boards, and District Child Protection Units (Sections 27, 4, 106).
- Emphasizes rehabilitation and social reintegration through observation homes, special homes, and foster care.

5.4. INTERNATIONAL OBLIGATIONS: UNCRC, BEIJING RULES

India is a signatory to several international conventions that mandate a child-friendly and rehabilitative juvenile justice system.

United Nations Convention on the Rights of the Child (UNCRC), 1989

Ratified by India in 1992, the UNCRC is the most comprehensive international treaty on children's rights. Articles 37 and 40 deal specifically with juvenile justice:

- Article 37 prohibits torture, capital punishment, and unlawful deprivation of liberty for children.
- Article 40 mandates the establishment of a separate justice system for juveniles focused on reintegration and the assumption of a constructive role in society.

Beijing Rules (1985)

Formally known as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, the Beijing Rules lay down international standards for handling juveniles in conflict with law. Key principles include:

- Rule 5: Emphasis on the well-being of the juvenile
- Rule 6: Principle of proportionality between offence and disposition
- Rule 14: Use of institutionalization as a last resort and for the shortest possible period

6. JUDICIAL INTERPRETATION AND CASE LAW ANALYSIS

The judiciary has played a pivotal role in interpreting juvenile justice laws and safeguarding the rights of children in conflict with law. Through a series of landmark judgments, Indian courts have addressed critical issues such as age determination, the scope of bail, the validity of trying juveniles as adults, and the reformative versus punitive nature of the juvenile justice system.

6.1. LANDMARK SUPREME COURT AND HIGH COURT JUDGMENTS

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

In this early and significant case, the Supreme Court recognized the need for humane treatment of juveniles in custody. The Court issued guidelines for the establishment of juvenile homes and the separation of children from adult offenders, emphasizing the rehabilitative philosophy of juvenile justice.

2) Gopinath Ghosh v. State of West Bengal, 1984 AIR 237

This case underscored the importance of applying juvenile justice principles retroactively. The Supreme Court held that the appellant, though tried as an adult, should have been considered a juvenile at the time of the offence, setting a precedent for retrospective protection under juvenile law.

3) Jwala Prasad v. State of Uttarakhand, 2013 SCC OnLine Utt 484

The Uttarakhand High Court highlighted procedural lapses in age verification and stressed that, in cases of doubt, the benefit of the presumption of minority must go to the accused.

4) Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1 (Nirbhaya Case)

Although the juvenile involved in the 2012 Delhi gang rape was not tried as an adult, public outcry following the case directly influenced the legislative amendment in 2015 allowing juveniles aged 16–18 to be tried as adults for heinous crimes.

5) Dr. Subramanian Swamy v. Raju, (2014) 8 SCC 390

The Supreme Court upheld the constitutionality of the Juvenile Justice Act, 2000 and emphasized the need for a separate legal process for children. It clarified that the purpose of the Act is reformative, not retributive, even in serious offences.

6.2. INTERPRETATIONS RELATED TO AGE DETERMINATION, BAIL, AND TRIAL AS ADULTS

Age Determination

Age is a fundamental factor in deciding whether an individual is subject to juvenile justice provisions. Courts have consistently held that in the absence of reliable birth records, age must be determined using the Matriculation Certificate, and in its absence, medical examination is acceptable (*Arnit Das v. State of Bihar*, AIR 2000 SC 2264). The JJ Act, 2015 (Section 94) now codifies this process.

Bail for Juveniles

Under Section 12 of the JJ Act, 2015, a juvenile must be released on bail regardless of the offence, unless it is established that such release would bring them into association with known criminals or expose them to moral danger. Courts have strictly applied this principle, reinforcing that detention should be an exception, not the norm (*Rajiv Kumar v. State of Haryana*, 2000 Cri LJ 1735).

Trial as Adults

The 2015 Act (Sections 15–21) allows for juveniles aged 16–18 to be tried as adults for heinous offences. This provision was upheld in *Shilpa Mittal v. State of NCT of Delhi*, (2020) 2 SCC 787, where the Court clarified that the preliminary assessment by the Juvenile Justice Board is not a mini-trial, but a subjective evaluation of the juvenile's mental and physical maturity and capacity to understand the consequences of the offence.

6.3. ROLE OF JUDICIARY IN SHAPING JUVENILE JUSTICE PRINCIPLES

The Indian judiciary has significantly influenced the evolution and application of juvenile justice norms by:

- Advocating for the best interests of the child, consistent with international principles.
- Interpreting statutory provisions liberally in favor of juveniles, promoting reformatory over punitive justice.
- Insisting on strict compliance with procedural safeguards, particularly in age determination and assessment reports.
- Influencing legislative reforms by highlighting judicial gaps and implementation challenges, as seen post-Nirbhaya.

7. CAUSES AND SOCIO-LEGAL DIMENSIONS OF JUVENILE DELINQUENCY

Juvenile delinquency is a multifaceted phenomenon arising from the intersection of social, economic, psychological, and institutional factors. While the legal system addresses the consequences of juvenile crime, a holistic understanding requires analyzing the root causes and systemic gaps that perpetuate delinquent behavior among children. This section explores the socio-economic and psychological underpinnings of delinquency, examines the shortcomings in legal and rehabilitative responses, and critiques the role of law enforcement and child protection institutions.

7.1. SOCIOECONOMIC AND PSYCHOLOGICAL FACTORS

Poverty and Marginalization

One of the leading causes of juvenile delinquency in India is economic deprivation. Children from impoverished backgrounds often face neglect, malnutrition, and lack of access to education, making them vulnerable to criminal exploitation or survival crimes such as theft and drug peddling. According to the NCRB's 2023 Crime in India Report, over 60% of juveniles in conflict with law belong to families with annual incomes below ₹25,000.

Broken Families and Abuse

Family dysfunction, including domestic violence, alcoholism, and parental neglect, is closely associated with juvenile misconduct. Studies have shown that children raised in abusive or unstable households are more prone to emotional disorders and risk-taking behavior (Rani, 2017). Absence of parental guidance and positive role models further exacerbates vulnerability.

Peer Pressure and Urban Influence

Rapid urbanization and media exposure have also contributed to increased juvenile involvement in crimes. Peer influence, desire for social acceptance, and imitation of violent or criminal behavior—often glamorized in films or social media—can lead to aggressive tendencies and criminal activity, particularly among adolescents in urban slums.

Psychological and Developmental Issues

Adolescents are neurologically and emotionally underdeveloped compared to adults. Impulsivity, lack of foresight, and identity crises are common in this age group. Juveniles suffering from depression, trauma, or learning disabilities often go undiagnosed and untreated due to the lack of mental health services in schools and juvenile institutions (NCPCR, 2022).

7.2. GAPS IN LEGAL RESPONSE AND REHABILITATION MECHANISMS

Inadequate Implementation of the JJ Act

Despite a well-intentioned framework, the Juvenile Justice (Care and Protection of Children) Act, 2015 suffers from poor implementation. Many Child Welfare Committees (CWCs) and Juvenile Justice Boards (JJBs) are understaffed, undertrained, or function irregularly (Ministry of Women and Child Development, 2022).

Lack of Quality Institutional Care

Observation homes and special homes often function as mere detention centers rather than reformative spaces. Numerous reports by NHRC and NCPCR reveal cases of abuse, overcrowding, lack of counseling, and vocational training. This undermines the very rehabilitative philosophy the Act espouses.

Limited Use of Diversion and Restorative Justice

Although Section 18 of the JJ Act promotes non-institutional care, the application of diversion programs and restorative justice practices remains limited. In most cases, formal adjudication is preferred over community-based resolutions, contradicting global best practices and the UNCRC guidelines.

Rehabilitation vs Retribution Debate

The 2015 amendment allowing juveniles (16–18 years) to be tried as adults for heinous offences has created a legal contradiction—tilting the balance from reformative to punitive justice. Critics argue this undermines the presumption of diminished culpability and risks exposing children to adult criminal systems (Bajpai, 2019).

7.3. ROLE OF LAW ENFORCEMENT AND CHILD PROTECTION INSTITUTIONS

Police and Initial Handling

Police are often the first point of contact for juveniles in conflict with law. However, lack of child-sensitive training leads to inappropriate handling, illegal detention, or coercion. The Model Rules, 2016 mandate the appointment of Special Juvenile Police Units (SJPU), but in practice, these units are either non-functional or poorly trained.

Legal Aid and Representation

Under Section 8(3) of the JJ Act, every child in conflict with law must be provided legal aid. However, access to qualified legal counselors and child rights advocates remains limited, particularly in rural and tribal areas.

Coordination Among Stakeholders

There is often poor coordination between JJBs, CWCs, police, NGOs, and child protection officers. Cases are delayed, rehabilitation plans are not properly executed, and children often return to the same hostile environments after institutionalization.

8. CHALLENGES AND CRITIQUE OF THE EXISTING LEGAL SYSTEM

While the Juvenile Justice (Care and Protection of Children) Act, 2015 presents a comprehensive legal structure for addressing juvenile delinquency, its implementation reveals several contradictions, gaps, and systemic weaknesses. A major point of contention remains the shift towards punitive justice for juveniles aged 16–18 involved in heinous crimes. Additionally, poor institutional mechanisms, limited accountability, and inadequate training continue to challenge the reformative aims of the juvenile justice system.

8.1. CRITICISM OF TREATING JUVENILES ABOVE 16 AS ADULTS IN HEINOUS CRIMES

The JJ Act, 2015, under Section 15, allows for juveniles aged 16 to 18 to be tried as adults for heinous offences—defined as crimes punishable with a minimum of seven years imprisonment. This provision was a direct response to public outrage following the 2012 Nirbhaya case, where one of the accused was a juvenile.

Key Criticisms:

- **Contradicts the Reformative Spirit:** The Act's original objective—to prioritize reformation over retribution—is diluted when juveniles are transferred to adult criminal courts. Scholars argue that this contradicts the fundamental premise that juveniles lack the psychological maturity to fully understand the consequences of their actions (Bajpai, 2019).

- **Violates International Obligations:** India is a signatory to the UN Convention on the Rights of the Child (UNCRC), which defines a child as anyone below 18 and calls for a distinct justice system for them. The 2015 amendment arguably violates Articles 37 and 40 of the Convention, which prohibit the criminalization of children as adults.
- **Arbitrary Assessment Mechanism:** The preliminary assessment conducted by the Juvenile Justice Board is subjective and lacks clear procedural safeguards. The Supreme Court, in *Shilpa Mittal v. State of NCT of Delhi*, (2020) 2 SCC 787, acknowledged the ambiguity in this process but upheld its constitutional validity, prompting further debate.
- **Risk of Recidivism:** Exposure to adult prison systems increases the risk of psychological damage, abuse, and recidivism among juvenile offenders. Experts warn that such treatment may produce hardened criminals instead of rehabilitated citizens.

8.2. ISSUES WITH IMPLEMENTATION AND INSTITUTIONAL REFORM

Despite the progressive provisions of the JJ Act and the Model Rules (2016), implementation remains a major challenge:

1) Inadequate Infrastructure

Many Juvenile Justice Boards, Child Welfare Committees, and observation homes face severe infrastructural and staffing deficits. A 2022 report by the National Commission for Protection of Child Rights (NCPCR) highlighted that more than 40% of JJBs lacked dedicated child psychologists, probation officers, or social workers.

2) Lack of Trained Personnel

Officials responsible for juvenile justice often lack training in child psychology, restorative practices, or legal processes for minors. This leads to procedural lapses, miscommunication with juveniles, and even custodial abuse.

3) Inconsistent Application Across States

Juvenile justice mechanisms vary significantly across states due to differences in political will, budgetary priorities, and administrative capacity. This creates disparities in legal protection and rehabilitation services, undermining the uniformity of the law.

4) Weak Monitoring and Accountability

There is no robust system to monitor the quality of services in institutional care. Cases of sexual abuse, neglect, and overcrowding in juvenile homes continue to surface, with limited redressal mechanisms (NHRC, 2021).

8.3. LEGAL VS. REHABILITATIVE CONFLICT

The juvenile justice framework in India continues to be caught in the ideological tension between punitive criminal law and rehabilitative child welfare:

- **Legal Standpoint:** Proponents of a harsher approach argue that the rise in serious crimes committed by older juveniles justifies treating them as adults. They cite deterrence and public safety as necessary goals of criminal justice.
- **Rehabilitative Standpoint:** On the other hand, child rights activists, psychologists, and scholars emphasize that children—even those who commit serious offences—are products of their environment, trauma, and social failures. They argue that the goal should be reintegration, not incarceration.
- **Judicial Balancing Act:** Courts have attempted to strike a balance, but with mixed success. In *Dr. Subramanian Swamy v. Raju*, (2014) 8 SCC 390, the Supreme Court emphasized that the juvenile system must not lose its focus on reformation, even in heinous cases.

9. CONCLUSION

9.1. SUMMARY OF KEY FINDINGS

This study undertook a comprehensive legal analysis of juvenile delinquency in India, emphasizing the evolution, implementation, and interpretation of juvenile justice laws within the broader socio-legal context. The findings can be summarized as follows:

- The juvenile justice framework in India has evolved from colonial punitive approaches to a more rehabilitative and rights-based model, especially after the ratification of international conventions such as the UNCRC.
- The Juvenile Justice (Care and Protection of Children) Act, 2015 introduced significant reforms, including mechanisms for preliminary assessment and the possibility of trying juveniles (aged 16–18) as adults in heinous offences. While this change aimed to address public safety concerns, it raised serious legal and ethical debates about the appropriateness of punitive measures against adolescents.
- Judicial interpretations—through landmark cases such as *Sheela Barse v. Union of India*, *Shilpa Mittal v. State of NCT of Delhi*, and *Dr. Subramanian Swamy v. Raju*—have reinforced the role of courts in maintaining the child-centric philosophy of the law, while also grappling with the increasing complexity of juvenile involvement in serious crimes.
- The study identified root causes of delinquency, including poverty, family breakdown, peer pressure, and mental health issues—many of which are deeply embedded in social inequities. However, the legal system's response remains largely punitive and under-equipped to deal with these underlying factors effectively.
- Institutional gaps, including poor implementation, inadequate infrastructure, and lack of trained personnel, further weaken the system's capacity to offer meaningful rehabilitation and social reintegration to juveniles.

9.2. REFLECTION ON BALANCING PROTECTION AND ACCOUNTABILITY

One of the central challenges in juvenile justice jurisprudence is achieving an equitable balance between protecting the rights of the child and ensuring public accountability in the face of serious offences. While it is important to recognize the gravity of heinous crimes, particularly those committed by adolescents on the cusp of adulthood, equating juveniles with adults in legal treatment can undermine developmental and psychological differences that the juvenile justice system was designed to accommodate.

The current legal trend—particularly post-2015—leans toward individual culpability and punitive justice, a departure from the original vision of the Juvenile Justice Act. This shift, if not cautiously navigated, risks criminalizing childhood and neglecting the potential for reformation and reintegration. Moving forward, there is a pressing need to:

- Strengthen the rehabilitative components of the law,
- Improve institutional capacity, and
- Promote restorative justice mechanisms that prioritize accountability without abandoning the protective ethos of juvenile jurisprudence.

CONFLICT OF INTERESTS

None.

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