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CHILD IN CONFLICT WITH LAW UNDER THE JUVENILE JUSTICE ACT, 2015: TESTING THE GAP BETWEEN REHABILITATIVE PROMISE AND PUNITIVE PRACTICE IN INDIA'S JUVENILE JUSTICE SYSTEM

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ABSTRACT

The term "child in conflict with law", as defined under the Juvenile Justice (Care and Protection of Children) Act, 2015,² and how the rehabilitative intentions outlined in the Act are mirrored in practice by India's juvenile justice system will be the focus of this study. This approach is intended to rehabilitate children through therapeutic means such as counselling, educational support and skill development instead of a punitive focus. However, official statistics from the National Crime Records Bureau indicate an increase in juvenile criminal activity. In 2023 there were a total of 31,365 juvenile offenders, demonstrating the continuing issues related to effectively rehabilitating juveniles.³

Academic research has found that institutional mechanisms such as Juvenile Justice Boards often have inadequate facilities, equipment, and other resources; as a result, many of the procedures provided through Juvenile Justice Boards are punitive in nature rather than rehabilitative and caring.⁴ In addition, many children accused of committing serious offences experience a process which includes punitive treatment, such as being placed in an observation home or a detention facility, which raises questions about whether the law's intent to provide a rehabilitative system has been met. While the law provides for a special procedure and assessment to reduce stigma and enhance reintegration, independent research indicates that the implementation of this legislation and its processes do not

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² Juvenile Justice (Care and Protection of Children) Act, 2015

³ NCRB Crime in India Report, 2023

⁴ Challenges and Functioning of Juvenile Justice Boards in India, Indian Journal of Legal Studies (2025)

result in better outcomes than those in the adult criminal justice system, thereby eroding the credibility of the child-friendly components of the law.

This analysis highlights the disparity between policy and practice, suggesting the need for reforms to ensure the juvenile justice system fulfills its rehabilitative promise, thereby balancing child rights with societal safety.

KEYWORDS

Juvenile Justice Act, 2015, Child in conflict with law, Rehabilitation, Punitive practice, Care and protection

INTRODUCTION

The Juvenile Justice (Care and Protection of Children) Act, 2015, marks a landmark reform in India's approach to children involved in criminal acts. Prior laws used the term "juvenile delinquent," which often carried negative connotations associated with criminality and punishment. The 2015 Act deliberately replaced this phrase with "child in conflict with law," emphasizing a shift towards a more compassionate, child-focused justice system. This change embodies the broader objective of providing care, protection, and rehabilitation, rather than simply punishing young offenders. The law recognizes that children, due to their developmental stage, have a higher potential for reform, and thus, it prioritizes therapeutic methods. These include counselling, education, vocational training, and community-based rehabilitation programs, all intended to facilitate the child's social reintegration and personal growth.⁵

Despite these progressive legal intentions, the effectiveness of the Juvenile Justice Act is under continuous scrutiny, especially as official data highlight concerning trends. According to the National Crime Records Bureau (NCRB), the number of juvenile offenders reported in India reached 31,365 in 2023, indicating a rise of 2.7% over 2022's 30,555 cases.⁶ The juvenile crime rate also increased from 6.9 crimes per lakh children in 2022 to 7.1 in 2023. Most juvenile offenders (79%) fall within the 16–18-year age group, which is significant given the Act's provisions for preliminary assessment and possible adult trial in that category. This rising trend puts pressure on the juvenile justice system and questions the practical impact of the 2015 law.

⁵ Juvenile Justice (Care and Protection of Children) Act, 2015, Government of India.

⁶ National Crime Records Bureau, Crime in India Report, 2023, Juvenile Crime Statistics.

Furthermore, crimes against children overall surged to 177,335 cases in 2023, showing a 9.2% increase over 2022.⁷ Major crime categories include kidnapping and abduction (accounting for 45% of child crime) and sexual offences under the POCSO Act (38.2%). These distressing trends amplify the need for an effective juvenile justice system capable of rehabilitating young offenders and protecting child victims alike.

This research paper evaluates whether the Juvenile Justice Act of 2015 lives up to its rehabilitative promise and childcare centric objectives, or whether punitive practices continue under a softer label. By analysing NCRB crime data, reviewing academic literature, and assessing implementation reports, this study investigates the institutional realities like Juvenile Justice Boards' functioning, the adequacy of facilities, procedural frameworks, and the law's adherence to child rights principles. This examination aims to provide a balanced understanding of successes, gaps, and the roads ahead for India's juvenile justice system.

LEGAL FRAMEWORK AND DEFINITIONS

The Juvenile Justice Act, 2015, defines a "child in conflict with law" as any person below 18 years who is alleged or found to have committed an offence.⁸ The Act classifies offences into three categories: petty, serious, and heinous. Children below 16 years are always tried under juvenile procedures focused on rehabilitation. For children aged 16 to 18 accused of heinous crimes, the Juvenile Justice Boards (JJBs) conduct a preliminary assessment of the child's mental and physical capacity to commit the offence. Based on this assessment, the Board decides whether the child should be tried as an adult or under juvenile procedures.⁹

This provision was introduced primarily in response to public concerns over serious crimes committed by older adolescents and attempts to balance child welfare with societal safety.¹⁰ However, critics argue that the preliminary assessment process risks undermining rehabilitative goals and the rights of children by exposing them to adult criminal trials, which may have long-lasting harmful effects.¹¹

⁷ National Crime Records Bureau, Crime in India Report, 2023, Crimes Against Children Overview.

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

⁹ Juvenile Justice (Care and Protection of Children) Act, 2015, Sections 14-18.

¹⁰ Children in Conflict with Law: Public Policy Rationale, (July 4, 2025)

¹¹ Critiques on Preliminary Assessment and Rights Concerns under Juvenile Justice Act, Indian Journal of International Law and Legal Review (2025)

The Act establishes Juvenile Justice Boards to conduct inquiries and Child Welfare Committees (CWCs) to provide care and protection. These bodies are required to hold hearings in child-friendly settings, ensuring the procedures are simple and supportive rather than adversarial or punitive.¹² Additional safeguards include the requirement to involve mental health experts during assessments and the provision for bail as a right for children in conflict with law, except under exceptional circumstances.¹³ The guiding principle of the Act is to protect children from the harshness of the adult criminal justice system while ensuring that justice and rehabilitation go hand in hand, aiming to reintegrate children into society and promote their future well-being.

TRENDS IN JUVENILE CRIME AND INSTITUTIONAL REALITIES

The National Crime Records Bureau's (NCRB) 2023 Crime in India report reveals a notable rise in juvenile offenses across the country. States such as Delhi, Maharashtra, and Uttar Pradesh accounted for the highest numbers of reported juvenile crimes, reflecting regional hotspots for youth involvement in criminal activities. The increase in juvenile crime has intensified public demands for stricter legal measures and tougher enforcement. However, these demands often place strain on the rehabilitative framework envisioned under the Juvenile Justice Act, 2015.¹⁴¹⁵

In practice, institutional realities present significant challenges to the Act's rehabilitative ambitions. Many observation homes and special homes facilities designated for juveniles in conflict with law are plagued by overcrowding and poor living conditions. These environments hinder the children's social development and recovery, sometimes resembling punitive detention centers rather than nurturing rehabilitation spaces.¹⁶

Moreover, scholarly assessments expose systemic gaps within Juvenile Justice Boards (JJBs). Chronic shortages of trained personnel, restricted financial resources, and inadequate infrastructural facilities compromise their ability to effectively administer justice in a child friendly manner. Such deficiencies often result in children being subjected to detention like settings contrary to the rehabilitative intent of the law.

¹² Juvenile Justice Boards and Child Welfare Committees functioning.

¹³ Bail provisions and expert involvement in JJB assessments.

¹⁴ National Crime Records Bureau, Crime in India Report, 2023, Juvenile Crime Data

¹⁵ NCRB, 'Crime Against Children in India 2023'

¹⁶ Scholarly reviews on juvenile homes and institutional conditions, Indian Journal of Legal Studies (2025)

Further compounding this situation, children frequently remain in custody for extended periods due to delayed legal proceedings. Such protracted detention exacerbates the stigma attached to these children, intensifies their social isolation, and hampers successful reintegration into their communities. These factors undermine the Juvenile Justice Act's fundamental goal of rehabilitating rather than punishing young offenders.

IMPLEMENTATION CHALLENGES

The success of the Juvenile Justice (Care and Protection of Children) Act, 2015, is closely linked to the institutional capacity and the coordinated implementation of its provisions. However, across India, the functioning of juvenile justice institutions reveals significant unevenness and systemic weaknesses. As of 2023, only 18 states had established Juvenile Justice Boards (JJBs) in every district.¹⁷ This gap means that children in many districts lack timely access to specially designated forums for their cases, resulting in delayed hearings and inadequate legal protection.

The shortage of JJBs not only impedes swift justice but also frustrates the objective of providing child-friendly and rehabilitative procedures.

Overburdened courts exacerbate these delays, prolonging the detention of children awaiting trial. Such prolonged detention violates the child's right to a speedy trial and hampers the timely initiation of rehabilitative measures envisaged by the Act.¹⁸ Extended custody periods increase the chances of psychological harm and social alienation, counteracting the intended rehabilitative purpose.

Infrastructural deficiencies remain a core obstacle. Many states suffer from limited availability of safe and adequate observation homes and special homes, which are crucial for housing children in conflict with law during their rehabilitation process. Additionally, there is a notable deficit in specialized training for personnel involved in juvenile justice administration, including JJB members, probation officers, and social workers. This lack of training undermines their ability to implement child-sensitive procedures effectively.¹⁹

The coordination among key stakeholders such as law enforcement agencies, social welfare departments, judiciary, and non-governmental organizations is frequently fragmented. This disjointed

¹⁷ Ministry of Women and Child Development, India Justice Report 2023

¹⁸ 'Impact of Court Delays on Juvenile Detention and Rehabilitation' (iPleaders, 2025)

¹⁹ 'Infrastructure and Training Challenges in Juvenile Justice Institutions' (TIJER, 2025)

collaboration weakens the systemic support necessary to achieve comprehensive rehabilitation and protection for children.²⁰

Further complicating implementation are socio-economic factors. Children from impoverished backgrounds often face multiple vulnerabilities, including stigma, lack of family support, and absence of community rehabilitation programs. These conditions contribute significantly to high rates of recidivism and poor rehabilitation outcomes, underscoring the need for policies that address both legal and social dimensions of juvenile justice.²¹

POLICY VS. PRACTICE: THE PUNITIVE DRIFT

While the Juvenile Justice (Care and Protection of Children) Act, 2015, clearly emphasizes rehabilitation over punishment, the lived experience of many children in conflict with law reveals a different reality. Despite the spirit of the law, children often encounter conditions and treatment that closely resemble those faced by adult criminals. This mismatch points to a drift towards punitive practices within the juvenile justice system.²²

One of the Act's core protections is the preliminary assessment process conducted for children aged 16 to 18 accused of heinous crimes. This process is designed to shield older children from harsh adult trials by determining whether they can be tried as juveniles or should face the adult criminal justice system. However, procedural flaws and inconsistent application of this assessment often lead to punitive outcomes. In some cases, children subjected to the preliminary assessment default to trial in adult courts, which significantly increases the severity of their treatment and undermines rehabilitation.²³

Moreover, observation homes institutions intended as therapeutic environments often operate under severely restrictive conditions. Overcrowding, inadequate facilities, and lack of personalized care result in these homes functioning more like detention centers than spaces for rehabilitation. This situation

²⁰ 'Coordination Issues Among Agencies in Juvenile Justice' (NLU Odisha, 2024)

²¹ 'Socio-Economic Barriers to Juvenile Rehabilitation' (Online Legal Query, 2025)

²² 'Challenges in Juvenile Justice: Punitive vs. Rehabilitative Treatment' (Indian Journal of Law and Legal Review) accessed 27 November 2025

²³ 'Preliminary Assessment Flaws and Child Rights Concerns' (LawBhoomi accessed 27 November 2025)

contradicts the law's express intent to provide care, protection, and development opportunities for children in conflict with law.²⁴

Independent studies further highlight a glaring lack of essential services such as mental health care, vocational training, and psychological counseling within juvenile institutions. The absence of these services, combined with extended periods of detention, exacerbates trauma, stigmatization, and social alienation among affected children. This penal atmosphere not only contradicts the rehabilitative objectives of the Juvenile Justice Act but also fails to meet international child rights standards, including those set forth by the United Nations Convention on the Rights of the Child (UNCRC).²⁵ The persistence of these punitive elements raises serious concerns about the system's overall effectiveness in reducing juvenile crime and successfully reintegrating children into society. It reveals a fundamental disconnect between the policy's rehabilitative vision and its practice on the ground, calling for urgent reforms to restore the juvenile justice system to its intended child-friendly and corrective role.

CONSTITUTIONAL AND INTERNATIONAL LAW DIMENSIONS

India ratified the United Nations Convention on the Rights of the Child (UNCRC) on December 11, 1992, committing to protect children's rights, including those involved in the justice system. The UNCRC mandates that children be treated with dignity and respect, ensuring their rehabilitation and reintegration while minimizing detention. It emphasizes the child's best interests as a primary consideration in all actions concerning them, including legal proceedings.²⁶

The Juvenile Justice (Care and Protection of Children) Act, 2015, aligns with many UNCRC principles by providing a legal framework focused on care, protection, and rehabilitation, rather than punishment. The Act establishes institutions like Juvenile Justice Boards and Child Welfare Committees to oversee child-friendly procedures and promotes diversion and rehabilitation services.²⁷

²⁴ 'Conditions in Observation Homes and Detention Centers' (iPleaders) accessed 27 November 2025

²⁵ 'Lack of Mental Health and Rehabilitative Services in Juvenile Institutions, UNICEF and UNCRC Standards' (Indian Journal of Law and Legal Review) accessed 27 November 2025.

²⁶ United Nations Convention on the Rights of the Child (UNCRC), adopted 20 November 1989, entered into force 2 September 1990; India ratified 11 December 1992

²⁷ Juvenile Justice (Care and Protection of Children) Act, 2015, Government of India

However, the provision allowing children aged 16 to 18 who commit heinous offences to be tried as adults raises significant constitutional questions. This clashes with the presumption of innocence and fair trial rights enshrined in Articles 14, 15(3), and 21 of the Indian Constitution. Courts in India have struggled to strike a balance between the need for societal safety and the child's rights, emphasizing that punitive measures should not override rehabilitative and developmental priorities.²⁸

Internationally, the UNCRC Committee has repeatedly stressed that juveniles should not be subjected to adult criminal processes, warning against practices that compromise their rehabilitation. India's juvenile justice system remains under scrutiny for how these provisions are interpreted and applied in practice, particularly concerning the preliminary assessment process and the risks of harsh sentencing for older children.

RECOMMENDATIONS FOR STRENGTHENING JUVENILE JUSTICE IN INDIA

To bridge the gap between what the Juvenile Justice Act aims for and what actually happens, several key improvements are needed. One of the most important is investing more in infrastructure to ensure that observation homes and special homes are safe, welcoming, and well-managed so children feel cared for rather than punished. Juvenile Justice Boards and Child Welfare Committees need enough staff in every district to function properly and provide timely justice²⁹. Also, training should be expanded and improved for officials such as police, social workers, lawyers, and JJB members to help them understand child psychology and learn how to provide care-focused rehabilitation³⁰.

Technology can help speed up processes by building integrated case management and digital tracking systems. These would reduce delays and limit how long children spend waiting in detention, while improving coordination among agencies³¹. Whenever appropriate, children should be kept out of formal court proceedings and instead be involved in diversionary and community-based rehabilitation programs. These programs offer supportive alternatives, helping them learn skills and reintegrate positively into society without harsh judicial sanctions. Independent monitoring is important too, with

²⁸ Constitution of India, Arts 14, 15(3), 21; see Supreme Court rulings balancing child rights and public safety

²⁹ India Justice Report, 'Gaps in Juvenile Justice System in India' (2023)

³⁰ Juvenile Justice in India: Challenges, Reforms, and the Way Ahead, Indian Journal of International Law and Legal Review (2025)

³¹ Leveraging digital case management in juvenile justice, UPSC Mains Current Affairs (2025)

regular reports by outside groups to keep institutions accountable and focused on the child's welfare³². The preliminary assessment for children aged 16 to 18 accused of serious offenses needs reform. Instead of arbitrary decisions, multidisciplinary expert panels including psychologists and social workers should conduct fair and child-sensitive evaluations to decide the trial approach. Lastly, larger public awareness efforts are required to reduce stigma surrounding children in conflict with law and promote community support for their successful rehabilitation.

CASE LAWS

SHEELA BARSE V UNION OF INDIA (1986)³³

Facts of the Case: Sheela Barse, a noted social worker and activist, filed a Public Interest Litigation (PIL) in the Supreme Court highlighting the inhuman conditions of children lodged in adult jails across India. At that time, many juveniles accused of crimes were kept in adult prisons, subjected to harsh treatment, and denied care appropriate for their age. Barse brought attention to the lack of proper rehabilitation facilities for juveniles and urged the Court to direct the government to provide child-friendly accommodations and reform the juvenile justice system.

Key Issue: Whether juveniles in conflict with law could be housed in adult jails and subjected to the same treatment as adult prisoners, and whether the government had failed in its constitutional and legal obligation to protect the rights and welfare of such children.

Judgment: The Supreme Court ruled emphatically against the practice of keeping juveniles in adult prisons. It held that confining juveniles in jails with hardened criminals contravened their fundamental rights under Articles 14 and 21 of the Constitution, which guarantee equality before law and protection of life and personal liberty. The Court directed that juveniles must be housed separately in observation homes or reformatory institutions designed to address their rehabilitative needs. It emphasized speedy trials, proper care, and education of juveniles and called for the establishment of adequate infrastructure and personnel to implement the Juvenile Justice Act effectively. This judgment marked a significant step toward humane treatment and protection of juvenile offenders in India.

³² Monitoring and reporting mechanisms in Juvenile Justice Act, Vision IAS (2025)

³³ Sheela Barse v Union of India, (1986) 3 SCC 632

SALIL BALI V UNION OF INDIA, (2013)³⁴

Facts of the Case: The case arose in the context of public debate and demand for lowering the age of juvenility from 18 to 16 years, especially following the 2012 Nirbhaya gang rape case involving a juvenile accused. Petitions were filed challenging the Juvenile Justice (Care and Protection of Children) Act, 2000, seeking to amend the Act to enable trying juveniles as adults if aged between 16 and 18 years, particularly for heinous crimes. The Supreme Court had to consider whether the Juvenile Justice Act's definition of a child as someone below 18 was constitutionally valid and consistent with India's international obligations, including the United Nations Convention on the Rights of the Child (UNCRC).

Key Issue: The core issue was whether the age limit of 18 years for juveniles should be lowered to 16 years for the purpose of trial and sentencing under the juvenile justice law, particularly for heinous offences, or whether the existing law upholding the upper limit of 18 years should be retained. The Court also examined the constitutional validity of the Act and its alignment with international standards on child rights and protection.

Judgment: The Supreme Court upheld the constitutionality of the Juvenile Justice Act's definition of a child as a person below 18 years. The Court held that the law's object is rehabilitative and protective, not punitive. It emphasized that the scientific understanding of adolescent mental and emotional development supports treating persons below 18 as children requiring care rather than punishment. The Court rejected calls to reduce the age of juvenility to 16, noting India's commitment to the UNCRC and other international instruments that define a child as below 18 years. It observed that tackling juvenile crime should focus on strengthening rehabilitative systems rather than lowering juvenility age. The judgment reinforced the principle that juveniles must be treated differently from adults, reaffirming their right to care, protection, and rehabilitation rather than harsh punishment, even for serious crimes.

³⁴ Salil Bali v Union of India, (2013) 7 SCC 705

DARGA RAM @ GUNGA V. STATE OF RAJASTHAN, (2015)³⁵

Facts of the Case: Darga Ram was accused of the rape and murder of a 7-year-old girl named Kamala in Rajasthan. The prosecution initially claimed that the appellant was an adult at the time of the offense, based on medical evidence of injuries and blood group matching. However, Darga Ram was illiterate and had no reliable documentary proof of his age. He was convicted and sentenced to life imprisonment by the Sessions Court and upheld by the High Court. The appellant challenged the conviction on the ground that he was a juvenile when the crime was committed, which entitled him to protection under the Juvenile Justice Act.

Key Issue: The main issue was to determine whether Darga Ram was a juvenile (below 18 years) at the time of the commission of the offense. This was critical because if he was a juvenile, he should have been tried under the Juvenile Justice Act rather than the adult penal system. The challenge was compounded by the absence of reliable age-related documents.

Judgment: The Supreme Court allowed the appeal and held that in the absence of valid documentary evidence, medical age determination should be considered. The Court directed a medical examination which estimated Darga Ram's age to be between 33 and 36 years, thereby concluding that he was not a juvenile at the time of the crime. However, considering the mental and physical disabilities of the accused coupled with the procedural lapses and to ensure justice, the Court provided relief by modifying the sentence.

The judgment emphasized that age determination is vital and that where evidence is inconclusive, the benefit of doubt should go to the accused, upholding the principles of juvenile justice that prioritize rehabilitation and care over harsh punishment. The case highlighted the legal safeguards for juveniles and the importance of careful age assessment when juvenile status is claimed.

³⁵ Darga Ram @ Gunga v. State of Rajasthan, (2015) 2 SCC 775

CONCLUSION

The Juvenile Justice (Care and Protection of Children) Act, 2015, stands as a significant step toward creating a more humane and rehabilitative approach for children who come into conflict with the law. It reflects India's commitment to treating these children with care and dignity rather than as criminals. However, despite these goals, the reality shows a rising number of juvenile crimes, weak institutions, and practices that sometimes lean more toward punishment than rehabilitation. This gap between law and practice is a concern that cannot be ignored.

Strengthening the institutions involved, improving the legal and procedural safeguards, and fostering community-based rehabilitation efforts are urgently necessary. Only by effectively combining well-designed policies with practical implementation can India's juvenile justice system truly protect vulnerable children and work toward building safer communities where these children have a chance to rebuild their lives positively.