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Need for Juvenile Justice Board and Juvenile Justice in India

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Abstract

Juvenile delinquency is a pressing social and legal concern in India, requiring a justice mechanism distinct from the adult criminal justice system. The concept of juvenile justice rests on the belief that children who come into conflict with the law are victims of circumstances poverty, broken families, lack of education, and social neglect rather than hardened criminals, and therefore deserve reformation rather than retribution. This paper examines the historical evolution of juvenile justice law in India, the constitutional and international mandates underpinning it, the establishment and functioning of the Juvenile Justice Board (JJB) under the Juvenile Justice (Care and Protection of Children) Act, 2015, and the continuing need for such specialized institutions. The paper also analyses landmark cases, statistical trends in juvenile crime, criticisms of the current framework (particularly the provision allowing trial of 16–18 year-olds as adults for heinous offences), and offers recommendations for strengthening the system. The paper concludes that while India has built a fairly comprehensive juvenile justice architecture, effective implementation, adequate infrastructure, and trained personnel remain the biggest challenges to realizing the reformative vision of the law.

Keywords: *Juvenile Justice Board, Juvenile Justice Act 2015, child in conflict with law, rehabilitation, reformation, doli incapax*

1. Introduction

Children represent the most vulnerable and formative segment of any society, and the manner in which a nation treats children who come into conflict with the law reflects the maturity of its legal and social conscience. Unlike adults, children owing to their physical, mental, and emotional immaturity are considered less culpable for their actions and more amenable to reform. This principle, rooted in both criminology and constitutional morality, forms the bedrock of juvenile justice systems across the world.

In India, the juvenile justice system has evolved considerably since independence, moving from a rudimentary reformatory approach to a rights-based, child-centric framework. The **Juvenile Justice (Care and Protection of Children) Act, 2015** (hereinafter “JJ Act, 2015”),

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which replaced the JJ Act of 2000, represents the most significant overhaul of this framework. Central to this Act is the institution of the **Juvenile Justice Board** (hereinafter JJB) a specialized quasi-judicial body constituted at the district level to deal exclusively with children alleged to be in conflict with law.

This paper seeks to examine why a specialized board such as the JJB is necessary, rather than subjecting juveniles to the ordinary criminal courts, and to critically evaluate the working of juvenile justice in India today.

2. Objectives of the Study

1. To understand the concept and philosophy of juvenile justice.
2. To trace the historical and legislative evolution of juvenile justice law in India.
3. To examine the composition, powers, and functions of the Juvenile Justice Board.
4. To analyze the need and rationale for a separate juvenile justice mechanism.
5. To study landmark judicial pronouncements shaping juvenile justice jurisprudence.
6. To identify challenges in the implementation of the JJ Act, 2015.
7. To suggest reforms for a more effective juvenile justice system in India.

3. Research Methodology

This paper adopts a doctrinal method of research, relying on primary sources such as statutes, rules, and judicial decisions, and secondary sources including academic commentary, government reports (such as those of the National Crime Records Bureau), and scholarly articles. The approach is analytical and descriptive in nature.

4. Understanding Juvenile Delinquency and Juvenile Justice

4.1 Who is a “Juvenile”?

Under the JJ Act, 2015, a "child" is defined as any person who has not completed eighteen years of age. The Act distinguishes between:

- **Child in conflict with law:** a child alleged or found to have committed an offence, who was below eighteen years of age on the date of commission of such offence.
- **Child in need of care and protection:** a child requiring institutional or non-institutional support due to circumstances such as abandonment, abuse, or lack of a home.

4.2 Philosophy Underlying Juvenile Justice

The juvenile justice system is founded on several guiding principles:

- **Doctrine of *parens patriae*:** The State acts as the guardian of children who are unable to protect their own interests.

- **Principle of best interest of the child:** All decisions concerning a child must prioritize their well-being and development.
- **Reformation over retribution:** The goal is rehabilitation and reintegration into society, not punishment.
- **Doli incapax:** A presumption that children below a certain age lack the capacity to understand the nature and consequences of a criminal act.

These principles distinguish juvenile justice from the adversarial, punitive orientation of the ordinary criminal justice system, and justify the creation of a separate institutional mechanism.

5. Historical Evolution of Juvenile Justice Law in India

Period	Development
1850 — Apprentices Act	Early colonial provision for children involved in petty offences, focusing on apprenticeship rather than imprisonment.
1897 — Reformatory Schools Act	First formal reformatory framework for young offenders.
1920s–1930s	Several provinces (Madras, Bengal, Bombay) enacted their own Children Acts.
1960 — Children Act	A central law providing for care, protection, and treatment of children, applicable to Union Territories.
1986 — Juvenile Justice Act	First uniform national law; set the age of juvenility at 16 for boys and 18 for girls.
1992 — Ratification of UNCRC	India ratified the UN Convention on the Rights of the Child, obligating reform of domestic law.
2000 — Juvenile Justice (Care and Protection of Children) Act	Uniform age of 18 for both sexes; established Juvenile Justice Boards and Child Welfare Committees.
2006, 2011 — Amendments	Procedural refinements.
2015 — Juvenile Justice (Care and Protection of Children) Act	Enacted after the 2012 Delhi gang-rape case; introduced provision for trying 16–18 year olds as adults for heinous offences.
2021 — Amendment Act	Strengthened adoption procedures and clarified powers of District Magistrates.

The 2015 Act was a direct legislative response to public outrage following the involvement of a juvenile (a few months short of 18) in the December 2012 Delhi gang-rape case, which reignited the debate on whether the age of juvenility should be lowered or whether a graded approach based on the severity of the offence should be adopted.

6. The Juvenile Justice Board: Composition and Functions

6.1 Constitution of the Board

Section 4 of the JJ Act, 2015 mandates that the State Government shall constitute one or more Juvenile Justice Boards for every district. Each Board consists of:

- A Metropolitan Magistrate or Judicial Magistrate of the First Class (not being the Chief Metropolitan Magistrate or Chief Judicial Magistrate), possessing at least three years of experience, who acts as the Principal Magistrate.
- Two social workers, at least one of whom must be a woman — both must have relevant expertise in child psychology, child welfare, education, or allied fields.

6.2 Procedure

The Board is required to sit in a child-friendly environment, distinct from regular court premises, and its procedure is meant to be informal rather than adversarial. Importantly:

- Proceedings must be completed, as far as possible, within one year from the date of first production of the child.
- The Board is empowered to conduct a preliminary assessment in cases involving heinous offences committed by children between 16–18 years of age, to determine whether the child should be tried as an adult before the Children's Court.
- The Board can pass orders ranging from counselling, community service, and probation, to placement in a Special Home or, in serious cases, transfer to the Children's Court.

6.3 Powers of the Board

The JJB has the power to:

1. Ensure the child's rights are protected throughout the process of apprehension, inquiry, and adjudication.
2. Ensure legal aid is provided to the child through legal services institutions.
3. Direct a social investigation report to be prepared by a probation officer.
4. Adjudicate and dispose of cases of children in conflict with law.
5. Conduct inquiries in a manner that is not intimidating and is conducive to the child's participation.

7. Why is a Juvenile Justice Board Necessary? — The Rationale

7.1 Age-Appropriate Adjudication

Children lack the psychological maturity, judgment, and impulse control of adults. Subjecting them to the same trial procedure, courtroom atmosphere, and penal consequences as adults would be both scientifically unsound and constitutionally problematic (violating Article 21's guarantee of a fair and humane process suited to the individual).

7.2 Reformation Rather than Incarceration

Ordinary criminal courts are structured around punishment and deterrence. The JJB, in contrast, is designed to identify the root causes of a child's delinquent behaviour (family breakdown, poverty, substance abuse, peer pressure) and to address them through counselling, education, vocational training, and family reintegration.

7.3 Presence of Trained Personnel

The requirement that the Board include social workers with expertise in child psychology ensures that decisions are not made purely on legal technicalities but with an understanding of the child's socio-emotional context — something an ordinary magistrate or sessions court is not equipped to provide.

7.4 Protection from the Trauma of the Regular Criminal Process

Formal, adversarial trials with public exposure, cross-examination, and the presence of hardened criminals in the same facilities can cause severe psychological harm to a child. The JJB's informal, child-friendly procedure and mandate to protect the child's identity (Section 74 of the Act prohibits disclosure of a juvenile's identity in media) shield the child from stigmatization.

7.5 International Obligations

India, as a signatory to the **UN Convention on the Rights of the Child (1989)**, the **Beijing Rules (UN Standard Minimum Rules for the Administration of Juvenile Justice, 1985)**, and the **Riyadh Guidelines (1990)**, is obligated to maintain a specialized juvenile justice mechanism that promotes the well-being of the child and ensures that any reaction to juvenile offenders is proportionate to the circumstances of both the offender and the offence.

7.6 Constitutional Mandate

Articles 15(3), 21, 24, and 39(e) and (f) of the Constitution collectively empower and obligate the State to make special provisions for children and to protect them from exploitation and premature exposure to punitive systems, lending constitutional legitimacy to a specialized board.

8. Landmark Judicial Pronouncements

- i. ***Sheela Barse v. Union of India (1986)***: The Supreme Court emphasized the need for speedy trial and humane treatment of children in custody, laying early groundwork for institutional reform.
- ii. ***Pratap Singh v. State of Jharkhand (2005)***: The Supreme Court clarified that the relevant date for determining juvenility is the date of commission of the offence, not the date of production before the Board.

- iii. ***Salil Bali v. Union of India (2013)***: The constitutional validity of fixing the age of juvenility at 18 was upheld, with the Court rejecting the plea to lower the age following the 2012 Delhi case.
- iv. ***Subramanian Swamy v. Raju (2014)***: The Supreme Court upheld the JJB's exclusive jurisdiction over juveniles, reaffirming that no juvenile could be tried by ordinary criminal courts under the 2000 Act, a decision that subsequently influenced the drafting of the 2015 Act's "*heinous offence*" exception.

These cases collectively demonstrate the judiciary's consistent recognition of the special status of children in the justice system, even as it has grappled with balancing child rights against public demands for accountability in serious crimes.

9. Statistical Overview

Data published by the National Crime Records Bureau (NCRB) in its annual "*Crime in India*" reports indicate that juveniles apprehended under the Indian Penal Code account for a small but persistent fraction of total crime, with property offences (theft) and, in some categories, offences against the human body forming a significant share of cases. Reports have also shown a considerable proportion of apprehended juveniles come from economically weaker sections and have limited access to formal education, reinforcing the socio-economic roots of juvenile delinquency and underscoring the need for rehabilitative rather than purely punitive responses. (Readers are encouraged to consult the latest NCRB report for current figures, as these statistics change annually.)

10. Critical Issues and Challenges

10.1 The "*Heinous Offence*" Exception

The most controversial feature of the 2015 Act is Section 15, which allows the JJB, after a preliminary assessment, to refer a 16–18-year-old accused of a heinous offence (punishable with a minimum of seven years imprisonment) to a Children's Court, which may try the child as an adult. Critics argue that:

- This undermines the doctrine of *doli incapax* and the reformatory philosophy of juvenile justice.
- The Board's "preliminary assessment" of mental and physical capacity is not equivalent to a proper forensic psychological evaluation, and Boards often lack the expertise to conduct it reliably.
- It creates a two-tier system of juvenile justice, with outcomes dependent on the discretion of the Board.

10.2 Infrastructural Deficiencies

Many districts lack a properly constituted, functioning JJB with the required quorum of a magistrate and two social workers. Reports by child rights bodies have repeatedly highlighted

vacancies, delays in the appointment of social worker members, and inadequate infrastructure such as child-friendly rooms. This is not a marginal or isolated problem: a 2023 assessment found that 24% of responding JJBs lacked a full bench comprising a principal magistrate and two social workers, while a nationwide vacancy rate of 34.9% among JJB members was recorded in 2021, leaving only 1,426 members in place against a sanctioned strength of 2,193. Where a Board sits without its full complement, it risks functioning as little more than an ordinary criminal court, losing the rehabilitative, child-centric character the law envisages. The consequences of these vacancies are compounded by chronic under-resourcing elsewhere in the system. Reports point to major vacancies in JJB positions particularly social workers and support staff insufficient funds for training and capacity-building, and a lack of child-friendly infrastructure in many districts. A 2023 India Justice Report study similarly found that 24% of JJBs were not fully constituted and 30% lacked an attached legal services clinic, limiting children's access to legal aid. Delays in appointing social worker members are not merely administrative lapses; they directly affect the quality and timeliness of hearings, pushing up case pendency and prolonging children's uncertainty within the system

10.3 Delay in Disposal of Cases

Despite the statutory mandate to dispose of cases within one year, delays remain common due to case backlog, absence of Board members, and procedural bottlenecks, defeating the purpose of speedy, non-traumatic justice. Delay in Disposal of Cases. Section 14 of the Juvenile Justice (Care and Protection of Children) Act, 2015 mandates that inquiries before the JJB be completed within a period of four months, extendable in exceptional circumstances, with an overall statutory expectation that cases be disposed of within one year. In practice, this timeline is routinely breached.

10.4 Conditions in Observation Homes and Special Homes

Multiple reports, including those by the National Human Rights Commission and civil society organizations, have flagged overcrowding, lack of trained counsellors, and poor sanitary conditions in many observation and special homes, undermining the reformatory objective of institutionalization.

10.5 Lack of Trained Social Workers

The Act envisages social worker members with specific expertise, but in practice, appointments are sometimes made without adequate screening for qualifications or training in child psychology, compromising the quality of decision-making.

10.6 Awareness and Sensitization

Police personnel handling children in conflict with law are often insufficiently trained in child-sensitive procedures, resulting in improper apprehension, delayed production before the Board, and, in some cases, custodial mistreatment despite the Act's requirement for a **Special Juvenile Police Unit (SJPU)** in every district.

11. Comparative Perspective

Countries such as the United Kingdom (Youth Courts), the United States (Juvenile Courts, though jurisdiction and waiver rules vary by state), and Germany (Jugendgerichte) similarly maintain specialized juvenile justice institutions, reflecting an international consensus on the need for age-differentiated justice. However, several of these jurisdictions also provide mechanisms analogous to India's "*transfer to Children's Court*" for trying older juveniles as adults in cases of serious crime, indicating that India's approach, while contested domestically, is not without global parallel. The key distinction lies in the rigor of the assessment process used to determine such transfers, an area where India's framework is often considered comparatively underdeveloped.

12. Suggestions and Recommendations

1. **Strengthening the Preliminary Assessment Process:** Mandatory involvement of qualified clinical psychologists and forensic experts, with standardized assessment tools, should be institutionalized to ensure that determinations under Section 15 are scientifically robust rather than perfunctory.
2. **Filling Vacancies Promptly:** State Governments must ensure timely appointment of qualified social worker members to every JJB, with periodic training and capacity-building programs.
3. **Infrastructure Upgrade:** Dedicated child-friendly premises, separate from regular court complexes, should be established in every district as mandated by the Act.
4. **Strengthening Special Juvenile Police Units:** Regular training of police personnel in child rights and child-sensitive procedures should be made mandatory and periodically audited.
5. **Time-bound Disposal:** Robust monitoring mechanisms, including digital case-tracking systems, should be introduced to ensure the one-year disposal timeline is met.
6. **Improving Institutional Conditions:** Regular inspection of Observation Homes and Special Homes by independent bodies, with a focus on counselling, education, and vocational training facilities.
7. **Data Transparency:** Periodic, disaggregated publication of data on juvenile cases, disposal rates, and recidivism to enable evidence-based policymaking.
8. **Community-Based Alternatives:** Greater use of diversion, mediation, and community service as envisaged under the Act, to minimize institutionalization wherever possible.
9. **Public Awareness:** Sensitization campaigns to reduce social stigma against children in conflict with law and to promote their reintegration into society and educational institutions.

13. Conclusion

The Juvenile Justice Board represents a vital institutional recognition that children who come into conflict with the law require a fundamentally different response from that meted out to adult offenders one rooted in understanding, rehabilitation, and the best interest of the child,

rather than retribution. India's legislative journey, from the Apprentices Act of 1850 to the comprehensive Juvenile Justice (Care and Protection of Children) Act, 2015, reflects an evolving, if still imperfect, commitment to this principle. The need for the JJB is not merely a matter of legal formality but a constitutional and moral imperative rooted in the recognition that children are not merely “*small adults*” but individuals in a critical stage of development who deserve a chance at reform.

At the same time, the 2015 Act's provision for trying certain juveniles as adults reflects the tension between reformatory ideals and public demands for accountability in the face of serious crime – a tension that continues to generate vigorous debate. Ultimately, the effectiveness of India's juvenile justice system will depend less on further legislative amendment and more on faithful, well-resourced, and sensitive implementation of the framework that already exists ensuring that every Juvenile Justice Board functions not merely as a legal formality, but as a genuine instrument of a child's second chance.

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