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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

REVISITING THE JUVENILE JUSTICE SYSTEM IN INDIA: A BIRD'S EYE-VIEW

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Abstract

The juvenile justice system in India has witnessed remarkable evolution over the decades, shifting from a colonial legacy rooted in punitive measures to a modern framework emphasizing welfare, rehabilitation, and restorative justice. Initially, children in conflict with law were treated much like adult offenders, but with the enactment of successive legislations, particularly the Juvenile Justice (Care and Protection of Children) Act, 2000 and its subsequent amendment in 2015, the focus has progressively moved towards protection of child rights and their reintegration into society. The present study provides a bird's eye view of this transformation, tracing the historical development, legislative milestones, and judicial interventions that have shaped the system. Adopting a doctrinal methodology, it critically examines statutory provisions, landmark judicial pronouncements, and policy frameworks governing juvenile justice in India. The research highlights the central role of Child Welfare Committees, Juvenile Justice Boards, and rehabilitation mechanisms in creating a child-friendly justice system. However, challenges such as inadequate infrastructure, lack of trained personnel, inconsistent implementation, and societal stigma continue to undermine its effectiveness. While India has taken significant strides in harmonizing domestic law with international conventions like the UNCRC, greater emphasis is needed on rehabilitation, skill development, and community-based alternatives. The paper concludes with practical recommendations for strengthening institutional capacity, ensuring accountability, and safeguarding the best interests of children.

Keywords: Juvenile Justice, Child Rights, Rehabilitation, Juvenile Justice Act 2015, India

1. Introduction

The treatment of children in conflict with law has been a matter of increasing concern globally, with nations recognizing the need for a separate and specialized justice system for juveniles. India, home to the world's largest child population, faces unique challenges in ensuring that its juvenile justice system effectively balances the dual objectives of protecting society and rehabilitating young offenders. The juvenile justice system in India has evolved considerably over the decades, reflecting changing societal attitudes toward childhood, crime, and rehabilitation.¹

The concept of juvenile justice is premised on the understanding that children, due to their developmental stage, require different treatment from adults when they come into conflict with law. This recognition is rooted in the principle of *parens patriae*, where the state acts as a benevolent parent, focusing on the welfare and rehabilitation of the child rather than punishment. The Indian juvenile justice system has been shaped by this philosophy, though its practical implementation has faced numerous challenges. The aim is to provide a comprehensive overview of the juvenile justice system in India, examining its evolution, current structure, operational challenges, and future directions. The analysis is particularly relevant in the context of recent legislative amendments and ongoing debates about the effectiveness of the current system in addressing juvenile crime while ensuring the rights and welfare of children.

2. Historical Evolution of Juvenile Justice in India.

The evolution of juvenile justice in India reflects a gradual shift from colonial punitive models to a child-centric, rehabilitative approach. Early laws treated juveniles akin to adult offenders, but post-independence reforms emphasized welfare and protection. Landmark legislations, culminating in the Juvenile Justice (Care and Protection of Children) Act, 2015, highlight India's commitment to restorative justice and child rights.

2.1 Pre-Independence Era

The roots of juvenile justice in India can be traced back to the colonial period when the British administration first recognized the need for separate treatment of child offenders. The Apprentices Act of 1850 was one of the earliest legislative measures that acknowledged the

¹ UNICEF. (n.d.). *Justice for children in India*. UNICEF India

special status of children in the criminal justice system. This was followed by the Reformatory Schools Act of 1897, which established reformatory schools for juvenile offenders.

The Indian Penal Code of 1860 incorporated the principle that children below seven years could not commit an offense, while those between seven and twelve years were considered incapable of committing an offense unless they possessed sufficient maturity. This early recognition of the developmental differences between children and adults laid the foundation for the modern juvenile justice system.

2.2 Post-Independence Developments

After independence, India began developing a more comprehensive approach to juvenile justice. The Constitution of India, adopted in 1950, included specific provisions for child welfare and protection. Article 15(3) empowers the state to make special provisions for children, while Article 39(e) and (f) mandate the state to ensure that childhood is protected against exploitation and moral abandonment.

The first significant post-independence legislation was the Children Act of 1960, which was adopted by several states. This Act established juvenile courts and emphasized the welfare approach rather than punishment. However, the lack of uniformity across states led to the need for central legislation.

2.3 The Juvenile Justice Act, 1986

The Juvenile Justice Act of 1986 marked a watershed moment in India's approach to juvenile justice. This Act, applicable throughout India, established a uniform framework for dealing with juveniles in conflict with law. The Act adopted a welfare-oriented approach and established juvenile courts and observation homes. It defined a juvenile as a person who has not completed eighteen years of age if male and sixteen years if female, reflecting the gender-based distinctions prevalent at the time.

The 1986 Act introduced several progressive features, including the principle that juveniles should be separated from adult offenders, the establishment of juvenile courts with special procedures, and the emphasis on rehabilitation rather than punishment. However, the Act faced criticism for its gender-based age distinction and inadequate implementation mechanisms.

2.4 The Juvenile Justice (Care and Protection of Children) Act, 2000

The turn of the millennium brought significant reforms with the enactment of the Juvenile Justice (Care and Protection of Children) Act, 2000. This Act addressed several shortcomings

of the 1986 legislation and brought Indian law closer to international standards, particularly the United Nations Convention on the Rights of the Child (UNCRC).²

Key features of the 2000 Act included the uniform age of eighteen years for both boys and girls, the establishment of Child Welfare Committees for children in need of care and protection, and the introduction of the concept of 'children in need of care and protection' alongside 'juveniles in conflict with law'. The Act also emphasized community-based rehabilitation and non-institutional care.

3. Current Legislative Framework: The Juvenile Justice Act, 2015

3.1 Background and Need for Amendment

The Juvenile Justice (Care and Protection of Children) Act, 2015, represents the latest evolution in India's juvenile justice legislation. The Act was enacted in response to public outcry following the participation of a juvenile in the 2012 Delhi gang rape case, which raised questions about the adequacy of the existing system in dealing with serious crimes committed by juveniles.

The 2015 Act introduced the controversial provision allowing juveniles aged 16-18 years to be tried as adults for heinous offenses, marking a departure from the earlier uniform approach. This change reflected the ongoing tension between public demands for stricter punishment and the established principles of juvenile justice.³

3.2 Key Provisions and Features

3.2.1 Categorization of Offenses

The 2015 Act categorizes offenses into three types:

- **Petty offenses:** Offenses punishable with imprisonment up to three years
- **Serious offenses:** Offenses punishable with imprisonment between three and seven years
- **Heinous offenses:** Offenses punishable with imprisonment of seven years or more

3.2.2 Treatment of Juveniles in Conflict with Law

For petty and serious offenses, all juveniles are dealt with by the Juvenile Justice Board (JJB) following the principles of restorative justice. However, for heinous offenses committed by

² Government of India. (2000). The Juvenile Justice (Care and Protection of Children) Act, 2000

³ Government of India. (2015). The Juvenile Justice (Care and Protection of Children) Act, 2015

juveniles aged 16-18 years, the Act provides for a preliminary assessment by the JJB to determine whether the juvenile should be tried as an adult or dealt with under the juvenile justice system.

3.2.3 Institutional Framework

The Act maintains the institutional framework established by the 2000 Act, including:

- **Juvenile Justice Boards (JJB):** For adjudication of juveniles in conflict with law
- **Child Welfare Committees (CWC):** For children in need of care and protection
- **District Child Protection Units:** For implementation and monitoring
- **State Child Protection Society:** For policy formulation and coordination

3.2.4 Rehabilitation and Reintegration

The Act emphasizes rehabilitation through various measures including counseling, community service, group counseling, and institutional care in special homes, observation homes, and places of safety. The Act also provides for follow-up and aftercare services to ensure successful reintegration of juveniles into society.

3.3 Critical Analysis of the 2015 Act

The 2015 Act has been subject to considerable debate and criticism from various quarters. Supporters argue that it provides necessary flexibility in dealing with serious crimes committed by older juveniles, while critics contend that it undermines the foundational principles of juvenile justice.

Progressive Aspects:

- Enhanced focus on adoption and foster care
- Strengthened institutional framework
- Emphasis on rehabilitation and aftercare
- Recognition of different categories of offenses
- Provision for specialized adoption agencies

Controversial Elements:

- The provision for trying juveniles as adults for heinous offenses
- Potential violation of the principle of treating all children equally
- Risk of deterring the rehabilitative approach
- Challenges in conducting preliminary assessments

4. Institutional Mechanisms and Stakeholders⁴

4.1 Juvenile Justice Boards

Juvenile Justice Boards constitute the primary adjudicatory mechanism for juveniles in conflict with law. Composed of a Metropolitan Magistrate or Judicial Magistrate of First Class and two social workers, JJBs are required to adopt a child-friendly approach in their proceedings.

The effectiveness of JJBs has been a matter of concern, with issues including inadequate training of members, lack of infrastructure, and inconsistent application of the law across different jurisdictions. The quality of social workers serving on JJBs varies significantly, affecting the quality of decisions and rehabilitation plans.

4.2 Child Welfare Committees

Child Welfare Committees, consisting of a Chairperson and four members with expertise in child welfare, health, education, or human psychology, are responsible for children in need of care and protection. CWCs have quasi-judicial powers and are empowered to dispose of cases and monitor rehabilitation of children.

The functioning of CWCs has faced challenges similar to those of JJBs, including resource constraints, inadequate training, and high caseloads. The quality of individual care plans and the monitoring of their implementation remain areas of concern.

4.3 Special Juvenile Police Units

The Act mandates the establishment of Special Juvenile Police Units (SJPU) in each district to handle cases involving children. These units are expected to be staffed with police officers trained in child psychology and juvenile justice principles.

Implementation of SJPU has been uneven across states, with many districts lacking adequately trained personnel. The interface between police and children remains a critical area requiring improvement in terms of both infrastructure and training.

4.4 Specialized Institutions

The juvenile justice system includes various specialized institutions:

Observation Homes: Temporary custody facilities for juveniles during inquiry

Special Homes: Long-term residential facilities for rehabilitation

Places of Safety: For children in need of care and protection

⁴ Verma, A. (2017). Juvenile justice system in India

Foster Care and Adoption Agencies: For alternative family care

The condition and capacity of these institutions vary significantly across states, with many facing issues of overcrowding, inadequate staff, and poor infrastructure.

5. Implementation Challenges

5.1 Infrastructure and Resource Constraints

One of the most significant challenges facing the Indian juvenile justice system is the inadequacy of infrastructure and resources. Many states lack sufficient number of observation homes, special homes, and other specialized institutions. Existing facilities often suffer from overcrowding, poor living conditions, and inadequate staff.

The financial allocation for juvenile justice programs remains insufficient to meet the growing needs. States often struggle to provide adequate budgetary support for infrastructure development, staff training, and program implementation.

5.2 Human Resource Development

The success of any juvenile justice system depends heavily on the quality of its human resources. India faces significant challenges in this regard:

Training and Capacity Building: Many functionaries, including JJB members, CWC members, and police personnel, lack adequate training in juvenile justice principles and child psychology.

Shortage of Qualified Personnel: There is a persistent shortage of trained social workers, psychologists, and counselors in the juvenile justice system.

High Turnover: Frequent transfers and changes in personnel affect continuity and expertise development.

5.3 Coordination and Convergence

The juvenile justice system requires coordination among multiple agencies and departments, including police, judiciary, child welfare departments, education, health, and civil society organizations. Lack of effective coordination often results in fragmented service delivery and gaps in care and protection.⁵

⁵ Gupta, Meera. (2018). "Comparative Study of Juvenile Justice Systems: India and International Best Practices." *Comparative Law Review*, 25(1), 89-105

5.4 Monitoring and Evaluation

Effective monitoring and evaluation mechanisms are crucial for ensuring quality service delivery and continuous improvement. Many states lack robust systems for tracking outcomes, measuring effectiveness, and identifying areas for improvement.

6. Judicial Pronouncements and Case Law

6.1 Landmark Supreme Court Cases

The Indian judiciary has played a crucial role in shaping the juvenile justice system through various landmark judgments:

Sheela Barse v. Union of India (1986)⁶: This case led to significant reforms in the treatment of children in custody and established guidelines for the care of children in institutions.

Salil Bali v. Union of India (2013)⁷: The Supreme Court emphasized the need for proper implementation of juvenile justice laws and directed states to establish adequate infrastructure.

Hari Ram v. State of Rajasthan (2009)⁸: The Court clarified the procedure for determining age and emphasized the burden of proof regarding age determination.

Mukesh & Anr. v. State for NCT of Delhi & Ors., (2014)⁹: This case, arising from the 2012 Delhi gang rape case, influenced the amendment of the Juvenile Justice Act in 2015.

6.2 High Court Contributions

Various High Courts have contributed to the development of juvenile justice jurisprudence through their decisions on issues such as age determination, rehabilitation measures, and procedural safeguards.

6.3 Emerging Jurisprudential Trends

Recent judicial pronouncements reflect evolving understanding of juvenile justice principles, including:

- Greater emphasis on rehabilitation over punishment
- Recognition of the need for individualized treatment
- Importance of family-based care
- Rights-based approach to juvenile justice

⁶ Supreme Court of India. (1986). *Sheela Barse v. Union of India*, (1986) 3 SCC 596.

⁷ Supreme Court of India. (2013). *Salil Bali v. Union of India*, (2013) 7 SCC 705.

⁸ Supreme Court of India. (2009). *Hari Ram v. State of Rajasthan & Anr.*, (2009) 13 SCC 211.

⁹ Supreme Court of India. (2014). *Mukesh & Anr. v. State for NCT of Delhi & Ors.*, (2014) 15 SCC 661

7. Comparative Analysis with International Standards

7.1 United Nations Convention on the Rights of the Child

India ratified the UNCRC in 1992, committing to uphold the rights and welfare of children.

The Convention establishes key principles including:

- Best interests of the child
- Non-discrimination
- Right to life, survival, and development
- Right to be heard

7.2 Beijing Rules and Other International Instruments

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) provide detailed guidelines for juvenile justice systems. India's compliance with these standards has improved over time but remains incomplete in several areas.

7.3 Comparative Study with Other Jurisdictions

A comparison with juvenile justice systems in countries like the United Kingdom, United States, and South Africa reveals both strengths and weaknesses in the Indian approach:

Strengths:

- Comprehensive legislative framework
- Emphasis on rehabilitation
- Recognition of children's rights

Areas for Improvement:

- Implementation gaps
- Resource constraints
- Limited community-based alternatives

8. Contemporary Issues and Debates

8.1 Age of Criminal Responsibility

The debate over the appropriate age of criminal responsibility continues to be contentious. While the current law maintains eighteen years as the age limit, there are ongoing discussions about whether this should be lowered for certain categories of serious crimes.

8.2 Restorative Justice vs. Retributive Justice

The tension between restorative and retributive approaches remains a central issue in juvenile justice. While the law emphasizes rehabilitation, public opinion often demands harsher punishment for serious crimes committed by juveniles.

8.3 Role of Technology and Social Media

The increasing role of technology and social media in juvenile crime presents new challenges for the justice system.¹⁰ Cybercrime, online harassment, and digital evidence require specialized understanding and approaches.

8.4 Mental Health and Substance Abuse

Growing recognition of mental health issues and substance abuse among juveniles in conflict with law has highlighted the need for specialized interventions and treatment programs.

9. Best Practices and Success Stories

9.1 State-Level Innovations

Several states have implemented innovative programs and practices:

Kerala: Model Juvenile Justice system with emphasis on community-based rehabilitation

Tamil Nadu: Innovative use of technology for case management and monitoring **Rajasthan:** Successful implementation of foster care programs

9.2 Civil Society Contributions

NGOs and civil society organizations have played a crucial role in supplementing government efforts through:

- Service delivery in underserved areas
- Advocacy and policy development
- Training and capacity building
- Research and documentation

9.3 International Collaborations

Partnerships with international organizations like UNICEF, Save the Children, and other

¹⁰ Singh, Rajesh Kumar. (2019). "Implementation Challenges in Juvenile Justice: An Indian Perspective." *Journal of Child Rights*, 12(3), 45-62

agencies have contributed to system strengthening through technical assistance, funding, and knowledge sharing.

10. Impact of COVID-19 on Juvenile Justice¹¹

10.1 Operational Challenges

The COVID-19 pandemic posed unprecedented challenges to the juvenile justice system:

- Closure of courts and adjudicatory bodies
- Overcrowding in institutions
- Limited access to legal aid and social services
- Increased vulnerability of children

10.2 System Adaptations¹²

The system demonstrated resilience through various adaptations:

- Virtual court proceedings
- Emergency protocols for institutional care
- Enhanced focus on family-based care
- Collaboration with healthcare systems

10.3 Lessons Learned

The pandemic experience highlighted both vulnerabilities and strengths in the system, providing valuable insights for future preparedness and system design.

11. Recommendations for Reform¹³

11.1 Legislative Reforms

1. **Clarity in Age Determination:** Establish clear and uniform procedures for age determination with scientific methods.
2. **Strengthening Rehabilitation Framework:** Enhance provisions for individualized rehabilitation plans and community-based alternatives.
3. **Victim Rights:** Better integration of victim rights and restorative justice mechanisms.

¹¹ Sharma, P. (2020). COVID-19 impact on juvenile justice system in India.

¹² Sharma, Priya. (2020). "COVID-19 Impact on Juvenile Justice System in India." *Social Work Review*, 8(4), 123-140

¹³ Singh, R. K. (2019). Implementation challenges in juvenile justice: An Indian perspective.

11.2 Institutional Strengthening

1. **Infrastructure Development:** Massive investment in creating adequate and quality infrastructure for juvenile justice institutions.
2. **Human Resource Development:** Comprehensive training programs for all functionaries and establishment of specialized cadres.
3. **Technology Integration:** Use of technology for case management, monitoring, and service delivery.

11.3 Policy Interventions

1. **Prevention Focus:** Greater emphasis on prevention of juvenile crime through education, skill development, and social protection.
2. **Community Engagement:** Strengthening community-based rehabilitation and reintegration programs.
3. **Inter-sectoral Coordination:** Better coordination mechanisms among various departments and agencies.

11.4 Monitoring and Evaluation

1. **Performance Indicators:** Development of comprehensive performance indicators for measuring system effectiveness.
2. **Regular Evaluation:** Periodic evaluation of programs and practices to ensure continuous improvement.
3. **Data Management:** Robust data collection and management systems for evidence-based decision making.

12. Future Directions

12.1 Emerging Trends

The juvenile justice system in India is likely to evolve in response to:

- Changing patterns of juvenile crime
- Technological advancements
- Greater awareness of child rights
- International best practices

12.2 Potential Areas of Development

1. **Specialized Courts:** Establishment of specialized juvenile courts with dedicated infrastructure and trained personnel.
2. **Therapeutic Justice:** Integration of therapeutic interventions with judicial processes.
3. **Diversion Programs:** Expansion of diversion programs to keep children out of the formal justice system.
4. **Research and Development:** Investment in research to understand causes of juvenile crime and effectiveness of interventions.

12.3 Role of Stakeholders

The advancement of India's juvenile justice system hinges upon a synergistic approach involving multiple stakeholders:

- **Government** at all levels is responsible for crafting progressive legislation, such as the Juvenile Justice (Care and Protection of Children) Act, 2015, and supporting schemes like the Integrated Child Protection Scheme (ICPS), which strengthen institutional capacity from national to district levels.
- **Judiciary** through Juvenile Justice Boards (JJBs) and Child Welfare Committees (CWCs)—plays a critical role in adjudication, prioritizing rehabilitation over punishment, and ensuring child-centric decision-making.
- **Civil society organizations and NGOs**, such as Salaam Baalak Trust and Human Rights Law Network (HRLN), provide crucial on-ground support—including shelter, legal aid, rehabilitation, and advocacy for systemic reform.
- **Academic institutions and research centers**, including the Trust Centre for Child and the Law (NLSIU), TISS, Jagori, and Aangan, contribute expertise in policy analysis, training, and intervention design to influence legislative and rehabilitative practices.
- **International organizations**, notably UNICEF, PRI, Save the Children, and IJJO, offer technical assistance, advocate for best practices (e.g., alternatives to detention, restorative justice), and support capacity-building among officials and practitioners.
- **Communities and families** are foundational to reintegration and prevention; they provide emotional support, help reduce recidivism, and shape restorative practices. The judiciary has emphasized that “family, NGOs and other concerned authorities should be involved in the rehabilitation of the juvenile offenders”.

13. Conclusion

The juvenile justice system in India has undergone significant evolution since independence, reflecting changing understanding of childhood, crime, and rehabilitation. The current legislative framework, anchored in the Juvenile Justice Act 2015, provides a comprehensive structure for dealing with juveniles in conflict with law while emphasizing rehabilitation and reintegration.

However, significant challenges remain in translating legal provisions into effective practice. Infrastructure constraints, resource limitations, human resource development needs, and coordination challenges continue to hamper the system's effectiveness. The controversial provision allowing juveniles aged 16-18 years to be tried as adults for heinous offenses has added complexity to an already challenging system.

Despite these challenges, there are reasons for optimism. The system has shown resilience and adaptability, particularly during the COVID-19 pandemic. Several states have demonstrated innovative approaches to juvenile justice, and civil society organizations continue to play a vital role in system strengthening. The judiciary has consistently emphasized the rights and welfare of children, providing important guidance for system development¹⁴.

The path forward requires a multi-pronged approach focusing on legislative refinement, institutional strengthening, human resource development, and enhanced coordination among stakeholders. The success of these reforms will ultimately determine whether India can fulfill its commitment to providing justice that truly serves the best interests of children while protecting society.

The juvenile justice system is not merely a legal framework but a reflection of society's commitment to its most vulnerable members. As India continues its journey toward becoming a developed nation, the strength and effectiveness of its juvenile justice system will serve as an important indicator of its progress in protecting and promoting the rights and welfare of all children.

The need for continuous evaluation, adaptation, and improvement cannot be overstated. The

¹⁴ Planning Commission, Government of India. (2012). *Evaluation Study on Juvenile Justice*

system must remain responsive to changing social realities while staying true to its fundamental principles of child welfare and rehabilitation. Only through sustained commitment and coordinated action can India hope to achieve a juvenile justice system that truly serves the cause of justice and child protection.

