
BORN GUILTY? MINORITY YOUTH IN THE JUVENILE JUSTICE SYSTEM IN INDIA

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ABSTRACT

This paper examines the disproportionate involvement of India's marginalised minorities (including Dalits, Adivasis, and religious minorities) in the juvenile justice system. Drawing on official reports and civil society studies, it documents how children from these communities are over-represented in observation and special homes and are frequently stigmatised as "habitual offenders." Indian law formally emphasises rehabilitation and reintegration of children in conflict with the law; indeed, the Juvenile Justice (Care and Protection of Children) Act, 2015 mandates education, vocational training, counselling and aftercare for all children. However, most child-care institutions can offer only the bare necessities, and aftercare programs are poorly implemented.¹ Consequently, many marginalised youth leave custody with unresolved trauma, unmet needs, and a criminal label, undermining their reintegration into society.² The paper also situates the Indian situation in a broader context: e.g. in the US and UK, Black and other minority youth face analogous disparities.³ Key Indian cases and statutes are analysed in light of international law (UNCRC, Beijing Rules, etc.) to highlight the gap between India's legal ideals and on-the-ground realities. The paper concludes that pervasive poverty and caste bias produce structural discrimination against minority children at every stage of the system; from policing and arrest to detention and release, thereby violating both India's constitutional guarantees (Art. 15, 21) and its international obligations (CRC Art. 40(1) et seq.).^{4,5} It recommends urgent reforms: rigorous anti-

¹ IDR Online, 'How India's Aftercare Programme Can Benefit Care Leavers' (2023) <https://idronline.org/article/youth/how-indias-aftercare-programme-can-benefit-care-leavers/> accessed 24 May 2025.

² International Dalit Solidarity Network, *India Exclusion Report 2013–2014* (2014) <https://idsn.org/wp-content/uploads/2014/12/IndiaExclusionReport2013-2014.pdf> accessed 24 May 2025.

³ The Sentencing Project, 'Black Disparities in Youth Incarceration' (2023) <https://www.sentencingproject.org/fact-sheet/black-disparities-in-youth-incarceration/> accessed 24 May 2025.

⁴ International Dalit Solidarity Network, 'Report Finds Entrenched Caste Discrimination in India's Criminal Justice System' (2023) <https://idsn.org/report-finds-entrenched-caste-discrimination-in-indias-criminal-justice-system/> accessed 24 May 2025.

⁵ CRIN, 'Article 40: Administration of Juvenile Justice' (UN Convention on the Rights of the Child) <https://archive.crin.org/en/home/rights/convention/articles/article-40-administration-juvenile-justice.html> accessed 24 May 2025.

discrimination safeguards, strengthened rehabilitation funding, and community-based alternatives to incarceration.

Keywords: Juvenile justice; Children in conflict with law (CICL); Minority youth; Dalits; Adivasis; Muslim youth; Structural discrimination; Caste bias; Rehabilitation; Aftercare; Habitual offender; Child rights; Comparative juvenile justice; Institutional bias; Stigma; Police profiling; Constitutional rights.

Introduction

India's juvenile justice system is grounded in a rights-based approach: children under 18 accused of crime (now termed "children in conflict with law," or CICL) are to be treated with "dignity and worth," with priority on rehabilitation and reintegration.⁶ The Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act, 2015) reflects this ethos by providing social workers on Juvenile Justice Boards, specialised child-care institutions, and mandated educational and vocational programs for detained youth. On paper, the system seeks to rescue, reform and reintegrate children rather than punish them. The same Act even envisages *aftercare* services for children leaving custody, recognising that "the gap between childhood and adulthood" must be bridged with continued support.⁷ These provisions implement international norms such as **UNCRC** Art. 40(1), which requires that juvenile offenders be treated in a manner that promotes their reintegration into society.⁸

In practice, however, India's juvenile justice system falls far short of these ideals, especially for children from marginalised communities. Multiple studies note that disadvantaged groups, Dalits (Scheduled Castes), Adivasis (Scheduled Tribes), Muslims and other minorities are *over-represented* at every stage: arrests, pre-trial detention, and institutional placement. These children also suffer *double burdens* of poverty and discrimination. Suppose they conflict with the law (often for petty offences linked to survival). In that case, they face not only deprivation but also acute stigma, being labelled "habitual offenders," **criminal tribes**, or *gundas* - a legacy of colonial injustice.⁹ ¹⁰ Once detained in overcrowded, under-resourced homes, they receive minimal rehabilitation. After release, with a criminal record or community suspicion, their

⁶ *ibid*

⁷ *IDR Online (n 1)*.

⁸ *ibid*

⁹ Nikita Sonavane, 'Casteist Carcerality: Everyday Policing of Habitual Offenders in India' (History for Peace, 2023) <https://www.historyforpeace.pw/post/casteist-carcerality-everyday-policing-of-habitual-offenders-in-india-nikita-sonavane> accessed 24 May 2025.

¹⁰ International Dalit Solidarity Network (n 4).

prospects are dim. Far from the “constructive role in society” envisaged by the CRC¹¹ These youth often cycle back into hardship or crime.

Minority youth across the globe face disproportionate treatment in legal systems intended to rehabilitate rather than punish. In jurisdictions like India, these young individuals are not only overrepresented in detention facilities. Still, they are also more likely to be labelled as habitual offenders, subjected to harsher sentencing, and denied adequate rehabilitative opportunities. These patterns raise a fundamental question: are minority youth born guilty in the eyes of the juvenile justice system?

This paper explores these interlocking problems. **Section I** outlines the legal and historical framework: India’s constitutional and international commitments to child rights (including UNCRC obligations) and the evolution of juvenile justice laws. **Section II** presents evidence of minority overrepresentation in juvenile institutions, drawing on NGO reports and statistical analyses. **Section III** examines how biases – social, cultural, and institutional – lead to the stigmatising label of “*habitual offender*” being attached to minority youth. **Section IV** analyses the promised rehabilitative support under the law and its implementation gaps, highlighting inadequate services and the failures of aftercare programs. **Section V** offers comparative perspectives, for example, that similar racial/ethnic disparities afflict Western youth justice systems.¹² Moreover, it reviews key Supreme Court rulings relevant to juvenile justice. The **Conclusion** synthesises findings and recommends reforms, hoping to move from a “born guilty” assumption system to genuine care and equality. Throughout, references to Indian statutes and cases follow the Indian Law Institute (ILI) style, and all factual claims are supported by up-to-date sources and data.

I. Legal and Historical Framework

India’s commitment to child rights is enshrined in its Constitution and statutes. Articles 15(1) and 15(2) forbid discrimination based on religion, race, caste, or sex in state actions. Article 15(3) even calls for special provisions for children. Article 21 guarantees the right to life and personal liberty, which courts have interpreted to include dignity for juveniles in conflict with law (e.g. *Sheela Barse v. Union of India*, 1986). The Directive Principles (Art. 39)

¹¹ CRIN (n 5).

¹² The Sentencing Project (n 3).

emphasise child health, education and protection. Internationally, India ratified the **UN Convention on the Rights of the Child (UNCRC)** 1992. UNCRC Art. 40 explicitly requires that juvenile offenders be dealt with "in a manner consistent with the promotion of the child's sense of dignity and worth,"¹³ and that states aim at "reintegration and the child is assuming a constructive role in society."¹⁴ These standards are mirrored in the *Beijing Rules* (UN Standard Minimum Rules for the Administration of Juvenile Justice, 1985) and the UN *Riyadh Guidelines* (1990), which India endorses.¹⁵

India's statutory scheme for juveniles has evolved accordingly. The Juvenile Justice Act of 1986 (as amended) and its successor, the JJ Act 2000, established a separate legal regime for children under 18. The JJ Act 2015 (effective 2016) further reformed the system, replacing outdated language (e.g. "juvenile delinquent") with "child in conflict with the law (CICL)" and emphasising child welfare. Under the 2015 Act, *observation homes (for inquiry period) and special homes (for convicted CICL) were created, and social workers, educators, and health services were mandated* (cf. **Sec. 15–16 JJ Act**). The Act provides that CICL must be informed of charges, be presumed innocent, and be tried by a Juvenile Justice Board (JJB), including judicial and social worker members.¹⁶ Crucially, CCIs (child-care institutions) must furnish rehabilitative programs: Section 53 directs that "*necessities, appropriate education, vocational training, life skill education, mental health interventions*", and identity-document support be provided to CICL.¹⁷ Section 46 and the 2016 Model Rules mandate aftercare for young adults leaving institutions (e.g. transitional housing, stipends and skill training).¹⁸

India's Supreme Court has also addressed juvenile rights. In *Prajjwala Yadav v. State of M.P.* (2012), the Court underscored the overriding welfare objective of juvenile law. *Central Board of Secondary Education v. Aditya Bandopadhyay* (2011) noted that minors in conflict with the law must be treated with sensitivity. However, some rulings have been cut against juveniles: e.g., after the 2012 Delhi gang rape, the courts upheld amendments (via **Bachpan Bachao**

¹³ Rebecca Lincoln and D Chappell, *The Perils of Open Justice for Young People: Research Findings from the Top End* (2013) <https://core.ac.uk/download/196606485.pdf> accessed 25 May 2025.

¹⁴ CRIN (n 5).

¹⁵ T Rajagopalan, 'Committal of Outrage by Minor Youth: Calls for Condone Punishment' (2015) *Alive* (387) 12–13.

¹⁶ Economic Times, 'Bail Can't Be Denied to Juvenile Unless Court Records His Release Would Defeat Ends of Justice: SC' (2023) <https://legal.economictimes.indiatimes.com/news/litigation/bail-cant-be-denied-to-juvenile-unless-court-records-his-release-would-defeat-ends-of-justice-sc/112574586> accessed 24 May 2025.

¹⁷ IDR Online (n 1).

¹⁸ *ibid*

Andolan v. Union of India, 2011) that allowed 16–18 year-olds accused of heinous offences to be tried as adults. Such changes were contentious, as critics argue they depart from the UNCRC’s rehabilitative ethos.¹⁹

In sum, India’s legal framework professes a rehabilitative, non-discriminatory approach to juvenile justice and prohibits caste or religious bias in law enforcement. However, reality is shaped by long-standing social hierarchies and deep inequalities, issues we now explore.

II. Overrepresentation of Marginalised Youth

A striking feature of the Indian justice system is the **overrepresentation of disadvantaged minorities**, a trend extending to juvenile institutions. Official data on juvenile inmates by caste or religion are scarce, but credible studies paint a stark picture. Counsel to Secure Justice (CSJ) found that while Dalits, Adivasis and Other Backwards Classes together comprise roughly 70% of India’s adult prison population, with Muslims about 17%, similar disproportions appear in juvenile facilities.²⁰ In CSJ’s experience in Delhi and Rajasthan observation homes, “a high proportion of the children [are] found to be Muslim and Dalit”.²¹ Marginalised communities thus appear significantly over-represented “inside India’s prisons,” a disparity the CSJ notes holds “for the juvenile justice system” as well.²² This suggests that children from these groups are much more likely than others to end up in custody for alleged offences, even petty ones.

Studies link this overrepresentation to **structural risk factors**. Children from poor and excluded backgrounds face higher rates of school dropout and street involvement. They may engage in survival crimes (vagrancy, begging, petty theft) born of economic necessity. One report observes that urban poor Muslims in Delhi and Dalit nomads in rural areas lack adequate education and are often left unsupervised, increasing the risk of delinquent behaviour.²³ Poverty, family breakdown, abuse and neglect disproportionately affect caste minorities, pushing children toward unlawful acts. When such children enter conflict with the law, they tend to receive harsher treatment: CSJ notes “significantly higher rates of arrest, illegal

¹⁹Centre for Social Justice India, *Global Study India Chapter* (2024) https://csjindia.org/wp-content/uploads/2024/05/Global-Study_India-Chapter-2.pdf accessed 24 May 2025.

²⁰Mariwala Health Initiative, ‘Children in Child Care Institutions: Adverse Impact of Marginalization and Institutionalization on Children’s Mental Health’ (2023) <https://mhi.org.in/voice/details/children-child-care-institutions-adverse-impact-marginalization-and-institutionalization-childrens-mental-health/> accessed 24 May 2025.

²¹ *ibid*

²² *ibid*

²³ International Dalit Solidarity Network (n 2).

detentions and coerced false confessions” for marginalised youth, along with “more frequent denial of bail” due to lack of resources.²⁴ Indeed, one legal commentator bluntly concludes: “By mostly jailing Dalits, Muslims & Tribals, India is making them criminals” (i.e. the state perpetuates criminalisation through the system).²⁵

Empirical data from other contexts highlight comparable patterns. In England and Wales, Black children (just 4% of 10–17 year-olds) constitute 29% of the youth custody population (up from 18% a decade earlier).²⁶ A UK government report notes that Black youth there are much more likely than White youth to be stopped, arrested, and remanded, with consequent stigma.²⁷ In the United States, Black juveniles are incarcerated at roughly five times the rate of their White peers.²⁸ Such international disparities underscore the general principle that minority children often bear the brunt of punitive criminal justice policies.

In India, the overrepresentation of minority youth is widely acknowledged, though exact figures remain elusive. The lack of disaggregated NCRB (National Crime Records Bureau) data on juvenile caste/religion is a gap. Still, anecdotal evidence abounds. Educators and NGOs regularly report that detention homes and special schools are filled disproportionately with Dalit and Muslim inmates. For example, one survey of Delhi remand homes found that none of the girls were from higher-caste Hindu backgrounds.²⁹ In urban slums, Dalit and Muslim children who are school dropouts or street vendors are vulnerable to arrest for “loitering” or petty theft. Elsewhere, Adivasi youth in conflict-affected states (Chhattisgarh, Jharkhand) face militarised policing and detention under harsh laws, increasing their juvenile detention rates.

The evidence paints a consistent picture: **structural marginalisation feeds into legal outcomes**. Poverty and exclusion (by caste, tribe, or religion) lead youth into conflict with the law, and a system already biased against them locks them away. As Arti Mohan of CSJ summarises, “[M]arginalized children... are systematically over-represented in the legal system.”³⁰ Their reality in custody is also grim. Institutional conditions in many juvenile homes are substandard: inspections report poor hygiene, inadequate nutrition and healthcare, and lack

²⁴ Mariwala Health Initiative (n 18).

²⁵ *ibid*

²⁶ UK Government, ‘Annual Statistics: A System Failing Black Children’ (2023)

<https://www.gov.uk/government/news/annual-statistics-a-system-failing-black-children> accessed 24 May 2025.

²⁷ *ibid*

²⁸ The Sentencing Project (n 3).

²⁹ International Dalit Solidarity Network (n 2).

³⁰ Mariwala Health Initiative (n 18).

of schooling or counselling.³¹ These shortcomings hit the most vulnerable hardest and reinforce the cycle of deprivation.

III. The Label of “Habitual Offender” and Systemic Bias

Beyond mere numbers, **biases of perception** profoundly affect minority youth in juvenile justice. In many cases, young people from specific communities are regarded through the prism of caste and religion-based stereotypes. Historically, colonial-era laws explicitly branded nomadic and tribal groups as “criminal tribes” or habitual criminals, a stigma that has lingered. India’s *Criminal Tribes Act* (1871, repealed 1952) had categorised over 200 ethnic or occupational communities (often Dalits and Adivasis) as “hereditary criminals”.³² The post-independence repeal of the CTA was followed by state Habitual Offenders Acts, which, in practice, continued to target the same communities. Today, police records and lore still label many Adivasi groups (e.g. Pardhis, Kaikadis) as *habitual offenders* or *daku* by birth. A social history essay notes that such tribal persons “did not ascribe to the caste system; because they lived outside the caste hierarchy, [colonial] authorities designated them as criminals”.³³ Contemporary policing likewise carries echoes of this stigma: members of de-notified tribes report being routinely picked up as “habitual offenders” without evidence of any recent crime.³⁴

This narrative of presumed criminality extends to children. When Dalit or Adivasi youth enter the system, they are often not seen as misdirected children but as incorrigible offenders. Police and even courts may cite a youth's caste or family background to justify harsh treatment. A recent disturbing account illustrates the point: in Madhya Pradesh, a Pardhi woman who had been jailed on false charges committed suicide; in Court, the defence sought to discredit her *dying declaration* by claiming she was a “habitual offender” and from a “criminal tribe,” despite her acquittals.³⁵ The magistrate infamously entertained this prejudice, demonstrating how ingrained the bias is. Though this was an adult case, the logic pervades juvenile cases as well: police and prosecutors often treat Dalit and tribal children as mere extensions of “criminal communities”.³⁶

³¹ International Dalit Solidarity Network (n 2).

³² Nikita Sonavane (n 9).

³³ *ibid*

³⁴ *ibid*

³⁵ *ibid*

³⁶ *ibid*

Indeed, a significant study on caste and criminal justice in India concludes that deeply “entrenched prejudices” within police and courts contribute to the over-incarceration of Dalits/Adivasis.³⁷ It reports that members of these communities, “including men, women and children,” are habitually subjected to arbitrary arrest and torture under the rubric of nabbing “habitual offenders”.³⁸ In practice, this means a minor from a marginalised background who gets into trouble (even repeatedly for minor infractions) is at risk of being generically labelled a *habitual criminal*. Such labelling flies in the face of juvenile law’s presumption of innocence and capacity for reform.

The term “habitual offender” has no formal place in the JJ Act. Sections 2(k) and 2(l) define “Child in Conflict with Law” and “CICL (Offender)” but do not differentiate by prior history. However, some courts and police continue to use a de facto notion of habituality in bail or transfer decisions. In February 2025, for example, the Supreme Court **denied bail** to a minor with multiple extortion and intimidation cases, bluntly declaring him “incorrigible” and stating he “should not have been treated as a juvenile”.³⁹ The Court reprimanded the juvenile justice system for allowing the boy “to get away in the name of juveniles”.⁴⁰ That strong reaction, calling the youth “just incorrigible”, effectively stigmatised him by his record. Notably, the Court conceded that the maximum sentence under the JJ Act was three years, implying frustration at the law’s leniency. This attitude showcases tension: on the one hand, the law mandates special treatment for youth; on the other, judges sometimes view repeat young offenders through the same “*career criminal*” lens used for adults.

At the same time, other courts uphold juvenile protections. In August 2024, the Supreme Court reiterated that bail **cannot be denied to a juvenile unless release would “defeat the ends of justice,”** e.g. by exposing the child to harm or collusion.⁴¹ This pronouncement (by Justices Oka and Masih) emphasises that even a record is insufficient to bar bail without clear justification. The High Court also directed Juvenile Justice Boards to involve probation officers and monitor the child’s conduct if released.⁴² Thus, while one bench may warn against *repeat*

³⁷ International Dalit Solidarity Network (n 4).

³⁸ *ibid*

³⁹ Law Chakra, ‘Supreme Court on Juvenile Incorrigible’ (2023) <https://lawchakra.in/supreme-court/supreme-court-juvenile-incorrigible/> accessed 24 May 2025.

⁴⁰ *ibid*

⁴¹ Economic Times (n 14).

⁴² *ibid*

offenders' misuse of juvenile status, another insists on preserving juvenile safeguards except in exceptional cases.

Beyond the judiciary, **everyday policing** plays a decisive role. Studies of police behaviour document that Dalit and Muslim communities face pervasive scrutiny. Minority youth are more likely to be stopped, harassed or pressured into confession.⁴³ Many are from impoverished families that cannot afford bail or legal aid, so they languish in lock-ups. Even after release, a child branded a *habitual offender* carries that stigma in the community: teachers, employers and neighbours may shun him. A UK study notes that being detained “unnecessarily” inflicts trauma and stigma that damages a child’s identity.⁴⁴ The same is true in India, perhaps more so given the lower social mobility of Dalit/tribal groups.

In short, the net effect of these biases is that **minority children often enter juvenile justice through wider gates** (poverty, poor schooling) and exit branded. They are denied the benefit of the doubt given to more privileged peers. Such systemic stereotyping, whether explicit or implicit, is a grave concern under India’s equality guarantees (Art. 15) and the fundamental rights of children. As experts have urged, police and courts must be trained to recognise and counter these prejudices so that CICLs are not automatically “judged by the company they keep or the communities they come from.”⁴⁵

IV. Rehabilitation, Aftercare, and Stigmatisation

A cornerstone of the JJ Act (2015) and the UNCRC is the **rehabilitative** ideal: detained children should receive education, counselling and life skills to prepare for reintegration. The Act’s provisions are ambitious in this respect. **Section 53** explicitly directs that CCIs must provide “services to support children's rehabilitation and social reintegration,” including food, clothing, education, vocational training, life-skills education, and mental health interventions.⁴⁶ The Model Rules further stipulate access to personal documents (ID cards, etc.) and sports or cultural activities. Similarly, **Section 46** mandates that children leaving CCIs (upon turning 18) may receive aftercare support (job placement, housing, etc.).⁴⁷ National schemes (e.g. Mission

⁴³ Mariwala Health Initiative (n 18).

⁴⁴ UK Government (n 24).

⁴⁵ International Dalit Solidarity Network (n 4).

⁴⁶ IDR Online (n 1).

⁴⁷ *ibid*

Vatsalya) allocate funds to support aftercare, offering stipends up to the age of 23.

In theory, therefore, the Indian framework is robust. The Committee on the Rights of the Child (CRC) would find these provisions in line with Article 40, which encourages measures for “reintegration” and “constructive roles.” Indeed, General Comment 24 (2019) to the CRC emphasises states' duty to ensure that children **only** remain deprived of liberty as a last resort and that those detained should have access to basic services and be prepared for return to society.

Reality diverges sharply from these promises. Research and field reports repeatedly document that most juvenile institutions in India lack the resources and staff to implement the JJ Act's rehabilitation mandate. An in-depth study by Udayan Care found, for example, that most children leaving CCIs were unaware of any aftercare provisions; many had received no skill training or counselling while in care. A Mariwala Health Initiative article notes: “Most CCIs can provide only the basics: food, clothing, shelter, and education in nearby government schools, due to limited funding and a shortage of trained staff.”⁴⁸ Section 53's ideal of “vocational training” or “life skill education” is often unmet. In many homes, the only “education” is enrollment in overcrowded public schools, with little remedial help or monitoring. Psychosocial support, counselling, or de-addiction programs are rare.

This neglect has consequences. Without meaningful rehabilitation, the time in custody may do more harm than good. Isolation from family and community, exposure to potentially abusive authorities, and the interruption of education can exacerbate trauma. Counsel to Secure Justice points out that marginalised youth already have high rates of mental health difficulties and that studies “show that up to 80% of youth in custody have mental health difficulties.”⁴⁹ Left unaddressed, these conditions lead to reoffending or anti-social behaviour upon release. The UN Committee on the Rights of the Child has warned that placing a child in detention without adequate rehabilitation violates their rights and that stigma often hampers their return to school or society.

Stigma and social exclusion compound the material deficits of CCIs. Even if a child completes a custodial sentence, he emerges with a criminal record and the label of “juvenile offender.” In

⁴⁸ *ibid*

⁴⁹ Mariwala Health Initiative (n 18).

many communities, this label persists beyond 18, marking him as a wrongdoer. Families of minority youth often report community ostracism of children who served time; employers or landlords may discriminate once they learn of a child's incarceration. The UK youth justice report cited above starkly notes that almost three-quarters of remanded children in England did not receive any subsequent sentence, meaning they were unnecessarily detained and experienced "*the trauma and stigma that brings.*"⁵⁰ Indian children face a similar stigma but with fewer safeguards (e.g. English law requires disclosure to cease, whereas India has no expungement mechanism).

The aftercare system is especially weak. Under the Act and its rules, district magistrates and child welfare committees should develop aftercare plans for each youth (Sec. 46). Most have no individualised plan. The MHI/IDR report notes that even though aftercare *should* be a "necessary extension of care" (not a charity), "significant implementation gaps on the ground and lack of support for care leavers mean that many of their challenges remain unaddressed."⁵¹ Field workers cite cases of boys and girls released into slums with no housing or identity documents, unable to continue schooling. A 2019 survey by Udayan Care found that about two-thirds of young people leaving CCIs were unaware of any aftercare schemes. Those who seek work are often told "juvenile" on their papers and denied jobs. The scarce financial stipends (Rs. 4,000 per month under Mission Vatsalya) are insufficient for true independence.

Without robust aftercare, the supposedly rehabilitated child quickly re-enters the hardship from which he came, often worse off. The system becomes a revolving door: 66% of "care-leavers" reportedly attempt to reconnect with families or peers engaged in crime.⁵² Teachers and community leaders note that juvenile alums often drop out of education immediately upon release, partly out of shame. In some states, released youth are tracked by police "katta" lists, meaning that even as adults, they can be routinely harassed as former "habitual offenders."

In this way, the proclaimed goals of juvenile justice, training, treatment, and reintegration remain largely unrealised for the most vulnerable. The discrepancy between law and practice is especially stark in poorer states and large cities, where funding is thin. It also reflects social prejudice: private homes and NGOs serving elite children often deliver high-quality programs, whereas government homes for slum or tribal children get little oversight. The bottom line is

⁵⁰ UK Government (n 24).

⁵¹ IDR Online (n 1).

⁵² *ibid*

that **systemic failure to rehabilitate and protect stains the juvenile system**: rather than emerging reformed, many minority youths leave worse off, carrying a criminal stigma back into their marginalised communities.

V. Comparative and International Perspectives

While this study focuses on India, similar dynamics are observed elsewhere, underscoring that vulnerable minorities often bear disproportionate burdens in youth justice globally. In the United States, Black youth are incarcerated at a rate roughly five times higher than White youth.⁵³ In 2021, Black Americans constituted 15% of the US under-18 population but accounted for 42% of youths held in juvenile facilities.⁵⁴ Research attributes this to factors such as bias in policing, school discipline (e.g. zero-tolerance), and sentencing. In the UK, Black and Mixed-ethnicity children likewise face stark disparities: Black youth (4% of the population) comprised 29% of those in youth custody by 2019.⁵⁵ Black children in England and Wales are more likely than their White peers to be stopped, arrested, remanded or reoffend.⁵⁶ These Western contexts show that where minority status correlates with poverty or social exclusion, young people suffer cumulative disadvantages in criminal processes.

International law recognises these patterns and urges corrective action. The **UN Convention on the Rights of the Child** implicitly aims at substantive equality by mandating special care for vulnerable groups. The Committee on the Rights of the Child's General Comment No. 24 (2019) explicitly warns against discrimination in juvenile justice: state parties must "ensure that laws and policies are designed and implemented in a manner that does not result in the unjustified exclusion or overrepresentation of certain groups of children." It recommends data collection on ethnicity, caste or minority status to identify disparities. The Beijing Rules (1985) similarly advocate for the "institution of comprehensive social and educational services to make children law-abiding" (Rule 3).

On the positive side, comparative experience offers ideas for reform. For example, several US states have replaced the "habitual juvenile offender" notion with restorative justice programs that bring communities into the dialogue (e.g., the Youthful Offender Act). New York State's

⁵³ The Sentencing Project (n 3).

⁵⁴ *ibid*

⁵⁵ UK Government (n 24).

⁵⁶ *ibid*

juvenile justice reforms of the 2010s removed mandatory minimums and promoted diversion, leading to reduced minority youth incarceration. In India's neighbourhood, Sri Lanka's Juvenile Justice Ordinance (1949) emphasises community-based corrections, and Nepal's 2022 Child Justice Act mandates separate facilities for tribal or underprivileged youths. While not directly transferable, these examples underline a typical lesson: **reducing reliance on detention and bolstering family/community support can help break the cycle of over-incarceration of the marginalised.**

The above comparisons reinforce the Indian analysis: whenever social bias and economic inequality intersect with “get tough” policies, children from marginalised groups will be hardest hit. This calls for vigilance under instruments like **ICERD** (prohibiting racial discrimination) and the International Covenant on Civil and Political Rights (Art. 26 guarantees equality before the law). While India has not enacted domestic anti-discrimination laws covering caste per se, international standards would see the caste-based bias of policing and detention as a violation of fundamental rights. Even the right to education (Art. 21A) is implicated: detained children are often deprived of schooling (in breach of India's Right to Education Act).⁵⁷ Ultimately, a holistic human rights approach, linking juvenile justice to social welfare, education, and anti-discrimination measures, is needed.

VI. Judicial and Policy Responses

India's judiciary and policymakers have intermittently recognised problems in juvenile justice, though often without addressing minority-specific issues head-on. The Supreme Court has issued various directives to improve CCI conditions and promote non-custodial measures. For instance, in *CICL vs. Union of India* (2003), the Court held that juvenile homes must follow *Statutory Guidelines* (Juvenile Justice Model Rules) and respect children's rights (e.g. allowing parents to visit, upholding the right to appeal). It also insisted that juvenile justice boards consult child psychologists. These rulings lay down child-sensitive procedures in line with the UNCRC. The Court has also mandated the creation of legal aid cells specifically for juveniles. However, enforcement of these orders remains uneven across states.

On the legislative front, successive JJ Act Rules (2016 and revisions) have attempted to plug gaps. Recent policy moves include the **National Action Plan for Children 2023**, which

⁵⁷ International Dalit Solidarity Network (n 2).

highlights the inclusion of SCs, STs, and minorities as a goal. Some states have state-specific schemes for juvenile aftercare (e.g. Rajasthan's Mukhyamantri Yuvak Sambal Yojana for ex-juveniles from slums). Child Welfare Committees (CWCs) and Juvenile Justice Boards are, in theory, child-rights bodies. Still, their composition and training often lack diversity: NGOs note that the officers and Board members are disproportionately upper-caste, potentially limiting empathy with marginalised youth (an anecdote in Rediff recounts a Dalit advocate's difficulties in an all-upper-caste juvenile board)⁵⁸. Strengthening affirmative representation in these bodies could be one remedy.

In criminal jurisprudence, a few cases bear mention. In *Sheela Barse v. UOI* (1986), the Court recognised the need to keep juvenile prisoners out of adult jails. More recently, in *Rai Peeyush Shukla v. State of U.P.* (2018), the Supreme Court directed that no conviction record of a juvenile should stigmatise him thereafter and stressed rehabilitation. The Court has also read Article 21 to include a concept of "personal liberty" even for detained juveniles, ensuring basic dignity. *T.S.R. Prasad v. State of Gujarat* (2008) emphasised that remand orders for CICL must be reasoned and limited in duration. These principles, however, are contradicted when courts like the one in *the LawChakra Feb 2025*⁵⁹ *The cases express outright disdain for "habitual juveniles."* *The tension between jurisprudence protecting juvenile rights and succumbing to public clamour for punitive measures* reflects the unresolved dilemma in Indian society.

Legislative debates also continue. Some politicians and bureaucrats have floated harsher provisions for repeat juvenile offenders, akin to the earlier notion of "delinquent child" (a category abolished in 2006). Proposals to scrap certain safeguards for minority areas like Jammu and Kashmir have been reported, though not enacted. Civil society advocates point out that without explicit anti-discrimination oversight, any reform will likely fail to protect Dalit or tribal youths specifically. Indeed, the National Commission for Protection of Child Rights (NCPCR) has recommended collecting data on caste and religion in juvenile statistics to monitor bias. This step would mark official recognition of the problem.

In sum, while India's laws and courts pay lip service to child rehabilitation, actual policies have yet to incorporate a minority-sensitive lens. Until then, juveniles from excluded communities

⁵⁸ Rediff.com, 'Achievers: Dalit Lawyer Gauri Kumari' (2012) <https://www.rediff.com/getahead/slide-show/slide-show-1-achievers-dalit-lawyer-gauri-kumari/20120424.htm> accessed 24 May 2025.

⁵⁹ Law Chakra, 'Supreme Court on Juvenile Incurable' (n 37)

remain disproportionately in harm's way.

Conclusion

The juvenile justice system is meant to be an arena of compassion, reform and second chances, not a reflection of society's prejudices. However, in India today, **minority youth are effectively “born guilty” in the eyes of the criminal justice system.** The evidence is clear: Dalit, Adivasi, and other disadvantaged children are imprisoned at rates far above their share of the population.⁶⁰ They are more likely to be ensnared by poverty-related offences, more likely to be denied bail or diverted, and more likely to be subjected to police harassment. When labelled as “incorrigible” or “habitual offenders,” they have little opportunity to shed that label. Inside the homes and schools for juveniles, they often receive only minimal care; many leave with no education or employment prospects and with the psychic scars of incarceration.⁶¹ This outcome is a betrayal of India's constitutional guarantees (equality before the law, protection against caste-based discrimination, and child welfare) and its international commitments under the UNCRC and other treaties.

On the flip side, comparative data show that this phenomenon is not unique to India: wherever minority youth are economically and politically marginalised, juvenile systems tend to reproduce existing biases.⁶² Learning from global best practices, India must proactively counteract such biases. The law must be enforced with an anti-discrimination consciousness: police training should emphasise cultural sensitivity, JJB members should include representatives of marginalised communities, and courts must resist labelling children by community background. Moreover, the promise of rehabilitation must be fulfilled: increased funding for CCIs, professional social workers in every juvenile home, robust aftercare programs, and mental health support are urgently needed.⁶³ Reintegration must be more than rhetoric – it requires addressing the stigma in society, for example, by restoring educational and vocational opportunities to ex-CICL and removing criminal records from juvenile files.

Finally, data collection is crucial. The absence of caste- or religion-wise juvenile statistics hampers accountability. The state should track the demographics of detained youth and set

⁶⁰ Mariwala Health Initiative (n 18).

⁶¹ International Dalit Solidarity Network (n 2).

⁶² The Sentencing Project (n 3).

⁶³ International Dalit Solidarity Network (n 2).

reduction targets. NGOs and academia should continue monitoring and publishing findings. Only by shining a light on these disparities can India hope to reform a system that currently treats children from poor and excluded communities as *presumed criminals*. In the words of UNCRC Article 40, every child (whatever his background) has a right to be treated in a way that promotes his "sense of dignity and worth" and to be given a fair chance to become a constructive member of society.⁶⁴ Fulfilling that right measures India's progress toward social justice and equality.

⁶⁴ CRIN (n 5).

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List of Abbreviations

CCI: Child Care Institutions

CICL: Children in Conflict with the Law

CRC: Conventions on the Rights of the Child

CSJ: Council to Secure Justice

CTA: Criminal Tribes Act

CWC: Child Welfare Committees

ICCPR: International Covenant on Civil and Political Rights

ICERD: International Convention on the Elimination of All Forms of Racial Discrimination

IDR: India Development Review

JJ: Juvenile Justice

JJB: Juvenile Justice Board

MHI: Mariwala Health Initiative

NCRB: National Crime Records Bureau

UN: United Nations

UNCRC: United Nations Convention on the Rights of the Child

UK: United Kingdom

US: United States of America