
REFORMATIVE V. RETRIBUTIVE JUSTICE FOR JUVENILE OFFENDERS POST JJ ACT 2015

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ABSTRACT

From its initial welfare-oriented structure to the hybrid reformativere-tributive model established by the Juvenile Justice (Care and Protection of Children) Act, 2015, India's juvenile justice system has experienced a significant transition. While previous laws placed a higher priority on international child rights commitments, rehabilitation, and reintegration, the 2015 Act added clauses allowing minors between the ages of 16 and 18 who are accused of serious offences to face adult trials. This change, which was sparked by public indignation following the gang rape in Delhi in 2012, calls into question fundamental rights, constitutional safeguards, and the efficacy of deterrence. There is a dearth of doctrinal and empirical research on how the 2015 Act altered the balance between reformativere and retributive justice and how judicial interpretations have operationalised this shift. Most of the existing scholarship has focused on the historical evolution of juvenile justice or normative arguments for child welfare. By critically analysing the legislative framework, case law, and implementation procedures in addition to empirical trends in juvenile criminality after 2015, this paper closes that gap. The study evaluates whether the law effectively strikes a balance between accountability, deterrence, and rehabilitation by placing India's hybrid approach within the framework of constitutional mandates and international obligations. It also suggests changes to improve child protection without eroding public trust in the administration of justice.

Keywords: Juvenile Justice Act 2015; Reformativere vs. Retributive Justice; Child Rights in India; Heinous Crimes and Juveniles; Rehabilitation and Deterrence

Chapter 1

Introduction

India's juvenile justice system has had a protracted and dynamic evolution, influenced by shifting social norms, international commitments, and constitutional principles. Since independence, Indian law and policy have been firmly rooted in the notion that children who are in legal trouble need protection and change rather than punishment¹. The Juvenile Justice Act of 1986 was the first comprehensive law, and the early framework was modelled around welfare concepts². This Act placed a strong emphasis on rehabilitation and reintegration into society while attempting to shield minors from the severity of the criminal justice system.

This strategy was then further solidified by the Juvenile Justice (Care and Protection of Children) Act, 2000, and its 2006 modifications. These laws mirrored India's adherence to international agreements like the Beijing Rules (1985) and the United Nations Convention on the Rights of the Child (CRC, 1989), which emphasized the need to treat minors with respect for their developmental needs, dignity, and capacity for reform. Education, career training, counselling, and community-based rehabilitation programs were given top priority in the 2000 framework, which emphasized the idea that kids may change, even after committing significant crimes.

However, this reformative foundation was subjected to extraordinary scrutiny following the 2012 Delhi gang rape case, also known as the Nirbhaya case. The involvement of a juvenile offender who was just under the age of eighteen increased public concern. Many believed that the current juvenile justice system was insufficient to deal with the horrible atrocities that older teenagers committed. With the Juvenile Justice (Care and Protection of Children) Act, 2015, lawmakers made important modifications in response to popular opinion.

The 2015 Act's most contentious provision permits minors between the ages of 16 and 18 who are charged with serious crimes to face adult trials following an initial evaluation by the Juvenile Justice Board (JJB). This incorporated aspects of retributive justice into the statutory framework, marking a significant shift from the solely reformative spirit of previous

¹ Pande, B. B. (2015). "BAD" JUVENILES AND THE "WORST" JUVENILE JUSTICE LAW? THE SECOND CHALLENGE TO JUVENILE JUSTICE LAW IN 'DARGA RAM' V. 'STATE OF RAJASTHAN.' *Journal of the Indian Law Institute*, 57(1), 27–47.

² Turley, K. (2025). SEX CRIMES AND PROGRESSIVE PROSECUTION: REIMAGINING SEX OFFENSES AND SORN LAWS AS AN OPPORTUNITY FOR CRIMINAL JUSTICE REFORM. *The Journal of Criminal Law and Criminology (1973-)*, 115(2), 391–428.

legislation. Critics claim that this shift compromises the constitutional and human rights framework that protects children, while supporters claim that it increases accountability and deterrence. Retribution and deterrent on the one hand, and rehabilitation and reformation on the other, represent a difficult and contentious balance in the current legal environment.

1.1 Statement of the Problem

At the core of India's child protection system is a fundamental tension presented by the Juvenile Justice Act, 2015. Equal protection, special care for children, and the right to a dignified existence are among the constitutional ideals enshrined in Articles 14, 15(3), 21, and 39. On the other hand, there is a strong social call for harsher penalties when young people commit violent or horrible crimes.

This conflict has led to a divisive discussion about whether juveniles—especially those between the ages of 16 and 18—should continue to receive benefits from rehabilitation programs or if, in the sake of deterrence, they should be tried as adults. When minors are prosecuted as adults, critics point out the risks of stigmatization, permanent alienation, and diminished chances of reintegration. Furthermore, empirical data from throughout the world casts doubt on whether more severe punishments for teenagers actually work as a deterrent.

1.2 Research Questions

1. How has the Juvenile Justice (Care and Protection of Children) Act, 2015 reshaped the balance between reformative and retributive justice in cases involving juvenile offenders, particularly those aged 16–18 accused of heinous crimes?
2. To what extent have judicial interpretations and implementation practices reflected a shift toward retributive justice post-2015, and what implications does this have on juvenile rights?
3. Does the current framework under the 2015 Act achieve the intended goals of deterrence and accountability while still ensuring the principles of rehabilitation and reintegration for juvenile offenders?

1.3 Significance of Research

This study is important from an academic and policy standpoint. At the policy level, it directly influences discussions on how India might strike a balance between its constitutional and international commitments to children and crime management. The results could aid in continuing legislative reform by providing information about whether the current system meets its goals or needs to be adjusted.

This study adds to the body of knowledge in the fields of criminology, juvenile law, and human rights by examining India's distinctive hybrid model, which combines aspects of retributive and reformative justice. In order to provide a better understanding of how the law interacts with societal expectations, it draws on theories of restorative justice, child psychology, and punishment.

In practice, the study might help judges, legislators, and child rights groups assess whether the current system promotes or jeopardizes child welfare. It tackles the urgent issue of how to balance public safety and victim protection with the idea that children should have the opportunity to change for the better for society as a whole.

1.4 Scope and Limitations of Research

This dissertation's focus is limited to India's juvenile justice system's post-2015 legal framework. It focuses on existing empirical evidence, judicial interpretations, and statutory regulations, especially those pertaining to the treatment of minors who are accused of serious crimes. Juvenile crime trends and judicial response will be evaluated using NCRB statistics and committee reports.

The analysis will make some comparison references to international treaties like the Beijing Rules and the CRC, but it will not attempt a thorough cross-jurisdictional examination. Similarly, the dissertation will rely on secondary research, media reporting, and pre-existing scholarly opinion rather than conducting original fieldwork or interviews. The relative lack of long-term empirical studies evaluating the results of trying juveniles as adults in India is another drawback that limits the conclusions that may be made.

1.5 Objectives of Research

- To evaluate how the 2015 Act has changed the conventional approach to juvenile justice and examine the statutory framework.
- To assess how judges understand the law and how it is applied, paying special attention to cases involving horrific crimes committed by minors between the ages of 16 and 18.
- To assess how well the current structure strikes a balance between rehabilitation and reintegration, accountability, and deterrence.
- To make reform recommendations that address justifiable community concerns about violent youth crime while bolstering the protection of children's rights.

1.6 Research Methodology

The methodology used is mostly doctrinal. Statutes, case law, Law Commission reports, parliamentary discussions, and committee findings are all critically examined. To determine the legislative intent underlying the 2015 Act and its effects on the legal system, these materials will be examined. References to international frameworks like the Beijing Rules, the Riyadh Guidelines, and the Convention on the Rights of the Child provide a comparison element. These offer a criterion by which to measure India's adherence to international juvenile justice norms.

The utilization of secondary data adds an empirical component. The evaluation of the law's practical impacts will be aided by media reporting, academic assessments, and NCRB statistics on juvenile crime after 2015. We'll also look at case studies of notable cases where juveniles were tried using the new framework.

Chapter 2

Literature Review

2.1 'Bad' Juveniles and the 'worst' Juvenile Justice law? The second challenge to Juvenile Justice law in "Darga Ram v. State of Rajasthan"³

The article by B. B. Pande questions the trajectory of juvenile justice legislation in India more generally and criticizes the legislative and judicial solutions contained in *Darga Ram v. State of Rajasthan* (2015). According to the essay, *Darga Ram* serves as an example of the profound conflicts and possible injustices that occur when the system attempts to strike a balance between rehabilitation and retaliation. Pande criticizes the propensity to categorize some young people as "bad" in order to support harsher restrictions, which he views as the "second challenge" to reformative juvenile justice law. Pande's piece serves as a warning as much as a critique. It illustrates what legal protections for minors can accomplish, even in extremely serious situations, using *Darga Ram v. State of Rajasthan* as a standard. He contends that by moving toward retributive justice designating certain minors as "bad," permitting transfer to adult trial, etc. the 2015 Act runs the possibility of deviating from those principles. In light of India's constitutional and international obligations, he contends that the new law may be "the worst" in terms of how much it deviates from the reformative and rehabilitative goals that need to guide juvenile justice.

2.2 "Sex Crimes and Progressive Prosecution: Reimagining Sex Offenses and SORN Laws as an Opportunity for Criminal Justice Reform"⁴

Despite being some of the harshest and most enduring regulations in the United States, Kana Turley contends that progressive criminal justice reform initiatives frequently overlook sex offenses and the laws that accompany them, particularly sex offender registration and notification (SORN) laws. She notes that SORN laws remain well-liked and ingrained despite a wealth of empirical data demonstrating that they have little to no (or a very slight) impact on lowering recidivism among sex offenders. Turley's paper criticizes the continued existence of these laws, contending that they do little to improve public safety and place onerous limitations

³ Pande, B. B. (2015). "BAD" JUVENILES AND THE "WORST" JUVENILE JUSTICE LAW? THE SECOND CHALLENGE TO JUVENILE JUSTICE LAW IN 'DARGA RAM' V. 'STATE OF RAJASTHAN.' *Journal of the Indian Law Institute*, 57(1), 27-47.

⁴ Turley, K. (2025). SEX CRIMES AND PROGRESSIVE PROSECUTION: REIMAGINING SEX OFFENSES AND SORN LAWS AS AN OPPORTUNITY FOR CRIMINAL JUSTICE REFORM. *The Journal of Criminal Law and Criminology* (1973-), 115(2), 391-428

on those who have already completed their sentences, limiting their ability to reintegrate into society. According to her, progressive prosecutors have the duty and the chance to target and change the SORN framework as part of a larger normative vision of justice that strikes a balance between accountability and dignity and fairness, given their growing power in criminal justice systems. Turley also presents a normative paradigm of "progressive prosecution," which goes beyond only altering punishment or sentencing in order to change the way sex offenses are prosecuted. Prosecutors should reconsider how they charge cases, what evidence or harms they prioritize, and how to lessen collateral repercussions, especially the limitations and lifelong shame associated with SORN, she advises. Turley offers doable reform tactics, including lowering the extent and time frame of registration requirements, guaranteeing due process rights, establishing avenues for SORN duty relief, and making prosecution choices more open and grounded in facts. She presents these reforms as necessary changes to U.S. criminal law in order for it to uphold its stated ideals of justice, equality, and rehabilitation, rather than just as minor policy changes.

2.3 Progressive Prosecution: Race and Reform in Criminal Justice by Kim Taylor Thompson & Anthony C. Thompson⁵

Taylor-Thompson & Thompson contend in *Progressive Prosecution* that the punitive turn in criminal justice in the United States has been largely orchestrated by prosecutors, who have increased mass incarceration, particularly for underprivileged communities, through a combination of prosecutorial discretion, plea bargaining, sentencing enhancements, and charging decisions. Black and Brown persons are disproportionately charged, convicted, and imprisoned, which is the most obvious example of how prosecutorial offices have led to racial inequities over decades, according to the book. The authors argue that prosecutors are relatively under-examined, despite the fact that their judgments continuously influence whose behavior is criminalized and to what extent, whereas courts, law enforcement, and lawmakers are frequently attacked. The book emphasizes that change must go beyond penal statutes to rethink how and when prosecutors choose to exercise their authority by concentrating on prosecutorial discretion. In addition to identifying the issue, *Progressive Prosecution* presents a normative framework for potential prosecutorial reform. Adopting race-conscious decision-making, prioritizing transparency and data collection to identify patterns of disparity, rerouting low-level cases from the criminal courts, cutting back on excessive prosecutions, changing bail and

⁵ Taylor-Thompson, K., & Thompson, A. C. (Eds.). (2022). *Progressive Prosecution: Race and Reform in Criminal Justice*.

pre-trial procedures, and fostering an office culture that prioritizes justice over convictions are some of the main themes. The writers also place a strong emphasis on leadership, advising district attorneys and other prosecutors to establish internal procedures, communicate with impacted groups, express their principles, and dedicate themselves to a purpose focused on justice. They contend that progressive prosecutors may and should take the lead in the movement toward a more just and nonpunitive criminal justice system, even while they acknowledge that change is challenging in deeply ingrained systems.

Chapter 3

3.1 Balancing of reformative and retributive justice post JJ Act

India's juvenile justice ideology underwent a significant change as a result of the Juvenile Justice (Care and Protection of Children) Act, 2015. An clear reformative approach was mirrored in earlier statutes, especially the Juvenile Justice Act of 2000, which treated all offenders under the age of eighteen as children in conflict with the law, regardless of the seriousness of their offenses. The JJ Act of 2015, however, established a distinct category for minors between the ages of sixteen and eighteen who are charged with serious crimes, allowing their transfer to adult courts under certain restrictions. This signalled a clear shift toward adding retributive components to a system that had been created historically for reformation. Therefore, the question that emerges is how the delicate balance between punishment and rehabilitation has changed as a result of this legislative reform.

3.1.1 The Reformative Foundations of Juvenile Justice

India has always based its juvenile law on the reformative justice paradigm. The law has long placed more focus on rehabilitation than punishment because it recognizes that children's moral and cognitive development is still developing⁶. This strategy was enshrined in the JJ Act 2000, which provided protection to anyone under the age of eighteen, regardless of the type of offense. Instead of denouncing immaturity, its mechanisms—special homes, counselling, vocational training, and reintegration programs—were focused on fostering potential.

Constitutional clauses like Article 39(e) and (f), which require the State to safeguard children from exploitation and offer them opportunities for growth, strongly supported this strategy. This approach was also supported by judicial interpretations. For example, in the 2013 case of *Salil Bali v. Union of India*, the Supreme Court emphasized the reformative nature of juvenile legislation despite popular demands for more severe penalties.

Additionally, India's reforming approach was in line with its international commitments, especially the 1992 ratification of the UN Convention on the Rights of the Child (UNCRC). States are required by the UNCRC to make sure that minors who are accused of crimes get treatment that respects their dignity and reintegration potential. The Beijing Rules also

⁶ TAYLOR-THOMPSON, K. (2022). There Are Children Here: Reconciling Justice for Adolescent Offenders. In K. Taylor-Thompson & A. C. Thompson (Eds.), *Progressive Prosecution: Race and Reform in Criminal Justice* (pp. 167–212).

emphasize non-custodial measures, diversion, and proportionality in juvenile justice systems. The pre-2015 framework firmly positioned juvenile justice within a child rights paradigm by harmonizing with these criteria.

3.1.2 The Retributive Turn under the JJ Act 2015

After the 2012 Delhi gang rape (Nirbhaya case), in which one of the defendants was a minor tried under the 2000 Act, the balance started to change. His three-year imprisonment in a special facility, which many felt was woefully insufficient given the savagery of the murder, provoked outrage and cries for change⁷. In light of this, Parliament passed the JJ Act of 2015. The main novelty was Section 15, which gave Juvenile Justice Boards (JJBs) the authority to perform an initial evaluation on minors between the ages of sixteen and eighteen who are charged with serious crimes that entail a minimum sentence of seven years in prison. The evaluation had to take into account the child's physical and mental capabilities, their comprehension of the repercussions of their behaviour, and the specifics of the offense. The case could be transferred to the Children's Court for an adult trial if the JJB is satisfied.

This clause gave Indian juvenile law a retributive component. The majority of youngsters continued to receive reformative aspects, but older adolescents who were accused of serious crimes could now face adult-like accountability. Legislators contended that aggressive teenagers must be punished proportionately to their offenses in order to prevent the legal system from being perceived as mild, citing deterrence and public confidence as justifications. However, this defence focused on deterrence has drawn a lot of criticism. Even at seventeen, juveniles lack the impulse control and foresight of adults, according to neuroscientific research on the development of the teenage brain. The idea of limited accountability is compromised if they are seen as completely responsible. Furthermore, child rights organizations contend that children from low-income families are disproportionately impacted by the transfer system because they are more susceptible to environmental factors that contribute to delinquency.

3.1.3 Judicial Interpretations and Safeguards

Under the 2015 Act, courts have been crucial in resolving the conflict between retaliation and reform. The Supreme Court made it clear in *Shilpa Mittal v. State of NCT of Delhi* (2020) that offenses that carry a maximum sentence of more than seven years but no statutory

⁷ Murray, B. M. (2021). RETRIBUTIVE EXPUNGEMENT. *University of Pennsylvania Law Review*, 169(3), 665–716.

minimum could not be categorized as "heinous offences" under the Act. By limiting the range of cases that may be transferred, this decision stopped the retributive measures from being used arbitrarily⁸.

In a similar vein, High Courts throughout India have emphasized the need for careful consideration and expert involvement in the preliminary assessment under Section 15. An effort to maintain the reformatory core is seen in the necessity to take socioeconomic conditions and psychological reports into account⁹. However, in reality, JJBs frequently lack the time, adequate equipment, and qualified psychologists needed to conduct insightful assessments. As a result, evaluations run the risk of becoming pointless, compromising the legal protection. This judicial balancing act demonstrates an attempt to accommodate the legislative goal of deterrence while avoiding the complete weakening of reformatory principles. However, the judiciary is unable to make up for structural flaws in execution and infrastructure.

3.1.4 Practical Implications and Critiques

The 2015 Act's effects at the grassroots level have sparked serious worries. When minors are moved to adult courts, they are subjected to stigma and prison-like circumstances, which can reinforce criminal identities rather than promote change. The paradox of the deterrence argument is highlighted by research showing that youngsters processed through punitive institutions are more likely to commit crimes again¹⁰.

This criticism is supported by NCRB statistics. Less than 1.2 percent of all crimes in India are committed by juveniles, and the majority of these crimes involve theft, burglary, or minor assaults. It is statistically uncommon for young people to commit horrible acts. As a result, the legislative emphasis on this subset seems out of proportion and motivated more by popular opinion than by actual need.

The Act, according to NGOs like HAQ: Centre for Child Rights and CRY, compromises the protective function of juvenile justice by subjecting vulnerable kids to punitive systems that don't address the underlying issues of poverty, broken families, or peer pressure. Instead of

⁸ Pande, B. B. (2015). "BAD" JUVENILES AND THE "WORST" JUVENILE JUSTICE LAW? THE SECOND CHALLENGE TO JUVENILE JUSTICE LAW IN 'DARGA RAM' V. 'STATE OF RAJASTHAN.' *Journal of the Indian Law Institute*, 57(1), 27–47.

⁹ Kumari, V., & Barn, R. (2017). SENTENCING IN RAPE CASES: A CRITICAL APPRAISAL OF JUDICIAL DECISIONS IN INDIA. *Journal of the Indian Law Institute*, 59(1), 1–25.

¹⁰ KUMARI, V. (2015). Juvenile Justice in India. In F. E. Zimring, M. Langer, & D. S. Tanenhaus (Eds.), *Juvenile Justice in Global Perspective* (pp. 145–197)

using adult trials as a deterrent, they advocate for bolstering rehabilitation facilities, counselling services, and aftercare programs.

3.1.5 Comparative International Perspectives

India's differences are highlighted by international practice. Juveniles were frequently transferred to adult courts as a result of the "super predator" scare that swept the United States in the 1990s. Many states changed their minds and "raised the age" back to 18 after later studies showed that transferred juveniles had worse recidivism rates. Even for severe juvenile offenders, diversionary tactics and restorative justice are still crucial in the UK. Scandinavian nations place a strong emphasis on welfare-based solutions, giving community rehabilitation and reintegration first priority¹¹. India's 2015 framework, in comparison, seems more punitive and reflects local political demands rather than reform based on facts. Although the strategy aims to strike a balance between rehabilitation and deterrence, it runs the risk of normalizing retaliation and weakening the child-centric mandate that is established in both international agreements and constitutional standards.

3.2 Shift toward retributive justice post-2015, and implications.

By allowing youth between the ages of 16 and 18 who are accused of serious offenses to be tried as adults, the Juvenile Justice (Care and Protection of youth) Act, 2015, significantly changed the conversation surrounding juvenile justice in India¹². The legislation's actual impact has been influenced by how courts have interpreted these provisions and how implementation has played out on the ground, even though it represented a legislative compromise between public sentiment—particularly following the Nirbhaya incident—and constitutional commitments to child rights. In some ways, the system has been reoriented toward retributive ideals due to judicial decisions, board practices, and administrative capabilities. This has raised significant concerns about whether this shift is compatible with India's duties to protect the rights and welfare of children.

¹¹ Supra note 5

¹² TYAGI, M. (2016). Analysis of Juvenile Crime: Effects of State Apparatus. *Economic and Political Weekly*, 51(51), 17–20.

3.2.1 Judicial interpretations and the movement toward retribution

The application of the contentious transfer provisions of the 2015 Act has been heavily influenced by the judiciary. According to the Act, the Juvenile Justice Board (JJB) is required to perform an initial evaluation of the child's mental and physical capacity to commit the offense, their comprehension of the consequences of the act, and the circumstances surrounding the offense in cases of serious crimes against minors between the ages of 16 and 18¹³. If this evaluation is unfavourable to the minor, the case may be transferred to the Children's Court, where it will be tried as though it were an adult case.

High Courts and the Supreme Court have on multiple occasions underlined the seriousness of horrible crimes and the need for accountability that goes beyond the conventional safety net provided to minors. Courts have emphasized, for instance, that the preliminary evaluation is a crucial gatekeeping mechanism that reflects the gravity with which society considers horrific offenses and is not a pointless exercise. This judicial stance, which implies that some adolescent behaviours transcend the line into adult responsibility, has strengthened the deterrent and retributive foundations of the 2015 amendments.

By making it clear that the evaluation cannot be compared to a complete trial and should continue to concentrate on the child's capacity rather than the case's merits, courts have also tried to temper the use of these laws¹⁴. The Supreme Court addressed uncertainties in the Act's definition of "heinous offences" in *Shilpa Mittal v. State (NCT of Delhi)* (2020), finally leaning toward a child-centric interpretation and emphasizing that ambiguities must not prejudice juveniles. Nevertheless, the transfer mechanism's very existence and the court's support for it signify a significant move toward retributive justice because they permit the deterioration of age-based protections in the name of proportionate punishment.

These interpretations have the combined effect of allowing courts to legitimize the idea that minors over a certain age who are accused of specific crimes can, in effect, be excluded from the juvenile justice system, even though they have not completely abandoned reformatory principles. This indicates a shift toward a selective retributive paradigm and away from the idea of universal kid culpability mitigation.

¹³ TYAGI, M. (2016). Analysis of Juvenile Crime: Effects of State Apparatus. *Economic and Political Weekly*, 51(51), 17–20.

¹⁴ Ibid

3.3 Effectiveness of current framework under the 2015 Act

The public's increasing belief that the 2000 framework was unduly forgiving of minors, especially those between the ages of 16 and 18, who were accused of serious offenses, led to the passage of the Juvenile Justice (Care and Protection) Act, 2015¹⁵. The Act sought to improve responsibility and deterrence by instituting provisions for transfer to adult courts, all the while maintaining the overarching goal of reforming juvenile offenders. Nonetheless, the coexistence of two seemingly incompatible goals—rehabilitation and reintegration on the one hand, and deterrence through stricter accountability on the other—creates a conflict at the core of the law. A hotly debated topic that touches on legal theory, judicial practice, criminological research, and India's constitutional and international duties is whether or not this balance has been struck in reality.

3.3.1 The goals of deterrence and accountability under the 2015 framework

The 2012 Delhi gang rape case, in which one of the defendants was a minor, increased public demand for accountability, and the 2015 Act was a clear legislative attempt to address that need. The statute established the Juvenile Justice Board's (JJB) preliminary assessment process to decide whether a 16–18-year-old accused of a serious offense might face an adult trial. The fundamental idea was that the possibility of receiving adult punishment would discourage young people from committing such crimes and strengthen public trust in the legal system.

The Act recognizes that older teenagers have higher maturity and, as a result, face heightened responsibility for significant conduct, marking a shift away from providing general protection for all juveniles¹⁶. In circumstances where they have supported transfers to Children's Courts, courts have echoed similar logic, contending that protecting minors from proportionate punishments runs the danger of undermining public confidence in the legal system.

However, empirical research and NCRB data indicate that tougher rules have a minimal, at most, deterrent effect on youth crime. In India, socioeconomic vulnerabilities such as poverty, illiteracy, abuse, and neglect are frequently associated to juvenile offenses; these problems cannot be immediately addressed by tougher punishment regimes. Therefore, even

¹⁵ Kumari, V. (2014). JUVENILE JUSTICE BILL 2014 – A REGRESSIVE STEP. *Journal of the Indian Law Institute*, 56(3), 303–319.

¹⁶ Pande, B. B. (2015). “BAD” JUVENILES AND THE “WORST” JUVENILE JUSTICE LAW? THE SECOND CHALLENGE TO JUVENILE JUSTICE LAW IN ‘DARGA RAM’ V. ‘STATE OF RAJASTHAN.’ *Journal of the Indian Law Institute*, 57(1), 27–47.

while the 2015 Act has been successful in symbolically establishing responsibility, its real efficacy to curb crime is still in doubt. Deterrence runs the risk of becoming more rhetorical than practical if it is not supported by preventive social measures.

3.3.2 Rehabilitation and reintegration: principles and practice

The 2015 Act still includes sections that confirm rehabilitation as a primary goal, albeit with the increased focus on deterrence. It still need special homes, observation houses, and safe havens that offer education, counselling, and vocational training. The Act also emphasizes the goal of reintegration into society, acknowledging that children are still entitled to rights under the Constitution and international law, even while they are in legal trouble.

But in reality, there have been many obstacles to the dedication to rehabilitation. Many facilities still lack the resources, personnel, and equipment necessary to provide thorough rehabilitation services. Overcrowding, a lack of psychiatric treatment, and subpar educational programs in juvenile institutions have been reported in reports by the National Commission for Protection of Child Rights (NCPCR) and independent studies. This fact raises the possibility that young people will become involved in recidivism cycles and undercuts the Act's reintegration goal.

A more profound structural obstacle to recovery is presented by the transfer mechanism itself. The juvenile justice system's rehabilitative safeguards are significantly diminished once a youngster is tried as an adult. The concepts of reintegration are undermined by exposure to stigma, adversarial criminal proceedings, and the prospect of incarceration in settings more akin to adult jails. Although the legislation stipulates that minors sentenced as adults must remain in reformatory settings until they turn 21 before they may be transferred to adult prisons, the efficacy of this protection is largely dependent on institutional capabilities that vary from state to state.

3.3.3 Toward a balanced juvenile justice model

Although the 2015 Act has been successful in establishing a framework that conveys a harsh stance on juvenile criminality, the system needs to be recalibrated to make sure that responsibility and deterrence don't take precedence over rehabilitation and reintegration¹⁷. Reintegration must become a reality rather than a formality, which requires strengthening the

¹⁷ Gul, R. (2018). Our Prisons Punitive or Rehabilitative? An Analysis of Theory and Practice. *Policy Perspectives*, 15(3), 67–83.

rehabilitation infrastructure. Judicial interpretations also play a crucial role. Courts can correct the balance that legislative changes have thrown off by requiring thorough psychiatric examinations, making sure that transfers stay exceptional rather than ordinary, and keeping an eye on the standard of institutional care.

Furthermore, there is potential for balancing accountability and rehabilitation through alternative justice models including victim-offender mediation, restorative justice, and community-based interventions. These strategies give young people a way to accept accountability for their deeds without suffering the long-term negative effects of criminal stigmatization. By integrating these models into the Indian juvenile justice system, deterrent and restorative results could be aligned, guaranteeing that the child's right to reform and society's desire for justice are both adequately satisfied.

Chapter 4

Findings

4.1 Leaning of the 2015 Act – Retribution vs. Reformation

A key result of the study is that the 2015 Act represents a considerable philosophical change from the previous juvenile justice regime. The Juvenile Justice Act of 2000 and its later changes represented a mostly reformist approach, consistent with constitutional principles and international norms¹⁸. The underlying concept was that juveniles, due to their immaturity, may change and should be given opportunities for rehabilitation. In contrast, the 2015 Act established a procedure for transferring adolescents aged 16-18 accused of serious crimes to adult courts following an evaluation of their mental and physical ability by the Juvenile Justice Board (JJB). This law clearly favours retributive justice, as it subjected minor offenders to adult criminal culpability. The justification for this decision was heavily driven by public indignation over the 2012 Delhi gang rape case, in which one of the defendants was a juvenile. The legislative debates focused on deterrence and accountability rather than rehabilitation.

The judicial interpretation of these laws has been cautious, but not completely recalcitrant. For example, in *Shilpa Mittal v. State (NCT of Delhi)* (2020), the Supreme Court dismissed uncertainty in the categorisation of offences while upholding the premise that serious crimes committed by older adolescents may be tried as adults. This demonstrates judicial endorsement of a partly retributive strategy¹⁹. At the same time, courts have occasionally cautioned against undue stigmatisation and underlined that transfer should not become habitual. The conclusion is that the 2015 Act has blurred the line between child welfare and public protection. While not completely abandoning rehabilitation, it has institutionalised retaliation as an acceptable choice for certain juveniles, undermining the consistency of India's previous rehabilitative approach.

4.2 Effectiveness in Deterring Juvenile Crime

Another crucial question is whether the tougher provisions of the 2015 Act have had the intended deterrence impact. NCRB data provides some insights. According to NCRB data, the number of adolescents arrested for horrific crimes such as murder, rape, and robbery

¹⁸ Ibid

¹⁹ Bhattacharyya, S. K. (2019). JUVENILE JUSTICE SYSTEM IN INDIA. *Journal of the Indian Law Institute*, 23(4), 606–612.

remained relatively consistent between 2014 and 2018, with only modest changes rather than a significant decrease. For example, the number of minors in confrontation with the law for heinous acts was 2,606 in 2014, increased to 2,815 in 2016, and decreased only slightly to 2,508 in 2018. Post-2019, the trend has showed slight drops in several categories, but there is no strong evidence of deterrent due to the 2015 Act²⁰.

According to criminological ideas, deterrence requires a rational assessment of consequences, which many adolescents lack owing to psychological immaturity. Empirical research from several jurisdictions shows that tougher sentences for juveniles seldom lower crime rates; in fact, adult trials may increase recidivism since adolescents exposed to adult jails frequently return to crime more hardened. Thus, while the Act may have met the public's need for accountability, the data does not definitively prove that it has reduced juvenile crime. At most, it may have provided a symbolic guarantee of toughness, but its actual influence on crime prevention is uncertain.

4.3 Implementation Challenges

The 2015 Act's effectiveness is undermined by a number of structural and institutional problems, making the gap between its legal intent and its implementation clear. Inadequate staffing, a lack of qualified social workers and psychologists, and overcrowded, underfunded observation and special homes are just a few of the infrastructure deficiencies that frequently plague Juvenile Justice Boards and Child Welfare Committees²¹. These deficiencies run the risk of fostering rather than resolving criminal behaviour. This disparity is further demonstrated by the psychological tests required by the transfer clause, which require JJBs to assess a juvenile's mental and physical capacity to commit a serious crime and comprehend its repercussions. However, India lacks standardised evaluation techniques and qualified personnel to carry out these intricate tests.

In reality, these assessments are frequently reduced to pointless tasks. In addition, there is the problem of stigmatisation and reintegration: juveniles who are sent to adult courts or imprisoned in adult prisons experience significant social stigma, which makes it extremely difficult for them to reintegrate into their families, communities, and workplaces²². This

²⁰ Kumari, V. (2017). CURRENT ISSUES IN JUVENILE JUSTICE IN INDIA. *Journal of the Indian Law Institute*, 41(3/4), 392–404.

²¹ Ibid

²² Razdan, U. (2018). APEX COURT TOWARDS HUMANIZING THE ADMINISTRATION OF JUVENILE JUSTICE. *Journal of the Indian Law Institute*, 33(3), 366–389.

undermines the goal of reform, which is to give adolescents a meaningful "second chance." Furthermore, the constitutional ideal of equality under Article 14 is undermined by judicial discretion and inconsistent application of transfer regulations across states and courts, which leads to unequal treatment. While some JJBs take a cautious approach, others act under public pressure to expedite transfers. In the end, retributive components have been able to dominate reformative goals and practices due to the absence of comparable institutional changes and resources, notwithstanding the Act's lofty aim.

Chapter 5

Suggestions and Conclusion

The Juvenile Justice (Care and Protection of Children) Act, 2015 was adopted with the goal of balancing responsibility and rehabilitation, its design and implementation frequently tended more towards retribution²³. The findings also emphasised the ambiguous deterrent impact of stricter restrictions, the persistence of infrastructural and procedural problems, and the potential that stigmatisation might undermine rehabilitation. Given this context, it is critical to suggest changes and policy solutions that align deterrence principles with constitutional and international commitments to child welfare. This chapter presents such proposals before summarising the research's overall contributions.

A key component of achieving the goals of the Juvenile Justice (JJ) Act of 2015 is strengthening reformatory and rehabilitative institutions. However, in observation homes, special homes, and rehabilitation facilities, overcrowding, a lack of qualified personnel, and a lack of vocational training continue to be widespread, rendering the Act's reformatory pledges meaningless platitudes. It is crucial to modernise these institutions with improved facilities, hygienic living arrangements, learning opportunities, and skill-development initiatives catered to regional labour markets²⁴. Making sure that each prison has qualified social workers and psychologists on staff who can handle behavioural problems, mental health difficulties, and trauma in order to lower recidivism is equally crucial. Prioritising vocational training in computer literacy, trades, and entrepreneurship is also necessary since reintegrating young people into society successfully depends on giving them employable skills. Research from international rehabilitative models shows that this kind of investment improves community safety over the long run by reducing repeat offences, in addition to helping the kid.

The 2015 Act's provision transferring 16–18-year-olds accused of serious crimes to adult courts is one of its most controversial features. Although this would satisfy public expectations for accountability, justice could be jeopardised in the absence of robust protections. Instead of being dependent on superficial assessments, transfers must be supported by standardised psychological testing carried out by unbiased experts. In order to reduce arbitrary and inconsistent rulings across states, High Courts should be required to examine decisions made by Juvenile Justice Boards (JJBs). Crucially, under Articles 14 and 21, courts

²³ *Supra* note 16

are required to show how transfers are consistent with the proportionality and best interests of the child elements of the constitution. By striking a balance between accountability and equity, these protections would shield minors from being unjustly exposed to adult criminal justice systems.

Juvenile justice must remain child-centred. Articles 14, 21, and 39 of the Constitution require the state to defend the best interests of children, and international agreements such as the UNCRC confirm this. A juvenile justice system based on reformation, supported by properly targeted deterrence, can achieve the dual aims of protecting society and nurturing young lives. India must thus work to ensure that its juvenile justice system represents not only the requirement for responsibility, but also the constitutional guarantee of dignity, fairness, and second opportunities for all children.

Chapter 6

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