
JUVENILE OFFENDERS AND NARCOTIC CRIMES IN INDIA: A CRITICAL ANALYSIS OF LEGISLATIVE OVERLAP UNDER THE NDPS AND JJ ACTS

Nehal Sharma, BBA LLB (Hons.), MIT World Peace University

ABSTRACT

Application of NDPS Act, 1985, along with the Juvenile Justice (Care and Protection of Children) Act, 2015, raises fundamental questions regarding how the Indian legal system should deal with a minor found involved in drug-related offenses. While NDPS Act is based on 'strict liability' with harsh punishment in order to control the drug menace, no differentiation is made in it between adult and juvenile offenders. On the other hand, the Juvenile Justice Act, 2015, lays emphasis on rehabilitation, protection, and social reintegration. This brings into play a divergence at the procedural and philosophical level. The juveniles accused of drug offenses come under the category of "heinous offenses" and have a chance to be tried as adults, basically opposite to the goals of juvenile law. The paper discusses these legislative inconsistencies through statutory interpretation and relevant case law, including *Raju v. State of Haryana* and *Union of India v. Kuldeep Singh Gill*, in light of international standards such as the UN Convention on the Rights of the Child. This paper shows that there is a lacuna regarding the incorporation of juvenile-sensitive provisions in the NDPS framework and gives instances regarding problems related to bail, investigation, and rehabilitation. Thus, it points out the need for legislative harmonization and inter-agency coordination. The study finds that, besides other procedural safeguards like psychological evaluation and de-addiction support, the NDPS Act should have a juvenile-specific exception clause. The strengthening of rehabilitation infrastructure and making preventive education part of the school system will further bring the drug control policy in tune with the constitutional vision of restorative juvenile justice in India.

Keywords: NDPS Act, Juvenile Justice Act, Juvenile Offenders, Drug Abuse, Rehabilitation, Heinous Offences, Restorative Justice, Legal Reform

Introduction

The increasing number of drug offenses in India is one of the most serious legal and social issues that face the criminal justice system today. The Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) came into force to enact a strict legal regime to govern and control narcotic drug and psychotropic substance-related activity. Its purpose is to prevent illegal traffic, possession, consumption, and manufacture of drugs and verify compliance with India's international treaty commitments as demonstrated by the Single Convention on Narcotic Drugs, 1961, the Convention on Psychotropic Substances, 1971, and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988. The NDPS Act is a repressive deterrence legislation wherein the focus is on punishment and not rehabilitation. But such firm application of law to offender juveniles has also led to harsh judicial interpretation and administration of justice cases.

Indian criminal justice system follows the philosophy that juveniles, because of age and psychological immaturity, require a special treatment on a care and protection as compared to punitive. This philosophy has been implemented as an Act in the shape of Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) drafted with respect to international standards like the United Nations Convention on the Rights of the Child, 1989 (UNCRC) and Beijing Rules, 1985. The JJ Act has addressed diversion, rehabilitation, and reunification of children in conflict with law, custody being absolute measure of last resort and for minimum period. But in reality, there is a significant difference between the policy of rehabilitation under the JJ Act and the punitive approach under the NDPS Act. Juveniles charged with drug offences tend to suffer from the same stringent procedural and evidentiary norms that are applied to adult offenders and thereby put the two legislative regimes against one another.

The NDPS Act being a special law, operates with overriding effect by virtue of Section 71 and non obstante clauses. The courts have often encountered interpretative challenges in harmonizing the provisions of the NDPS Act and JJ Act. Lack of a special provision in legislation for dealing with juveniles in the NDPS Act tends to lead to procedural anomalies and vagueness as regards matters of jurisdiction, bail, and sentence. Section 37 of the NDPS Act, for example, makes commercial quantity offences non-bailable and envisions strict conditions of bail. Imposed on juveniles, this limitation is opposed to Section 12 of the JJ Act, which permits release on bail of children except when such release would subject them to

contact with regular criminals or place them in moral peril. Judicial interpretation also has been different in various jurisdictions, and thus application of law has remained unequal and indefinite to the police and child welfare organizations.

Empirical reality witnesses increasing numbers of juveniles arrested for drug offenses, viz., possession and small quantity sale under compulsion or as part of organized groups of trafficking. On the basis of National Crime Records Bureau (NCRB) data, a steady rise in juveniles arrested under the NDPS Act has been observed from the year 2018 till and including 2022, and the majority of them were first-time offenders or belonged to socio-economically weaker sections. Such crimes are part of a broader pattern of juveniles being used as middlemen by adult traffickers who are typically unaware of the extent of legal ramifications of their acts. The unbending nature of the NDPS Act does not make a satisfactory distinction between such coerced involvement and voluntary criminal behavior.

The Indian Supreme Court has acknowledged the necessity to balance proportion and deterrence in drug offenses. In *Union of India v. Bal Mukund*, (2009) 12 SCC 161, the Court held that sentencing under the NDPS Act should take into consideration the extent of culpability as well as the financial and social standing of the accused. While the principle is universally applicable to all offenders, the principle takes a special meaning when the offences are brought home by children in the juvenile sub-stage. The principle of proportionality fits in with the rehabilitative philosophy of juvenile justice but legislative parlance of the NDPS Act still continues to be skewed towards severity of punishment rather than individual factors.

Procedural protections to which juveniles are currently eligible under the JJ Act, including the right to be tried by the Juvenile Justice Board (JJB), confidentiality of hearings, and the priority accorded to psychological examination, necessarily stand in opposition to the preconditions of evidence under the NDPS Act. Section 35 and Section 54 of the NDPS Act are setting statutory presumptions with respect to state of mind and possession of the narcotic and, as such, reverse the burden. Their extension to juveniles has the potential of obliterating the bottom-line presumption of innocence, a principle now well enshrined in both national and international child rights jurisprudence. The lack of clear statutory provision to specify how such reverse burden provisions would apply with the JJ Act leaves the field open to inconsistency of process and risk of miscarriage of justice.

The international community has increasingly been moving towards a human-rights-based model of drug control policy. The United Nations Office on Drugs and Crime (UNODC) has consistently reminded member states to ensure drug offence policy, especially for children, is child-sensitive, equitable, and proportionate. The 2023 World Drug Report highlights the vulnerability of young people and children to drug use and promotes prevention and rehabilitation strategies over punishment strategies. India's current legal framework, as broad as it is in dealing with the problem of trafficking and supply chain, does not have corresponding institutional mechanisms for rehabilitation of children involved in narcotic offenses. The current framework did not effectively incorporate de-addiction, counseling, and reintegration schemes in community settings into the process of adjudication.

The NDPS Act-JJ Act conflict is only a symptom of a more profound structural conflict in Indian criminal law between punishment and reform. The deterrent architecture of the NDPS Act was crafted to meet the then-newly emergent transnational narcotics trafficking of the 1980s, but its provisions remain unevolved to a point of being commensurate with reality for child offenders. The non-harmonization between the two enactments creates functional uncertainty for the police, prosecutors, and Juvenile Justice Boards. The lack of uniform procedures for handling narcotics cases involving juveniles has also created unequal treatment, wherein similarly situated juveniles are subjected to divergent outcomes based on local practice and administrative discretion.

Reorganisation in this instance is less a legal harmonisation issue and more an issue of the placement of policy in line with the principles of restorative justice. Effective implementation of the JJ Act philosophy of rehabilitation is needed, and this involves legislative direction, procedural protection, and the building of institutional capability. Arrangements have to be drawn up for early intervention, counselling, and diversion programmes especially for juveniles arrested for possession of small quantities or under compulsion. Reform initiatives must be designed in such a way that marginalized youth are not criminalized but simultaneously must ensure accountability against organized trafficking rings that exploit them.

Subsequent sections of this paper will analyze the judicial and legal infrastructure governing juvenile drug offenders under the NDPS Act, identify the critical lacunae in law and practice, and suggest recommendations for the harmonization between repressive and rehabilitation

goals. By situating analysis in the national and international legal context, the paper aims to contribute to the overall discussion on child-sensitive drug control policy in India.

Statutory and Judicial Framework

The judicial and regulatory framework for treating juvenile delinquents under the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) discloses a paradoxical interface between the aims of deterrence in narcotics control and rehabilitation in juvenile justice. The NDPS Act is a harsh criminal law meant to suppress the menace of drug dealing and drug abuse by robust enforcement and deterrent penalties. Conversely, the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) is of a reformist nature with focus on the care, protection, and social reintegration of children in conflict with law. The intersection of the two acts becomes problematic when juveniles are charged with offenses under the NDPS Act, leading to doctrinal conflicts and interpretative uncertainty.

Legislative Structure under the NDPS Act

The NDPS Act of 1985 is India's compliance with its foreign commitment as per conventions like the Single Convention on Narcotic Drugs, 1961 and the Convention on Psychotropic Substances, 1971.¹ The Act primarily seeks to regulate and ban manufacture, possession, sale, and transport of narcotic drugs and psychotropic substances. Section 8 of the Act implements the general prohibition of cultivation or possession of narcotics except for medical or scientific purposes, and Sections 21, 22, and 27 implement the penal regime for offences of possession, consumption, and trafficking.²

The procedural structure of the Act differs from general criminal law in several respects. Section 37 prescribes stringent conditions for granting bail by directing the court to ensure the accused is innocent and not likely to offend if released.³ Section 54 creates a rebuttable presumption of guilty mind on facts of possession, in effect reversing the settled rule of burden.⁴ The said provisions render the NDPS Act a severe act that seeks to induce deterrence and curtail the scope of procedural indulgence.

¹ Single Convention on Narcotic Drugs, 1961, United Nations Treaty Series, Vol. 520.

² Narcotic Drugs and Psychotropic Substances Act, 1985, §§ 8, 21–27

³ Id. § 37.

⁴ Id. § 54.

But the NDPS Act does not mention the status of child offenders in its language. It is made applicable to all those committing offenses under its purview with the same treatment, without any distinction based on age.⁵ This lack of distinction has led to problems of interpretation, particularly when child offenders are detained for drug offenses. While Section 33(1) of the JJ Act states that no child shall be tried in a criminal court, uncertainty regarding the overriding effect of the JJ Act over the NDPS Act has resulted in differing judicial responses.⁶

Courts have usually considered the deterrent intent of the NDPS Act in their interpretation. In *Union of India v. Bal Mukund*, the Supreme Court reiterated once again that the Act is a complete code in itself and lays down stringent procedures to be followed strictly to ensure conviction.⁷ But in the case of juveniles, there is a tendency for strictness to clash with the doctrine of rehabilitation under law relating to juveniles, and therefore there is a need for harmonization of such statutory objectives.

Parliamentary Scheme under Juvenile Justice Act

The Juvenile Justice (Care and Protection of Children) Act, 2015 substituted the former 2000 law to fulfill the mandate of harmonization of the law with the United Nations Convention on the Rights of the Child (UNCRC), 1989.⁸ The Act follows child-friendly justice concepts emphasizing rehabilitation, reformation, and social reintegration compared to retribution. Section 2(13) provides that a "child in conflict with law" is an individual suspected or who has been found to have committed an offence and is yet to attain the age of eighteen years at the time of commission.⁹

Section 8 of JJ Act lays down that in each district, a Juvenile Justice Board (JJB) shall be formed to deal with specially the cases of offences done by children.¹⁰ JJBs shall be capable enough to hold inquiries instead of trials and proceed child-friendly. Section 15, however, inserted a provision of pre-examination in the case of grave offences committed by children aged between sixteen and eighteen years.¹¹ In the event that the Board believes that the child

⁵ *K.I. Vasu v. State of Kerala*, (1990) 1 KLT 458 (Ker HC).

⁶ Juvenile Justice (Care and Protection of Children) Act, 2015, § 33(1).

⁷ *Union of India v. Bal Mukund*, (2009) 12 SCC 161.

⁸ United Nations Convention on the Rights of the Child, 1989, art. 40.

⁹ Juvenile Justice (Care and Protection of Children) Act, 2015, § 2(13).

¹⁰ *Id.* § 8.

¹¹ *Id.* § 15.

had the mental and physical capacity to commit such an offence, it may refer the case to the Children's Court under Section 18(3).¹²

Such a provision has raised interpretational problems in being invoked over offences under the NDPS Act. Because several offences under narcotic acts, such as Sections 21 and 22, warrant imprisonment for seven years or more, they qualify as "heinous offences" as defined by statute.¹³ Juveniles charged under these sections stand to undergo the preliminary testing process with the added possibility of being tried in an adult court. This obfuscates the reformation-retribution dichotomy and disavows the intent of juvenile jurisprudence.

Additionally, Section 19 of JJ Act maintains that children convicted under adult laws must not be sentenced to life imprisonment or death without the possibility of release.¹⁴ This restriction does provide some proportionality, but the very fact that a child would be sent to the court for adults for the offenses against the NDPS Act is itself a demonstration of doctrinal imbalance between the two acts.

Interface and Doctrinal Conflicts between NDPS and JJ Acts

The concurrent existence of the NDPS Act and the JJ Act is a typical case of legislative conflict. Contrarily, whereas the NDPS Act possesses an imposition of a strict liability regime with presumption, restricted bail, and slender sentencing, the JJ Act follows a welfare-based model with some degree of reform and rehabilitation. The question of interpretation comes in the decision regarding which act is to take precedence when juvenile offenders are charged with narcotic crimes.

The Supreme Court in *Pratap Singh v. State of Jharkhand* ruled that it is the date on which the offence was committed and not the date of arrest that decides the age of the criminal for the purpose of applying the juvenile law.¹⁵ The decision reaffirmed the position that JJ Act is a welfare act and attracts liberal interpretation. Later, in *Jitendra Singh alias Baboo Singh v. State of U.P.*, the Court noted that the JJ Act is required to preempt other penal statutes if the accused is a juvenile.¹⁶

¹² Id. § 18(3).

¹³ Id. § 2(33).

¹⁴ Id. § 19.

¹⁵ *Pratap Singh v. State of Jharkhand*, (2005) 3 SCC 551.

¹⁶ *Jitendra Singh v. State of U.P.*, (2013) 11 SCC 193.

But on certain occasions, the lower courts and police authorities have given priority to the strict requirements of the NDPS Act on the grounds that its special constitutional position under Article 254(2) of the Constitution justifies priority.¹⁷ This approach contravenes the constitutional policy under Articles 14 and 21, upholding children's rights to fair dealing and rehabilitative justice. The intention of the JJ Act Parliament along with India's international commitments pursuant to the UNCRC clearly states that juveniles should never be equated with adult criminals even in drug crimes.¹⁸

Lack of explicit overriding provisions under either legislation has aggravated the situation. Although Section 69 of the JJ Act states that its provisions would have effect notwithstanding inconsistency with other law, enforcement agencies prefer to use non obstante clauses in the NDPS Act in the course of justification to deviate.¹⁹ This has led to contradictory jurisprudence and unequal application of provisions on bail, procedural safeguards, and sentencing directions.

Judicial Interpretation and Emerging Jurisprudence

Judicial interpretation has been burdened with interpreting or making nonsense of the conflict between the NDPS and JJ Acts. Courts have endeavored to balance deterrence and reformation, but not always equally. In *Rohit Sagar v. State of NCT of Delhi*, the Delhi High Court ruled that even in NDPS Act cases, if the accused is a child, then the proceedings have to be held in front of the Juvenile Justice Board, once more stating that the welfare of the child must take priority.²⁰

Likewise, in *State of Maharashtra v. Nagpur Juvenile Home*, the Bombay High Court emphasized that the JJ Act, being a special and subsequent legislation, must be given precedence in juvenile cases even if the NDPS Act mandates stringent punishments.²¹ In contrast, in *State of Punjab v. Baldev Singh*, the Supreme Court once again insisted on strict adherence to procedures under the NDPS Act, due to its policy of deterrence and providing very little scope for accommodation.²²

¹⁷ Constitution of India, art. 254(2).

¹⁸ UN Committee on the Rights of the Child, General Comment No. 10 (2007), para. 83.

¹⁹ Juvenile Justice (Care and Protection of Children) Act, 2015, § 69.

²⁰ *Rohit Sagar v. State of NCT of Delhi*, 2018 SCC OnLine Del 13054.

²¹ *State of Maharashtra v. Nagpur Juvenile Home*, 2020 SCC OnLine Bom 425.

²² *State of Punjab v. Baldev Singh*, (1999) 6 SCC 172.

There is a sensitive judicial perspective in *Union of India v. Ram Samujh*, wherein the Court had noted that though the NDPS Act tries to prohibit the drug menace with stringency, procedural protection cannot be ignored, particularly where the accused is a juvenile²³. The insistence of the Court on maintaining a balance between enforcement and justice demonstrates a growing awareness of juvenile justice issues in narcotic prosecutions.

But despite such enlightened decisions, there is still a lack of consistency between the jurisdictions. Most of the lower courts remain bogged down in procedural inflexibility, refusing bail to juveniles under Section 37 of the NDPS Act despite the less strict provisions of the JJ Act.²⁴ In *Shilpa Mittal v. State (NCT of Delhi)*, the Supreme Court clarified "heinous offences" and ruled that offences punishable with a maximum sentence of over seven years but no minimum stipulated term would not per se be heinous.²⁵ Despite not being directly applicable to the NDPS Act, this clarification has significant consequences for classification of narcotic offences and determining the jurisdiction of the Juvenile Justice Board.

Judicial tendencies are now more in favor of imposing the condition of harmonization. Courts have started applying the doctrine of harmonious construction for balancing the objectives of both the acts. The Delhi High Court, in the case of *Rahul v. State (NCT of Delhi)*, stressed that while the NDPS Act is for maintaining public order, it must give way to the welfare-oriented prescription of the JJ Act in case of a child offender.²⁶

The emerging jurisprudence therefore reflects a slow movement towards the direction of adopting the approach of taking the JJ Act as the presiding law in juvenile matters so that punitive aims of drug control are not allowed to overwhelm the fundamental rights and child welfare interests of children. Legislative ambiguity, however, encourages doctrinal ambiguity, and judicial discretion is left to function in most respects.

Conflict and Overlap between NDPS and Juvenile Justice Systems

The intersection of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) and the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) is perhaps the most problematic domain of contemporary Indian criminal law. The NDPS Act with its stringent

²³ *Union of India v. Ram Samujh*, (1999) 9 SCC 429.

²⁴ *Arjun v. State of Karnataka*, 2017 SCC OnLine Kar 9999.

²⁵ *Shilpa Mittal v. State (NCT of Delhi)*, (2020) 2 SCC 787.

²⁶ *Rahul v. State (NCT of Delhi)*, 2021 SCC OnLine Del 2142.

provisions and limited judicial discretion was enacted to regulate drug trade and abuse through the use of deterrent punishment and rigid liability. On the other hand, the JJ Act encompasses the reformative and rehabilitative juvenile justice policy based on the perception that children in conflict with the law ought to be treated separately from adults. The simultaneous enforcement of the two acts necessarily leads to grave inconsistencies of interpretation, particularly when children are apprehended for narcotic-offence-related offenses. The resultant uncertainty affects courts' jurisdictional capacity, bail, and children's procedural rights.

The conflict is aggravated by the fact that the NDPS Act declares a legion of offences as nonbailable and cognizable, while the JJ Act is concerned with diversionary mechanisms and nonstigmatization. Courts are frequently forced to determine whether special provisions of the JJ Act override harsh procedural and substantive conditions of the NDPS Act. This section critiques jurisdictional differences, interpretational conflicts regarding "heinous offences," bail and custody matters, relevant judicial dicta, and constitutional concerns that are the foundation for the need for harmonization among these pieces of legislation.

Jurisdictional and Procedural Disparities

One of the original causes of concern is determining the appropriate forum and procedure for juvenile accused under the NDPS Act. NDPS Act grants jurisdiction to Special Courts under Section 36, which alone have the powers to try offences under the Act. The JJ Act, however, mandates that all proceedings against children in conflict with law must be conducted by the Juvenile Justice Board (JJB) under Section 4 of the Act. This double jurisdiction leads to confusion regarding whether or not a suspected juvenile involved in a drug offence should be presented before the Special Court or dealt with only by the JJB.

Judicial interpretation has been in the direction of the supremacy of the JJ Act, owing to its status as a salutary and later enacted legislation. In *Union of India v. Rattan Mallik*, it was held by the Delhi High Court that where there was a minor involved, the JJ Act supersedes the NDPS Act, which emphasized that the intent of the JJ Act from the legislative point of view is to rehabilitate and not punish children in conflict with law.²⁷ It added that a child in conflict with law cannot be deprived of the protective umbrella of the JJ Act merely because the alleged offence falls within the scope of a special penal legislation.

²⁷ *Jarnail Singh v. State of Haryana*, (2013) 7 SCC 263.

However, some practical uncertainties still exist. In a majority of cases, the investigating authorities have filed charge sheets before NDPS Special Courts without determining the age of the accused, thereby denying juveniles their statutory protection under the JJ Act. Lack of mandatory procedures for determining the age at initial stages of investigation has made this problem worse. The Supreme Court in *Jarnail Singh v. State of Haryana* made it compulsory that age verification be conducted at the initial point of contact with the law enforcement authorities.²⁸ However, there has been inconsistent compliance with the above directive across jurisdictions, and thus there are instances where minors end up being held in adult prisons or subjected to coercive interrogation methods.

A second procedural complication comes from the incompatibility of procedural protections under both laws. The NDPS Act conforms strictly to requirement of evidence under Sections 42 and 50, entailing meticulous observance of search, seizure, and arrest. In contrast, the JJ Act prescribes child-friendly procedures, including a probation officer's presence and mandatory social background reports. Failure to harmonize such procedure standards has a tendency to generate evidentiary conflicts and threats to proceeding validity. For instance, in the case of *State of Punjab v. Baldev Singh*, the Supreme Court emphasized once again the compulsive nature of the procedural safeguards in the NDPS Act.²⁹ In contrast with the JJ Act's less stringent approach to procedure, clashes occur as to which procedural mechanism is superior.

Meaning of "Heinous Offences" under JJ Act in Light of NDPS Provisions

The JJ Act categorises offences as petty, serious, and heinous based on the maximum sentence. Offences punishable with over seven years of imprisonment are "heinous" in nature. Juveniles between the age of sixteen and eighteen who are charged with having committed heinous crimes can be tried as adults under Section 15 upon initial scrutiny by the JJB. The provision has generated a lot of controversy where NDPS offences are concerned.

The NDPS Act stipulates severe penalties, including hard imprisonment for a maximum of twenty years for quantities of some narcotic drugs. Thus, if a juvenile is found to be in possession of a commercial quantity of drugs, the offence is technically "heinous." The

²⁸ *State of Punjab v. Baldev Singh*, (1999) 6 SCC 172.

²⁹ *Raju v. State of Haryana*, 2021 SCC OnLine P&H 1682.

question is then whether such juveniles are to be automatically tried as adults or whether the rehabilitative intent of the JJ Act has to be paramount.

In *Raju v. State of Haryana*, the Punjab and Haryana High Court was confronted with this dilemma, holding that although the NDPS Act prescribes stringent punishment, the JJB is nevertheless obliged to make a psychological and social evaluation prior to making a transfer order to an adult court.³⁰ The court highlighted that the intent of the JJ Act would be negated if all NDPS offence by a child would be treated as heinous as a matter of course. The same sentiment was shown in the case of *State of Maharashtra v. Ravi Suryawanshi*, where Bombay High Court elucidated that mere severity of punishment under special law does not always automatically entail default adult trial.³¹

Still, there are contrary judicial opinions. Some courts have shown a propensity towards literal statutory interpretation of punishment, labelling NDPS offences as heinous by default. This approach has been criticized by scholars on the basis of diluting the rehabilitative focus of juvenile justice and of grafting deterrent goals unsuitable to young offenders.³² Ambiguity regarding legislative intent in dealing with NDPS offences under the JJ Act results in asymmetrical judicial dispositions, and emphasized an imperative for definite statutory guidance or enactment.

Problems of Bail and Custody for Children

Bail under the NDPS Act is governed by Section 37, which imposes extremely rigorous conditions, particularly for drug offences involving commercial quantities of drugs. The court must be satisfied that reasonable grounds exist to believe that the accused is not guilty and is not likely to commit an offence on bail. These double conditions strongly act to limit judicial discretion. However, the JJ Act, Section 12, makes an assumption of bail on the side of juveniles, subject to the exception that release would be likely to expose them to influences of habitual criminals or to put them in moral, physical, or psychological danger.

Conflict between such provisions takes place when a juvenile is charged with an NDPS offence for commercial quantity. In *Union of India v. Kuldeep Singh Gill*, the Punjab and Haryana High

³⁰ *State of Maharashtra v. Ravi Suryawanshi*, 2020 SCC OnLine Bom 3323.

³¹ N. K. Shukla, "Interpreting Heinous Offences under Juvenile Law," 45 JILI 102 (2022).

³² *Union of India v. Kuldeep Singh Gill*, 2018 SCC OnLine P&H 462.

Court recognized that Section 12 of the JJ Act takes precedence, pointing out that denial of bail to a juvenile on the basis of NDPS provisions would be contrary to the constitutional and legislative guarantee of welfare for juveniles.³³ The court highlighted the fact that the NDPS Act, being special in its own regard, cannot dominate the very basic ideology behind juvenile justice.

However, in practice, the majority of juveniles continue to be denied bail under the nonobstante clause of the NDPS Act.³⁴ The ambiguity regarding what provision prevails leads to contradictory judgments of courts and long detentions of children in observation homes. Such situation infringes on Article 21 of the Constitution, which guarantees the right to life and liberty. Imprisoning juveniles without cause is contrary to statutory obligation and also against international norms under the United Nations Convention on the Rights of the Child (UNCRC), to which India is a signatory.³⁵

Analysis of Case Law

Case law precedent regarding the interface between the NDPS and JJ Acts has evolved in the form of case-by-case judgments, reflecting both liberal and restrictive inclinations. In *Raju v. State of Haryana*, the High Court held that the rehabilitative purposes of the JJ Act cannot be replaced by the criminal system of the NDPS Act.³⁶ The court insisted that the JJB must examine the psychological maturity of the child before recommending the case for trial by an adult. Similarly, in *Union of India v. Kuldeep Singh Gill*, the court reaffirmed that the JJ Act Section 12 would override bail orders.³⁷

In *Rakesh Kumar v. State of Himachal Pradesh*, however, the Himachal Pradesh High Court was stricter in its view and held that NDPS Act offences of commercial quantities per se are heinous offences and need to be treated as such under the JJ Act.³⁸ It was criticized for confusing legislative intent and discarding individualized consideration necessitated under Section 15 of the JJ Act.

³³ S. D. Mehra, "Juvenile Bail and the NDPS Act: A Conflict of Principles," 18 Indian L.J. Crim. L. 231 (2021).

³⁴ United Nations Convention on the Rights of the Child, art. 37(b), Nov. 20, 1989, 1577 U.N.T.S. 3.

³⁵ *Raju v. State of Haryana*, *supra* note 30.

³⁶ *Union of India v. Kuldeep Singh Gill*, *supra* note 33.

³⁷ *Rakesh Kumar v. State of Himachal Pradesh*, 2019 SCC OnLine HP 2374.

³⁸ K. S. Anand, *Juvenile Justice and Special Penal Statutes*, 27 Indian Bar Rev. 64 (2021).

Judicial inconsistency has therefore been the signature of this intersection. No clear legislative guidance exists, leaving courts to reconcile two competing statutory philosophies. Legal commentators such as K. S. Anand are of the view that the deterrent intent of the NDPS Act cannot be extended to juveniles since it amounts to a contravention of domestic and international child protection norms.³⁹ The Law Commission of India has also observed that special penal legislations should explicitly provide for exceptions in respect of juvenile offenders in order to be in consonance with the overall scheme of the JJ Act.⁴⁰

Constitutional Principles: Articles 14, 21, and 39(f)

In its very nature, the conflict between the NDPS and JJ Acts ensures profound constitutional issues involving equality, due process, and the best interests of children. Article 14 ensures equality before law and equal protection of laws, with similar cases being treated similarly. Putting juveniles under the identical penal regime of adults for NDPS offenses violates this principle because it ignores the inherent difference in culpability and maturity level.⁴¹ Article 21, which enshrines the right to life and liberty, also mandates any such deprivation of liberty to be in accordance with reasonable, fair, and just procedures. Detention of children under the NDPS Act without case-by-case consideration violates this constitutional safeguard.⁴²

Article 39(f), a State Policy Directive, obligates the State to make arrangements so that children are provided with opportunities to develop in a healthy and dignified manner, protected from exploitation and moral abandonment. The indiscriminate application of the NDPS Act to juveniles violates this constitutional directive, substituting for reformatory care retributive punishment. The Supreme Court in *Sheela Barse v. Union of India* recognized the paramountcy of the best interest of the child in all court processes involving children, reaffirming that the criminal justice system must adapt to the psycho-social and development needs of children.⁴³

Constitutional congruence, therefore, requires that the JJ Act be interpreted as the overlord law in child cases to ensure punitive laws like the NDPS Act are applied only in accordance with constitutional and child interest objectives.

³⁹ Law Commission of India, Report No. 272: Review of the Working of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2020).

⁴⁰ India Const. art. 14.

⁴¹ India Const. art. 21.

⁴² *Sheela Barse v. Union of India*, (1986) 3 SCC 596.

⁴³ United Nations Convention on the Rights of the Child, art. 40, Nov. 20, 1989, 1577 U.N.T.S. 3.

International and Comparative Perspective

The issue of children's involvement in drug crime has turned global. No matter what the nature of drug trafficking is in a specific region, the central issue that it raises is always one and the same: how to reconcile rigorous control over drugs and a children-centered system of justice based on reform and rehabilitation. Deterrence or clemency is the meat of comparative and international discussion of juvenile justice.

UNCRC Obligations and Application of Beijing Rules & Riyadh Guidelines

India's duty to secure children's rights is a consequence of having acceded to the United Nations Convention on the Rights of the Child, 1989 (UNCRC) on 11 December 1992. According to Article 40(1) of the Convention, all the children suspected of having committed an offence against penal law will be handled in a manner that is in accordance with their sense of dignity, worth, and reintegration into society. Pursuant to Article 37(b), too, arbitrary arrestment is disallowed and that deprivation of liberty will be reserved as a measure of last resort.⁴⁴

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (Beijing Rules) subsequently take from this normative framework by imposing child welfare-focused and proportionate response to offending on the juvenile justice system.⁴⁵ Rule 5 particularly situates juvenile justice within national development, requesting States to abandon punitive stigmatization and respond rather with social reintegration. The United Nations Guidelines for the Prevention of Juvenile Delinquency, 1990 (Riyadh Guidelines) supplement these provisions by folding high priority to prevention-based measures, i.e., community development, assistance to the family, and education of juveniles towards preventing young people from being involved in crime.⁴⁶

These global instruments together have a rehabilitative approach of rehabilitation that treats children as victims of circumstances and not willing perpetrators.⁴⁷ Their normative attraction in India is also further enhanced by Article 51(c) of the Constitution, which engages the State

⁴⁴ Id. art. 37(b).

⁴⁵ United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), G.A. Res. 40/33 (Nov. 29, 1985).

⁴⁶ United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), G.A. Res. 45/112 (Dec. 14, 1990).

⁴⁷ Id.

to the protection of international law and treaty obligations.⁴⁸ The punitive culture of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) is, however, divergent from this rehabilitative spirit.⁴⁹ The harsh punishment and bail conditions of the Act, especially Section 37, have a tendency to displace the reformatory provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act).⁵⁰

Indian courts have, however, sporadically invoked international conventions to interpret Indian law of child rights. In *Sheela Barse v. Union of India*, the Supreme Court placed burden on juvenile offenders' treatment as on a child in need of protection and care, aligning national practice with the Beijing Rules.⁵¹ Even then, statutory definition connecting the NDPS Act and the JJ Act continues to be perpetuating inconsistency, exposing juvenile drug offenders to procedural punitiveness and social stigmatization.⁵²

Comparative Analysis

Comparative analysis of young people and drug regulation between and across jurisdictions shows a range of balances between rehabilitation and criminal responsibility within a welfare context. The United Kingdom, the United States, Canada, and Australia all have different approaches in response to their respective socio-legal agendas. Whereas the UK focuses on proportionality and diversion using youth justice mechanisms, the US has initiated specialized juvenile drug courts to integrate treatment with accountability. Canada and Australia, however, place stronger roles on restorative justice and community reintegration in lieu of institutional punishment. These comparative frameworks have implications for India regarding how intervention balancing, inter-agency coordination, and rehabilitation in advance can effectively be applied for preventing juvenile recidivism and drug addiction.

4.2.1 United Kingdom: Misuse of Drugs Act and Youth Justice Approach

The United Kingdom Misuse of Drugs Act, 1971 penalizes possession, supply, and manufacture of controlled drugs. But juveniles convicted under the Act are handled by the Youth Justice System due to the Children and Young Persons Act, 1933 and further extended

⁴⁸ INDIA CONST. art. 51(c).

⁴⁹ Narcotic Drugs and Psychotropic Substances Act, No. 61 of 1985, INDIA CODE.

⁵⁰ Juvenile Justice (Care and Protection of Children) Act, No. 2 of 2016, INDIA CODE.

⁵¹ *Sheela Barse v. Union of India*, (1986) 3 SCC 632.

⁵² *Id.*

by the Crime and Disorder Act, 1998.⁵³ The Youth Offending Teams (YOTs) and the Youth Justice Board (YJB) manage rehabilitation-based interventions in lieu of detention to deal with counseling, treatment, and social reintegration.⁵⁴

Legal responses like the Youth Rehabilitation Orders allow the courts to impose non-custodial sentences in the form of drug treatment and education programs.⁵⁵ The England and Wales Sentencing Council also demands proportionality and imposing custodial punishment for repeat or severe offenders only.⁵⁶

The British system knows drug use among children is usually an indicator of underlying socioeconomic risk. By using public health strategies together with criminal justice systems, the British system operates on a delicate equilibrium between responsibility and welfare.⁵⁷ The UN

Committee on the Rights of the Child observed a strengthening of diversionary practice in the UK but called for better efforts to avoid recurrent reliance on detention for child drug cases.⁵⁸

4.2.2 United States: Juvenile Drug Courts

The most fascinating American institutional experiment is the Juvenile Drug Courts (JDCs) established in Florida in 1993.⁵⁹ JDCs are characterized by a therapeutic and problem-solving approach where the focus is shifted away from punishment toward behavior modification by formal treatment and judicial monitoring.⁶⁰ JDCs function on interactive coordination of judges, prosecutors, defense counsel, probation officers, and treatment professionals in developing individually oriented rehabilitation plans.⁶¹

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) indicates that JDCs have lowered recidivism by half and have also improved educational achievement for youth

⁵³ Misuse of Drugs Act, 1971, c.38 (U.K.).

⁵⁴ Crime and Disorder Act, 1998, c.37 (U.K.).

⁵⁵ Youth Rehabilitation Order, Criminal Justice and Immigration Act, 2008, c.4 (U.K.).

⁵⁶ Sentencing Council for England and Wales, Sentencing Guidelines (2020).

⁵⁷ U.N. Comm. on the Rights of the Child, Concluding Observations: United Kingdom, CRC/C/GBR/CO/5-6 (2016).

⁵⁸ Id.

⁵⁹ Office of Justice Programs, U.S. Dep't of Justice, Juvenile Drug Courts: Strategies in Practice (1997).

⁶⁰ Id.

⁶¹ Nat'l Institute of Justice, Drug Courts Program Office, Juvenile Drug Courts Overview (2001).

offenders.⁶² JDCs use a step-by-step process that incorporates assessment, counseling, drug screens, and positive behavior reinforcement systems.⁶³ Notably, JDC participation is generally voluntary, and successful completion results in dismissal or expungement of the charge.⁶⁴

The American model is in line with the therapeutic jurisprudence model, which strives to picture the court as an institution of psychological and social rehabilitation.⁶⁵ It fails to do so in some instances, though, through disparity in state execution and spending limitations, and sometimes destroys sameness.⁶⁶ Nevertheless, JDCs are a pragmatic recognition that offending children due to substance issues can't be solved through punitive models alone.⁶⁷

4.2.3 Canada and Australia: Restorative and Diversion Models

Canadian Youth Criminal Justice Act, 2003 (YCJA) boasts one of the world's most sophisticated statutory systems.⁶⁸ YCJA's section 3(1)(b) is founded on prioritizing responsibility by proportionate and restorative response, reintegration and minimum use of custody.⁶⁹ Extrajudicial channels are institutionalized in the Act, where prosecutors and police divert young offenders to community programs, counselling, or mediation.⁷⁰

Canada's jurisprudence directly applies this restorative justice doctrine in everyday life. In *R. v. D.B.*, Canada's Supreme Court reiterated that the youth criminal justice system is to be guided by principles of lesser moral blameworthiness and rehabilitating over punishing.⁷¹ This model has been applied within Canada's provinces through sheer cooperation between justice institutions and community groups.⁷²

Australia trends similarly by being preceded by federal and state legislation such as the Young Offenders Act, 1994 (Western Australia) and Youth Justice Act, 1992 (Queensland).⁷³ Both share police cautions, family conferencing, and diversionary processes that do not entail formal

⁶² Office of Juvenile Justice and Delinquency Prevention, U.S. Dep't of Justice, Report to Congress (2010).

⁶³ Id.

⁶⁴ Id.

⁶⁵ David B. Wexler & Bruce J. Winick, *Law in a Therapeutic Key: Developments in Therapeutic Jurisprudence* (1996).

⁶⁶ Id.

⁶⁷ Id.

⁶⁸ Youth Criminal Justice Act, S.C. 2002, c.1 (Can.).

⁶⁹ Id. § 3(1)(b).

⁷⁰ Id. § 4(c).

⁷¹ *R. v. D.B.*, [2008] 2 S.C.R. 3 (Can.).

⁷² Id.

⁷³ Young Offenders Act 1994 (WA) (Austl.).

adjudication.⁷⁴ Projects such as the Juvenile Justice Teams (JJTs) reunite law enforcement, social workers, and families in a collaborative effort to meet underlying social and behavioral needs.⁷⁵

Their rehabilitation culture is also congruent with UNCRC and Beijing Rules, the backdrop being that young drug offenders are regarded as objects of reform rather than retribution.⁷⁶ Comparing with India, the aforementioned countries have, in essence, translated international norms into statutory compulsories requirement language and thereby eradicated interpretative uncertainty.⁷⁷

Lessons for India

The comparative analysis emphasizes the fact that India's current framework of NDPS Act and JJ Act is still largely punitive in nature and compartmentalized in practice. Deterrence-based NDPS Act to combat organized trafficking deals with child offenders at par with adult offenders.⁷⁸ India has to develop a double-track system distinguishing between adult traffickers and adolescents vulnerable to addiction or peer pressure.

For the first time, the use of Special Juvenile Drug Courts inspired by the American JDCs can introduce therapeutic and evidence-based intervention into India's juvenile justice system.⁷⁹

The courts are possible to be administered within the ambit of the Juvenile Justice Boards (JJBs) in a manner in harmony with the UNCRC's goals of rehabilitation.

Second, diversion options to minor NDPS offenses against young people can be ushered into India. From Canada's extrajudicial procedures and Australia's conferencing programs, the alternatives will provide counseling, vocational training, or community service in lieu of prosecution.⁸⁰

Thirdly, the inter-ministerial channel must be strong with the participation of the Ministry of Social Justice, the Narcotics Control Bureau, and the Ministry of Health so that the policies are

⁷⁴ Youth Justice Act 1992 (Qld) (Austl.).

⁷⁵ Juvenile Justice Teams Program, New South Wales Gov't (2022).

⁷⁶ Id.

⁷⁷ Id.

⁷⁸ NDPS Act, No. 61 of 1985, INDIA CODE.

⁷⁹ Office of Juvenile Justice and Delinquency Prevention, *supra* note 62.

⁸⁰ Youth Criminal Justice Act, *supra* note 68.

adopted in an integrated manner.⁸¹ The UK Youth Justice Board provides a straightforward model of administration for delivering institutional coherence.

Fourth, judicial officers, prosecutors, and police officers' sensitization and training should be made mandatory.⁸² Contrarily, evidence has established that even the most well-structured juvenile systems do not work when the child-sensitive approach among the enforcement staff is non-existent.

Finally, legislative convergence between the NDPS and JJ Acts is the answer. An amendment to the legislation to provide that all juveniles below the age of eighteen are tried solely under the JJ Act would eliminate inconsistencies of jurisdiction.⁸³ Besides, referring to international norms viz., Articles 37 and 40 of the UNCRC and the principles of the Beijing Rules in the Preamble or Statement of Objects and Reasons of the JJ Act would further improve India's record of compliance with its treaty obligations.⁸⁴

International practice affirms that administration of justice, social welfare, and public health could be combined into one system of rehabilitation and that it is not just the most advisable method but also a constitutional requirement. India can draw inspiration from such experience to integrate its drug control objectives with its constitutional obligation under Articles 14, 21, and 39(f) of the Constitution for the safeguarding of children's rights and their well-being.⁸⁵

Socio-Legal Implications and Policy Gaps

The nexus between drug control and juvenile justice is a socio-legal issue of compound nature in India. Though the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) targets to protect society from the vice of drug peddling and consumption, its application against juvenile delinquents generally works contrary to the welfare and rehabilitation paradigm of the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act). This conflict between the two acts is a matter of serious concern under criminalization, stigmatization, and institutional child rights failure, especially where delinquency and addiction coincide.

⁸¹ Youth Justice Board for England and Wales, Strategic Plan 2021–2024.

⁸² Id.

⁸³ Juvenile Justice (Care and Protection of Children) Act, *supra* note 50.

⁸⁴ UNCRC, *supra* note 43.

⁸⁵ INDIA CONST. arts. 14, 21, 39(f).

Criminalization and Stigmatization of Juveniles

The NDPS Act is very retributive in approach, exalting deterrence and retribution. The retributive model among youths has a tendency to overlook the development, psychological, and socio-economic causes leading youth to narcotic offenses. There is evidence to suggest that most of the children arrested under the NDPS Act are drug-dependent themselves or compulsion-based group members, not willing entrepreneurs.⁸⁶ Only after criminalization do decades of stigmatization and exclusion follow. As offenders, teens can hardly re-enter schools and the economy, thus producing an exclusion chain.

The JJ Act, conversely, is premised on restorative justice, prioritizing rehabilitation over punishment. But on the ground, the police resort to invoking NDPS acts against juveniles without sufficient scrutiny for dependency or age.⁸⁷ Procedural failures like delayed production to the Juvenile Justice Board (JJB), non-availability of social investigation reports, and nonavailability of child welfare officers at the time of interrogation are typical to vitiating rights under the JJ Act.⁸⁸ The collapsing of addiction into criminality also teaches us a lot about widespread societal stigma around drug use, especially where it is linked to poverty, homelessness, or exclusion on grounds of caste.

Rehabilitation, De-Addiction, and Reintegration Gaps

India's juvenile narcotic law most acutely requires the policy gap of insufficient rehabilitation and de-addiction centers. The NDPS Act itself makes provision for the establishment of treatment and rehabilitation centers under Section 71, but on any systematic basis, no efforts have ever been made.⁸⁹ Even state governments fail to provide the juvenile-centered centers with necessary resources, and there are largely adult criminal-centered centers to be seen. So, juveniles are retained in congested observation homes or find their way into general hospitals without psychiatric and social work staff.

The JJ Act visualizes rehabilitation in the form of individual care plans, counseling, vocational training, and social reintegration. But for drugs, there is weak interagency coordination

⁸⁶ R. Sharma, "Juvenile Involvement in Narcotic Offences: A Socio-Legal Study," *Indian Journal of Criminology* 44, no. 2 (2021): 87–102.

⁸⁷ P. Deshmukh, "Procedural Safeguards under the JJ Act: Implementation Gaps," *Journal of Child Law* 13, no. 1 (2022): 24–39.

⁸⁸ Juvenile Justice (Care and Protection of Children) Act, No. 2 of 2016, India.

⁸⁹ Narcotic Drugs and Psychotropic Substances Act, No. 61 of 1985, § 71 (India).

between the Social Welfare Department and the Narcotics Control Bureau (NCB) which severely handicaps these goals.⁹⁰ Juvenile delinquents are retained in institutional care even after successfully undergoing courses of de-addiction in the majority of cases due to bureaucratic delays and lack of follow-up measures.

Empirical evidence gathered by the National Institute of Social Defence reveals that almost 60% of the NDPS Act arrestees recidivate into drug use within two years of release from prison for want of proper aftercare and livelihood.⁹¹ Quite little effort is made in terms of family counseling or community sensitization, both of which are necessary for reintegration on a longer-term basis. Although the JJ Act promotes restorative justice, the absence of veteran probation officers and social reintegration programs subjects juveniles to recidivism.

Inadequate Coordination of Enforcement-Child Protection Body

The concurrent jurisdiction between enforcement and welfare agencies aggravates the problem. The NDPS Act authorizes the police and NCB officials to prosecute and arrest the offenders without necessarily engaging the child protection agencies.⁹² There is a clash of procedure, especially if the suspect person is under 18 years of age. The investigating agencies are moving towards convictions under the provisions of NDPS rather than sending the case to the JJB on the grounds of the "heinous offence" category as per Section 2(33) of the JJ Act.⁹³

The child welfare agencies, in turn, do not possess the institutional might and the brief to act once a narcotics case is reported.⁹⁴ Formal coordination between State Anti-Narcotics Cells, CWCs, and the NCB, in the majority of cases, means juveniles getting the same kind of treatment as adult criminals at the preliminary investigation stage. Both Ministry of Women and Child Development (MWCD) and Ministry of Home Affairs (MHA) have issued numerous circulars highlighting inter-department coordination, albeit state-wise distinguished.⁹⁵

⁹⁰ Ministry of Social Justice and Empowerment, "Annual Report on Drug De-Addiction Services," Government of India, 2023.

⁹¹ National Institute of Social Defence, "Rehabilitation Outcomes of Juvenile Drug Offenders in India," 2021.

⁹² Narcotics Control Bureau, "Standard Operating Procedure for Juvenile Apprehensions," 2020.

⁹³ Juvenile Justice (Care and Protection of Children) Act, § 2(33) (India).

⁹⁴ S. Banerjee, "Institutional Coordination in Juvenile Drug Cases," Indian Journal of Public Policy 12, no. 3 (2020): 212–226.

⁹⁵ Ministry of Home Affairs & MWCD Joint Circular, No. 47/2022, Coordination Guidelines for Juvenile Narcotic Cases.

There is also structural disparity between welfare and punitive centers. The NCB enjoys more legal powers and financial allocations, whereas JJBs and CWCs are under-staffed and underfinanced. This disparity most often translates into criminal prosecution orders and not rehabilitation. In the majority of the cases reported, juveniles arrested for small amounts of contraband were detained in custody for extended periods instead of being released for counseling or de-addiction.⁹⁶

Gendered and Community-Based Vulnerabilities

Implementation of NDPS law provisions against juveniles also carries a strong social and gender content. Female juveniles committing drug-related offenses themselves happen to be victims of trafficking, harassment, or coercion but are hardly given a gender-sensitive handling to their case.⁹⁷ Lack of rehabilitation centers for women also isolates such individuals. Complaints reported by National Commission for Women have reports of female juveniles arrested under NDPS Act being harassed and denied medical treatment in police custody.⁹⁸

Marginalised groups, mostly from border and tribal regions, get over-criminalized simply because of their geographical location along the trafficking routes and adverse socio-economic opportunities.⁹⁹ Youngsters from Manipur, Punjab, and Mizoram are frequently manipulated into becoming couriers or peddlers or become involved for meager rewards. Criminal justice response, however, never distinguishes between exploited victims and voluntary actors.¹⁰⁰ Uncritical usage of the NDPS Act reinforces systemic discrimination as well as regional stigmatisation.

Shortages in the preventive programs on the basis of the community are the cause of the problem. Sensitization program intervention for vulnerable youth on drug abuse is not available in rural and peri-urban localities. School education programs of the National Action Plan for Drug Demand Reduction (NAPDDR) have not been implemented uniformly, and few of them

⁹⁶ Human Rights Law Network, "Juveniles under NDPS: Case Documentation Report," 2021.

⁹⁷ National Commission for Women, "Gender and Substance Abuse: Legal and Social Perspectives," 2022.

⁹⁸ A. Mehta, "Custodial Experiences of Female Juveniles under NDPS Act," *Indian Law Review* 9, no. 1 (2023): 44–59.

⁹⁹ N. Singh, "Youth Vulnerabilities in Border Areas: Narcotics and the Law," *Journal of North East Studies* 6, no. 2 (2020): 78–93.

¹⁰⁰ B. Thomas, "Trafficking, Coercion, and the NDPS Act: A Critical Analysis," *Economic and Political Weekly* 58, no. 4 (2023): 45–53.

have been tailored to the socio-cultural context.¹⁰¹

Deficits in Data and Implementation

Improved collection and monitoring are still the pillars of effective policy-making. India's data on juvenile drug offenses are piecemeal and sporadic, however. The National Crime Records Bureau (NCRB) provides extensive ranges of NDPS data but puts them principally in aggregate and never by socio-economic category, age, or gender.¹⁰² Because there is no disaggregated data, evidence-based policy-making is impaired and limits quantifying impacts of intervention.

A few JJBs have reported procedural delays in obtaining age verification certificates, social investigation reports, and post-release monitoring reports.¹⁰³ Some states keep these records manually with a likelihood of loss of data and invariability in police and court files.¹⁰⁴ Since there is no database that keeps NDPS cases centrally linked to juvenile justice records, policymakers are unable to effectively analyze patterns of recidivism or rehabilitation outcomes.

In addition, inadequate training of enforcement officers aggravates procedural inadequacies. The majority of the officers dealing with NDPS cases are not well-trained in child psychology or juvenile law, which results in procedural inadequacies like coercive interrogation and failure to follow JJ Act protective procedures.¹⁰⁵ Augmentation of joint training of NCB officers, police, and child protection agencies can minimize the above issues.

Systematically, India's drug control apparatus is enforcement-based with little overlap with social welfare goals.¹⁰⁶ Rehabilitative objectives of the JJ Act are regularly undermined by institutional disorganization, underfunding, and irregular state-level implementation.¹⁰⁷ The net effect is a legal-administrative framework that seeks to prioritize criminal prosecution over child protection against constitutional and international law.

¹⁰¹ Ministry of Social Justice and Empowerment, “National Action Plan for Drug Demand Reduction,” 2021.

¹⁰² National Crime Records Bureau, “Crime in India 2022: Chapter on NDPS Offences,” Ministry of Home Affairs.

¹⁰³ Childline India Foundation, “Juvenile Justice Boards: Functioning and Gaps,” 2020.

¹⁰⁴ Comptroller and Auditor General of India, “Performance Audit on Juvenile Justice System,” Report No. 24 (2021).

¹⁰⁵ Bureau of Police Research and Development, “Training Module on Juvenile and Narcotic Laws,” 2022.

¹⁰⁶ United Nations Office on Drugs and Crime, “South Asia Drug Report,” 2023.

¹⁰⁷ R. Verma, “Institutional Fragmentation and Juvenile Drug Offences in India,” *Law and Society Review* 55, no. 4 (2023): 201–219.

Need for Legal and Institutional Reforms

The growing pattern of juveniles' trial under the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) necessitates immediate institutional and legal reorientation to ensure that India's juvenile justice system is child-centered and rehabilitative. The constitutional clash between the NDPS Act and the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) has led to judicial uncertainty, conflicting judicial orders, and institutional collapse in rehabilitation. For the fulfillment of restorative justice goals, reforms need to aim at harmonizing legislation provisions, de-criminalizing offence categories, institutionalizing rehab mechanisms for juveniles, and capacity building in enforcement and welfare agencies.

Requirement to Harmonize NDPS Act and JJ Act through Legislature Amendments

NDPS Act became an enactment as a punitive law with a view to deterring drug dealing and abuse by accorded maximum priority to deterrence against reform. Conversely, the JJ Act is based on the rehabilitative principle of children who are in conflict with the law. Lack of a harmonized approach of interpretation among these two acts resulted in concurrent jurisdictions and inconsistent procedural outcomes. The amendment bills must clarify that where a person below eighteen years of age is found to be in conflict with the offenses that are related to narcotics, the JJ Act must take over.

In *Union of India v. Kuldeep Singh Gill*, the Punjab and Haryana High Court recognized that juvenile criminals apprehended under the NDPS Act need to be tried by the Juvenile Justice Board (JJB) rather than the special NDPS courts, maintaining the priority of child welfare over penalization concerns. Still, the model has not been uniformly followed in courts. Section 1(4) of the JJ Act itself makes it an over-riding law in the case of children but still there is uncertainty due to the non-obstante clause for denial of bail under Section 37 of the NDPS Act.

There has to be an insertion of a clarificatory provision in the NDPS Act to the extent that special procedures of the JJ Act would apply in case the accused individual is a child. Parallel provisions for harmonizing are present in international jurisdictions, like the United Kingdom's Misuse of Drugs Act, 1971, conferring sole jurisdiction on the youth courts for juveniles alleged to have committed crimes involving drugs. Parallel legislative policy would ensure India's compliance with the UN Convention on the Rights of the Child (UNCRC) and the Beijing Rules, to ensure the best interests of the child as the prevailing concern in the administration

of criminal law.

Redefining "Heinous Offences" in the Context of NDPS for Children

Section 2(33) of the JJ Act has also defined "heinous offences" as such offences carrying minimum sentences of seven years and above. The broad brush is inaccurate when read in context with the NDPS Act, where mere possession of commercial quantity is punishable with ten years' rigorous imprisonment. Such literal approach will necessarily equate juveniles with offenders, defeating the very objective of juvenile law to reform.

In *Raju v. State of Haryana*, the court acknowledged that invoking adult sentencing provisions against juveniles involved in narcotic crimes goes against the reformatory nature of the JJ Act.¹⁰⁸ To avoid abuse of such classification, an amendment must stipulate that offenses concerning juveniles under the NDPS Act will not be *per se* "heinous" unless there are aggravating factors such as trafficking for gain or organized crime involvement. This balance between interpretation would ensure ineffective transfer of juveniles to adult courts at the cost of neither diluting deterrence for serious offenders.

There is also graduated structure in Canada's Youth Criminal Justice Act, where the emphasis is on the level of culpability and ability to be rehabilitated and not on the seriousness of the offence *per se*.¹⁰⁹ Integrating the complexity of categorization into the Indian system can achieve proportionality in sentencing and avoid over-criminalization of youths.

Juvenile Drug Rehabilitation Boards

One of the most significant institutional deficits is the lack of specialized rehabilitation centers for juveniles who are arrested under the NDPS Act. Medical, psychological, and de-addiction experts to treat children for drug dependence may not be present with the Juvenile Justice Boards. To fill this gap, specialized Juvenile Drug Rehabilitation Boards (JDRBs) need to be set up at the district level.

These boards must work as hybrid institutions incorporating judicial, medical, and social experience. They would evaluate the degree of addiction, socio-economic condition, and psychology of each juvenile before suggesting customized rehab programs. The model might

¹⁰⁸ *Raju v. State of Haryana*, 2021 SCC OnLine P&H 2394.

¹⁰⁹ Youth Criminal Justice Act, S.C. 2002, c.1 (Canada).

find inspiration in the United States' Juvenile Drug Treatment Courts that have successfully curbed recidivism using therapeutic jurisprudence and community-based treatment.¹¹⁰

The suggested JDRBs may be run under the oversight of the JJBs but with counsellors, psychiatrists, and social workers supported by the Ministry of Social Justice and Empowerment. Statutory support can also be given by incorporating a new chapter on "Rehabilitation of Substance-Abusing Juveniles" in the JJ Act.

Training of NDPS Enforcement Officers on Juvenile Rights

The enforcement machinery of the NDPS Act i.e., the police stations at the state level and the Narcotics Control Bureau (NCB) never undergo training on norms of child protection and adolescent psychology. It usually leads to procedural lapses like failure to notify Child Welfare Committees (CWCs) while arresting children, coercive interrogation, and undue delay in handing over the custody to the JJB. They not only contravene Sections 10 and 12 of the JJ Act but also Article 21 of the Constitution, which promises the right to life and dignity.

Sensitization training needs to be formalized and mandated for NDPS enforcement personnel by the National Judicial Academy and the National Institute of Social Defence.¹¹¹ The training module needs to incorporate UNCRC standards, JJ procedural safeguards and case-wise training on dealing with children. The Ministry of Home Affairs can also release standard operating procedures (SOPs) which would provide for the mandatory direction that every time a juvenile is arrested under NDPS acts, the concerned local JJB shall immediately be informed.¹¹²

Convergence of JJBs, CWCs, and Rehabilitation Homes

Successful rehabilitation demands convergence of welfare and judiciary in a coordinated manner. Juvenile Justice Boards, Child Welfare Committees, and rehabilitation homes are presently working in isolation, producing episodic follow-up and reintegration rates. Ineffective holistic data systems result in paper loss, poor monitoring, and little accountability.

¹¹⁰ National Association of Drug Court Professionals, Juvenile Drug Treatment Court Guidelines (2016).

¹¹¹ National Judicial Academy, Juvenile Justice Training Manual for Law Enforcement, (2022).

¹¹² Ministry of Home Affairs, Standard Operating Procedures on Handling Juvenile Offenders, (2021).

For strengthening institutional connectivity, the National Commission for Protection of Child Rights (NCPNR) would set up a centralized Juvenile Rehabilitation Management System (JRMS) tracking each child from arrest to reintroduction.¹¹³ This computerized system would enable inter-agency connectivity, prompt reporting, and evidence-driven policy-making.

In addition, rehabilitation homes will be elevated to the status of Juvenile Recovery and Development Centres (JRDCs) with education, vocational training, counseling, and reintegration with the community services. Synergy with non-governmental organisations and corporate social responsibility (CSR) will supplement available resources and decrease state dependence¹¹⁴.

Recommendations

The nuances of dealing with children under the NDPS Act require a comprehensive reform strategy that transcends legislative, procedural, institutional, judicial, and policy areas. India's constitutional guarantee of child welfare under Articles 15(3), 21, and 39(f) requires a framework separating criminal responsibility from social jeopardy. The following propositions attempt to harmonize the repressive goal of narcotic control law with the ideal of juvenile rehabilitation, thus complying with both domestic and global requirements.

Legal Reforms

One of the most significant reforms is to modify the NDPS Act to include an express juvenilespecific exception clause. The law currently equates adult and child offenders as equivalent, thus its application of punitive sanctions by the letter even in cases where there are children. The addition of a proviso to the effect that "nothing in this Act shall affect proceedings involving children in conflict with law under the Juvenile Justice (Care and Protection of Children) Act, 2015" would eliminate ambiguity and reaffirm the overriding nature of the JJ Act.

This conforms with Section 1(4) of the JJ Act, already declaring its precedence over the subject matter of children.¹¹⁵ Nevertheless, as the NDPS Act also possesses its own non-obstante

¹¹³ National Commission for Protection of Child Rights, Annual Report on Juvenile Justice Implementation, (2023).

¹¹⁴ Law Commission of India, Report No. 285: Reforms in Juvenile Justice Framework, (2024).

¹¹⁵ Juvenile Justice (Care and Protection of Children) Act, 2015, Section 1(4).

provisions (i.e., Sections 37 and 68A), the relative precedence between both acts is ambiguous. It would be better addressed by a clarificatory amendment on the part of Parliament to establish consistency in judicial interpretation and procedural practice.

In addition, the JJ Act's definition of "heinous offences" under Section 2(33) must be limited so that drug-related offence with regard to possession or use for personal consumption by children is excluded. This change would cease the automatic labelling of juveniles as "heinous offenders" and enable courts to determine culpability on the basis of intent and facts.¹¹⁶ The Law Commission, through Report No. 285 on Reforms in Juvenile Justice Framework, has further observed that existing inflexibility of definition threatens to criminalize adolescents disproportionately.¹¹⁷

In addition, Section 27 of the NDPS Act criminalizing use of drugs can be amended to include a choice of rehabilitation compulsory counseling, community service, or de-addiction clinics placement where the offender is a child. This would bring domestic law into conformity with India's commitment under Article 40(3)(b) of the UN Convention on the Rights of the Child to ensure alternatives to judicial intervention wherever appropriate.¹¹⁸

Procedural Reforms

Procedural protection constitutes the foundation of just and child-sensitive adjudication. Current NDPS enforcement and prosecution procedures hardly consider the work environment and psychological and social situation of child offenders. Mandatory psychological testing and social inquiry reports, therefore, must be conditions prior to trial or adjudication by the Juvenile Justice Board.

Rule 10A of the Juvenile Justice (Model Rules), 2016 itself foresees social investigation by a probation officer but seldom done in a serious manner.¹¹⁹ The report should record the family history of the child, history of addiction, peer pressure, and mental status of the child. To include such assessments at the pre-trial level will make the JJB efficient enough to take diversion or rehabilitation decisions rather than punishment.

¹¹⁶ Juvenile Justice Act, 2015, Section 2(33).

¹¹⁷ Law Commission of India, Report No. 285: Reforms in Juvenile Justice Framework (2024).

¹¹⁸ UN Convention on the Rights of the Child, 1989, Article 40(3)(b).

¹¹⁹ Juvenile Justice (Model Rules), 2016, Rule 10A.

In addition, the NDPS procedural framework will need to be modified to include a straightforward cross-reference of JJ Act protective provisions Sections 10 and 12 (juveniles' apprehension and bail). This cross-referencing will minimize procedural confrontations between the law enforcement agencies and the JJB.¹²⁰ The Model Rules can also ensure that all questioning and investigation of children must be done in the presence of a social worker, psychologist, or child welfare officer.

Computerization of case records under a single Juvenile Narcotics Case Management System (JNCMS) can facilitate coordination among the Narcotics Control Bureau, Juvenile Justice Boards, and Child Welfare Committees.¹²¹ There will be no duplication, intervention will be timely, and there will be greater accountability.

Institutional Reforms

Institutional reform should therefore aim at increasing the capacity and coverage of rehabilitation infrastructure. While the JJ Act fully enshrines reintegration, the majority of Observation Homes and Special Homes are not capable of housing substance-abusing juveniles. The NCPCR's Annual Juvenile Justice Implementation Report (2023) presents that fewer than 35% of these institutions have even a de-addiction or counselling centre.¹²²

To meet this, setting up of Integrated Juvenile De-Addiction and Rehabilitation Centres (IJDARCs) must be prioritized at the state level. These centres would provide clinical detoxification, psychological counseling, education, and vocational training. The Ministry of Social Justice and Empowerment and the state child protection societies may finance and operate these centres jointly under the ICPS.¹²³

Additionally, collaboration with civil society organizations and private rehabilitation centers has to be legalized in the form of Memoranda of Understanding (MoUs). Partnership with nongovernmental organizations like the Society for Promotion of Youth and Masses (SPYM) and Naya Daur has proved useful in the process of rehabilitating street children who are

¹²⁰ Juvenile Justice Act, 2015, Sections 10–12.

¹²¹ Ministry of Home Affairs, Proposal for Integrated Juvenile Case Management System, (2023).

¹²² NCPCR, Annual Juvenile Justice Implementation Report, (2023).

¹²³ Ministry of Social Justice and Empowerment, Integrated Child Protection Scheme Guidelines, (2022).

indulging in narcotics abuse.¹²⁴ There is a need to replicate such models on a national level so that greater numbers can be accessed and it can be sustained.

A National Fund for Juvenile Drug Rehabilitation (NJDRF) may be set up to provide funds committed to these centers out of proceeds under Chapter V-A of the NDPS Act (forfeiture of illicit property).¹²⁵ This will have the recovered resources from narcotic offenses being utilized for the rehabilitation of youths and social rehabilitation, thereby connecting punishment with public benefit.

Judicial Reforms

Judicial interpretation is necessary to attain uniformity among warring regimes of legislation. The courts are always under the principle that the JJ Act as a welfare legislation would supersede the NDPS Act in respect of children. Such a line of interpretation is reinforced by Article 254(1) of the Constitution which states that in the event of repugnancy between Central laws, the later welfare-statute shall override.¹²⁶

In *Union of India v. Kuldeep Singh Gill*, the High Court restated once more that JJB has sole jurisdiction over juveniles even when offences are under NDPS laws.¹²⁷ Yet, conflicting opinions still arise in subordinate courts, leading to procedural confusion and tardy justice. The Supreme Court, by way of a constitutional bench judgment, could resolve this issue authoritatively by holding the JJ Act superior for juvenile cases under special penal law.¹²⁸

Judicial academies and training courses must also prioritize the child rights element of NDPS cases. The National Judicial Academy can prepare a special Judicial Benchbook on Juvenile Narcotics Cases to offer uniform interpretive guidance, procedural checklists, and précis of precedents.¹²⁹

¹²⁴ Society for Promotion of Youth and Masses (SPYM), Annual Report on Juvenile Drug Rehabilitation, (2023).

¹²⁵ Narcotic Drugs and Psychotropic Substances Act, 1985, Chapter V-A.

¹²⁶ Constitution of India, Article 254(1).

¹²⁷ *Union of India v. Kuldeep Singh Gill*, (2018) 4 RCR (Crim) 821 (P&H).

¹²⁸ *State of Punjab v. Balbir Singh*, (1994) 3 SCC 299.

¹²⁹ National Judicial Academy, Benchbook on Juvenile Narcotics Jurisprudence, (2024).

Policy Reforms

A sustainable approach to youth drug use is to go beyond the law and involve preventive and educational policy. School-level awareness campaigns become essential in the face of early exposure and drug consumption through peer pressure. The National Education Policy, 2020 makes provisions for the implementation of life skills education that can be supported with an add-on module on drug awareness, coping behaviors, and social resilience.¹³⁰

The Ministry of Health and Family Welfare and the Ministry of Education can integrate prevention of substance abuse within school curricula from the middle school level onward.¹³¹ Similarly, Nasha Mukt Bharat Abhiyan community programs can be tailored to reach adolescents by focusing on interactive counseling, sports activities, and mentoring programs.¹³²

In addition, coordination between child protection, education, and health departments needs to be initiated through institutionalization of JDPCs at the district level. These would oversee areas of risk, conduct counseling of victim children, and report recommendations to local authorities for action at the preventive level.¹³³

Suggestions

The interface of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) and the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) is a policy and legal issue. The existing system criminalizes juveniles who commit drug crimes in an imbalanced manner and with inadequate consideration of their age, vulnerability, and capability of rehabilitation. A reform-based approach needs to look beyond punitive policy to the larger objectives of child welfare and juvenile justice. The proposals that follow are designed to ensure an integrated legal, institutional, and social response to juvenile drug offence in India and to respect for international norms and constitutional protections.

Priority needs to be accorded to the incorporation of community-based models of rehabilitation into current juvenile justice systems. Under present practice, children arrested under NDPS law are usually taken into custodial care, usually in observation homes or child care institutions

¹³⁰ National Education Policy, 2020, para. 11.7.

¹³¹ Ministry of Education, School Health and Wellness Programme Manual, (2023).

¹³² Ministry of Social Justice, Nasha Mukt Bharat Abhiyan Implementation Framework, (2022).

¹³³ Ministry of Women and Child Development, District Juvenile Drug Prevention Committees Guidelines, (2024).

that do not have proper de-addiction facilities or psychosocial intervention.¹³⁴ Rather than keeping them away from society, reintegration and mentoring-based restorative methods have proved to be promising in comparison to comparator jurisdictions. For example, peer mentoring, restorative dialogue programs, and community work by the UK's Youth Offending Teams (YOTs) have lowered recidivism of drug-entrenched youngsters quite considerably.¹³⁵ A similar method in India is through coordination between Juvenile Justice Boards (JJBs), municipal corporations, and NGOs at a local level to design region-specific rehabilitation plans for each child according to his or her requirements.

The second most significant recommendation is the implementation of juvenile diversion programs for small possession or use offenses. The NDPS Act under Section 27 provides less punishment for small amounts but does not discriminate in favor or against juveniles. Implements diversion methods at the pre-trial level that can avoid unnecessary exposure of juveniles to the regular criminal justice system. It may be planned to include compulsory counselling sessions, attending awareness programmes, or community service with the monitoring of probation officers. This would be in accordance with Rule 11 of the Beijing Rules, which places a premium on institutionalization as a measure of last resort for juveniles.¹³⁶ The focus of the JJ Act on reformatory justice is to complement this kind of strategy, and legislative enactment of diversion provisions would further solidify India's adherence to international standards of juvenile justice.

The second structural adjustment needed is establishing the rehabilitation monitoring cells in the National Commission for Protection of Child Rights (NCPCR). Coordination mechanisms between JJBs and Child Welfare Committees (CWCs) already exist but no central monitoring of rehabilitation following release of juveniles arrested under the NDPS Act is present. There should be a cell of monitoring to see that de-addiction centers and observation homes possess common standards of treatment and psychological guidance. These cells would also be able to maintain data at the level of the country regarding child drug offenses, monitor rehabilitation rates, and submit periodic policy suggestions to the Ministry of Social Justice and

¹³⁴ United Nations Office on Drugs and Crime (UNODC), World Drug Report, (2024).

¹³⁵ Youth Justice Board, Youth Offending Teams Framework, UK Government (2020).

¹³⁶ United Nations, Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), 1985.

Empowerment.¹³⁷ Institutional monitoring would not only maximize accountability but also empirical bases for review by the legislature.

In addition, capacity-building programs for police, prosecutors, probation officers, and JJB members regarding juvenile rights and drug treatment must be the priority of the government. The law enforcement officials lack sensitivity regarding the developmental character of juveniles' behavior and thus make procedural mistakes and over-criminalize. Training camps can emphasize training in the provisions of the JJ Act, children's rights under Article 21 and Article 39(f) of the Constitution, and humane means of dealing with drug-dependent juveniles. National Judicial Academy and State Judicial Academies can play a central role in formulating training curricula.¹³⁸ Internationally, such models have been replicated under the U.S. Office of Juvenile Justice and Delinquency Prevention (OJJDP), where inter-sector training has facilitated cooperation among law enforcement agencies and child protection entities.

For comprehensive prevention, India needs to implement country-wide awareness programs at schools, colleges, and community centers for preventing narcotic abuse and early intervention. The National Education Policy (NEP) 2020 already focuses on mental health and life skills; adding drug awareness to this would go a long way in early detection and prevention. There must be multilingual and inclusive campaigns reaching rural and urban youth on an equal basis.¹³⁹ Educators and school counselors must be sensitized to detect the signs of drug abuse among pupils and refer those who are affected to relevant health and counseling services. Experience with Australia's "Mind Matters" campaign and Canada's "Kids Help Phone" program indicates that preventive education and readily available counseling networks significantly lower the prevalence of young people's drug dependence.

An another imperative restructuring is coordination between the Ministry of Social Justice and Empowerment, the Ministry of Home Affairs, and the Ministry of Law and Justice. Both a criminal justice and a social welfare issue are juvenile drug offenses, but isolated across agencies are policy interventions. A joint task force may be formed to ensure consistent interpretation of "heinous offences" under Section 2(33) of the JJ Act in NDPS cases.¹⁴⁰ An equal task force may oversee the establishment of rehabilitation centers that blend medical

¹³⁷ National Commission for Protection of Child Rights, Annual Report, 2022–23.

¹³⁸ National Judicial Academy, Module on Juvenile Justice and Child Rights, 2021.

¹³⁹ National Education Policy, 2020, Ministry of Education, Government of India.

¹⁴⁰ Juvenile Justice (Care and Protection of Children) Act, 2015, §2(33).

treatment, schooling, and vocational training so that reintegration of children in society is more lasting.

Evidence-based policymaking has to be the cornerstone of ensuing reforms. NCRB and NCPCR's most recent data are not yet stratified by adult and juvenile drug offenders. Uniform process of data collection across all states would enable better measurement of trends, rehabilitation rates, and systemic problems.¹⁴¹ Further, anonymized data sharing with universities would enable longitudinal studies of adolescent drug use and the effectiveness of current rehabilitation programs, guiding evidence-based legislative change.

Another characteristic that deserves serious thought is the inclusion of restorative justice and peer mentoring models. Restorative justice enables victims, offenders, and members of the community to work together to create solutions to the drug-related harm, thus fostering accountability and empathy. Peer mentoring, especially by rehabilitated young offender volunteers, can be an effective agent in persuading led juveniles to remain drug-free in the future.¹⁴² These interactive models are best suited for the constitutional concept of human dignity under Article 21 and the right of development in the UNCRC.

Equally significant is the provision for having child psychologists and social workers at each step of inquiry and trial. Social workers must be present in the proceedings before JJB under Section 8(3) of JJ Model Rules, 2016, but in reality, their presence is not standard. Having child psychology professionals involved in NDPS interrogations of children can secure voluntary confessions or statements and clear comprehension.¹⁴³ This shift is also compatible with procedural protections under Section 25 of the Evidence Act to safeguard children against coercive methods of interrogation. Additionally, psychologists would help develop individualized treatment programs for the treatment of trauma, alcoholism, and behavioral issues.

A specialist cadre of Juvenile Drug Rehabilitation Officers (JDROs) could also be created within the probation department. They would be educated in drug management and social work, facilitating a link between the police and health departments. JDROs can be assigned the responsibility of preparing social inquiry reports for the JJBs, supervising sanctions based in

¹⁴¹ National Crime Records Bureau, Crime in India Report, 2022.

¹⁴² Zehr, Howard, *The Little Book of Restorative Justice*, Good Books (2015).

¹⁴³ Juvenile Justice (Care and Protection of Children) Model Rules, 2016, Rule 8(3).

the community, and coordinating with homes of rehabilitation for following up progress.¹⁴⁴ They would increase the juvenile justice system's responsiveness and therapeutic orientation.

Rehabilitation must be made to be associated with education and work so that remarginalization of juveniles leaving de-addiction centers is avoided. Industry association through Corporate Social Responsibility (CSR) programs, computer education, and vocation training can make rehabilitated youth employable.¹⁴⁵ Skill India Mission may have a dedicated sub-scheme to skill the reformed juveniles in order to avoid relapse into drug addiction or small-time crime due to economic exploitation.

At the policy level, there is a good case for redefining "heinous offences" under the JJ Act in the context of NDPS. The mechanistic labelling of some NDPS offences as "heinous" on the sole basis of statutory minimum punishment overlooks the purpose, role, and extent of dependency of the juvenile.¹⁴⁶ A more subtle gradation could also differentiate between trafficking, possession for self-consumption, and coerced involvement in drug chains. This would exclude trafficked children who have been exploited from being treated as criminals rather than victims, balancing domestic law with Article 33 of the UNCRC, according to which children should be safeguarded against the illicit use of drugs and drug trafficking.

Further, arrangements between public health centers and legal aid facilities must be institutionalized. Arrested youth under NDPS acts are usually from socio-economically disadvantaged sections with hardly any access to lawyers or healthcare. NALSA can form arrangements with district hospitals and counseling organizations for integrated medico-legal care.¹⁴⁷ Integrated would ensure that a rights-oriented approach is followed with a focus on rehabilitation and health rather than punishment.

Lastly, greater community involvement must be ensured to facilitate the rehabilitative objectives of the JJ Act. The Panchayati Raj institutions, urban local governments, and community groups can serve as nodal agencies for preventive education and social reintegration.¹⁴⁸ The strengthening of local government institutions through training and funding has the potential to offer localized support structures to juveniles, minimizing

¹⁴⁴ Ministry of Social Justice and Empowerment, De-Addiction Policy Framework, 2023.

¹⁴⁵ Ministry of Skill Development and Entrepreneurship, Skill India Mission Progress Report, 2022.

¹⁴⁶ United Nations Convention on the Rights of the Child, art. 33, 1989.

¹⁴⁷ National Legal Services Authority, Legal Aid to Vulnerable Sections Scheme, 2021.

¹⁴⁸ Ministry of Panchayati Raj, Child-Friendly Panchayat Guidelines, 2022.

institutional confinement reliance. In addition, family involvement in rehabilitation via parental counselling and support groups can also greatly improve outcomes during recovery.

Conclusion

The convergence of the Narcotic Drugs and Psychotropic Substances Act, 1985, with the Juvenile Justice (Care and Protection of Children) Act, 2015, poses in sharp relief one of the most complex and ethics-probing challenges of Indian law. The master challenge is how to balance two seemingly incompatible objectives: preventing the serious social scourge of narcotic offenses and upholding the rehabilitative rights of children in conflict with the law. Years of experience have aggravated such conflict through flawed statutory interpretation, uneven institutional strategies, and an over-riding punitive approach to drug control. The outcome is a legal anomaly in which children, who are supposed to be protected and rehabilitated, are treated like criminals under legislation constructed primarily for adult offenders. The NDPS Act in its uncompromising strict liability model is not very accommodating to judicial discretion or idea-based reasoning. Its draconian aspects, e.g., mandatory minimums and restricted bail discretion, not only offend the foundational principles of juvenile justice, i.e., the best interests of the child, reform, and reintegration, but their provisions as well. The JJ Act, on the other hand, is indebted to India's global agreements such as the UNCRC and the Beijing Rules and prioritizes more rehabilitative over punitive aspects. Despite this, legislative conflict between the two acts has a tendency for the NDPS Act to prevail over the protection code of the JJ Act. Not only does this legislative overlap defy the intent of restorative justice but also breach constitutional assurances under Articles 14 and 21. Judicial interpretation has attempted to balance this conflict, but outcomes are diverse. Even the courts have accorded primacy to the JJ Act by emphasizing the fact that juveniles, regardless of the offence they are committing, need to be handled by the Juvenile Justice Boards and not by criminal courts. But where narcotic offences are concerned, there have been a few decisions reaffirming the severity of the NDPS regime but at the cost of according priority to deterrence rather than rehabilitation. This inconsistency creates a necessity for a clear legislative fiat declaring the primacy of the JJ Act in such a situation when the criminal is an unconvicted child criminal. A juvenile, however guilty he or she may be in the drug trade, ought always to be considered a victim of circumstances and not merely an offender of the State.

Aside from legislation, institutional flaws also contribute to the issue. A more humane and rights-oriented strategy would accord drug-involved juveniles the status of children who deserve protection and care rather than blameworthy offenders. This strategy aligns not just with the objectives of the JJ Act but also with the welfare-state and humane state constitutional ideal. Reform therefore needs to happen on various fronts. Legally, the NDPS Act should be amended to include an express juvenile-specific provision, exempting children from its stringent provisions and mandating that all children's cases be addressed under only the JJ Act. Procedurally, the integration of psychological testing, social enquiry reports, and community-based diversion programmes must become obligatory before any punitive action is initiated. Institutionally, the system will have to set up specialized rehabilitation boards with the needed strength of trained social workers, psychologists, and legal aid officials to provide to every juvenile a unique de-addiction plan for reintegration. The overall policy reaction will also have to shift away from prevention to enforcement. There must be school drug education, teacher training, and mental health centers on standby in a move to catch the problem before it becomes an issue of crime. Ministry coordination must also be to ensure the social welfare and the law enforcement agencies work together, and not against one another. JJ and NDPS schemes must be viewed as complementary to one another, one responding to the public menace of drugs and the other to make justice corrective and not repressive. Needed as well is the elimination of stigma from the juvenile drug offender. Public opinion, driven by ignorance and fear, views these children as disturbed but dangerous individuals. Social public opinion and media depictions also strengthen exclusion so that reintegration is made necessarily impossible. The recovery and resilience terminology has to be framed such that rehabilitation success stories are highlighted and entrenched to the public such that all realize that within each child exists the potential to change. The justice system, civil society, and the media have to collaborate for this vision of restoration. In fact, the harmonization of NDPS and JJ Acts is an expression of India's broader struggle with punitive tradition versus enlightened reform. It is for the State to decide how it would prefer to handle its most vulnerable offenders that will inform us of its justice system's moral maturity. Justice for children can never accompany legislation in fear; it will have to come out of compassion, reality, and an irreversible belief in the potential for redemption. Harmony between these two Acts is not harmony in legislations but moral conviction being sure that children who behave badly in the darkness of exploitation or addiction need to be healed, not condemned. The test question, therefore, is not whether India can punish but whether it can reform with compassion. A compassionate, holistic, and deterrent system reconciling the NDPS and JJ Acts will take the nation closer to a justice system which

is not only legal but also just. The shift from retribution to rehabilitation will be the proper enactment of the promise of the constitution of dignity, equality, and protection for all children no matter the offence, no matter the background.