



# “The Evolving Role of Juvenile Justice Boards in Reconciling Welfare and Punitive Approaches in Chennai”

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## How to Cite this Article:

S, P. S. (2026). “The Evolving Role of Juvenile Justice Boards in Reconciling Welfare and Punitive Approaches in Chennai”. International Journal of Creative and Open Research in Engineering and Management, <i>02</i>(05). <https://doi.org/10.55041/ijcope.v2i4.990>

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<https://doi.org/10.55041/ijcope.v2i4.990>

## CHAPTER I

### 1.1 INTRODUCTION

Juvenile delinquency has emerged as a significant social concern. Historically, children were treated like adult offenders. However, modern penology recognizes that children lack mature judgment and are capable of reform. Internationally, the United Nations adopted the Convention on the Rights of the Child (CRC), which mandates child-friendly justice systems focusing on rehabilitation. India, being a signatory, enacted the Juvenile Justice (Care and Protection of Children) Act, 2015 replacing the 2000 Act.

The administration of juvenile justice represents one of the most sensitive and evolving areas of criminal jurisprudence. Unlike the traditional criminal justice system, which primarily emphasizes deterrence and retribution, the juvenile justice system is founded on the principles of reform, rehabilitation, and social reintegration. In India, the framework governing children in conflict with law is primarily regulated by the Juvenile Justice (Care and Protection of Children) Act, 2015, which reflects both constitutional mandates and international obligations. The Act seeks to strike a delicate balance between holding juveniles accountable for their actions and

ensuring that their age, mental maturity, and potential for reform are given due consideration.

The establishment of the Juvenile Justice Board (JJB) under the Act marks a significant institutional mechanism designed to address this balance. The Board, consisting of a Judicial Magistrate and social workers, is entrusted with the responsibility of adjudicating cases involving children in conflict with law. Its functioning embodies a child-centric approach, focusing on inquiry rather than trial, and correction rather than punishment. However, with the increasing involvement of juveniles in serious and heinous offences, especially after high-profile cases such as the 2012 Delhi gang rape case, public debate has intensified regarding the adequacy of purely reformative measures and the need for accountability in cases involving grave crimes.



This research seeks to critically examine the role of the Juvenile Justice Board in balancing these competing objectives. It aims to analyze whether the current legal framework effectively harmonizes rehabilitative ideals with the need for proportionate response to crime.

## 1.2 NEED OF THE STUDY

The present research is undertaken due to the growing complexity in dealing with juvenile offenders under the Juvenile Justice (Care and Protection of Children) Act, 2015. Recent years have witnessed a noticeable rise in crimes committed by juveniles, including serious and heinous offences. This trend raises concerns about whether the existing juvenile justice system is sufficiently effective in addressing both prevention and correction. The study becomes necessary to evaluate how the Juvenile Justice Board (JJB) responds to such situations. Juvenile justice is traditionally based on reformatory theory, focusing on rehabilitation rather than punishment. However, incidents like the 2012 Delhi gang rape case triggered public demand for stricter punishment for juveniles involved in heinous crimes. This creates a conflict between societal expectations of justice and the legal principle of child protection, making it essential to examine how the JJB balances these competing interests.

## 1.3 SIGNIFICANCE OF THE STUDY

The significance of the present study lies in its critical examination of how the Juvenile Justice Board functions as a bridge between reformatory justice and punitive accountability under the Juvenile Justice (Care and Protection of Children) Act, 2015. In a rapidly changing social environment where juvenile involvement in serious offences is increasing, this study provides an important understanding of whether the existing legal framework effectively addresses both the welfare of the child and the interests of society. It highlights the evolving nature of juvenile justice, especially after the introduction of provisions permitting the trial of certain juveniles as adults and evaluates their impact on the fundamental principle of rehabilitation. Further, the study is significant in assessing India's compliance with international child rights standards such as the United Nations Convention on the Rights of the Child, ensuring that justice mechanisms remain child-centric while not ignoring the need for deterrence in heinous crimes. It also contributes to academic and policy discussions by identifying gaps in implementation, infrastructural deficiencies, and challenges faced by Juvenile Justice Boards. Ultimately, the research is valuable in suggesting reforms that can strengthen the juvenile justice system, promote effective rehabilitation, reduce recidivism, and ensure a balanced approach that upholds both justice and humanity.

## 1.4 REVIEW OF LITERATURE

The issue of balancing rehabilitation and punishment within the juvenile justice system has been widely discussed by scholars, legal experts, and international organizations. The literature reflects a continuing debate between reformatory justice and the growing demand for accountability in cases involving serious offences by juveniles. Early works on juvenile justice emphasize the reformatory philosophy as the foundation of child-centric legal systems. These views strongly influenced the development of juvenile laws in India, including the Juvenile Justice (Care and Protection of Children) Act, 2000 and later the Juvenile Justice (Care and Protection of Children) Act, 2015. Scholars such as Upendra Baxi have critically examined the functioning of the juvenile justice system in India, pointing out the gap between legal provisions and actual implementation. Despite progressive laws, institutional failures such as lack of trained personnel, inadequate infrastructure, and social stigma hinder effective rehabilitation of juveniles. This perspective is important in understanding the practical challenges faced by Juvenile Justice Boards (JJBs).



## 1.5 RESEARCH GAP

Despite the growing body of literature on juvenile justice in India, significant gaps remain in understanding the specific role of the Juvenile Justice Board (JJB) in balancing rehabilitation and punishment. Existing studies largely focus either on the theoretical foundations of reformatory justice or on the broader framework of the Juvenile Justice (Care and Protection of Children) Act, 2015, but fail to provide a comprehensive, ground-level analysis of how this balance is actually achieved in practice. Firstly, most research emphasizes the conflict between rehabilitation and punishment at a conceptual level, without critically examining how JJBs exercise their discretionary powers—particularly in preliminary assessments of juveniles aged 16–18 involved in heinous offences. There is a lack of empirical and case-based studies analyzing decision-making patterns of JJBs, leading to a gap in understanding consistency, fairness, and effectiveness in their functioning. Secondly, existing literature highlights systemic issues such as lack of infrastructure, shortage of trained personnel, and procedural delays, but does not sufficiently link these challenges to their direct impact on the rehabilitative or punitive outcomes of cases. This creates a disconnect between institutional analysis and actual justice delivery. Additionally, although judicial decisions and legislative changes have been widely discussed, there is no integrated analysis connecting statutory provisions, case laws, and actual administrative practices of JJBs. This gap limits the ability to evaluate whether the legal framework truly achieves its intended balance.

## 1.6 RESEARCH PROBLEMS

- Whether the Juvenile Justice Board is effectively able to balance the principles of rehabilitation and punishment while dealing with children in conflict with law?
- Whether the introduction of preliminary assessment of the Act ensures fair and uniform decision-making by the Juvenile Justice Board in heinous offences?
- Whether the rehabilitative mechanisms provided under the juvenile justice system are sufficient to ensure the social reintegration of juvenile offenders?
- Whether the punitive elements introduced in the juvenile justice framework compromise the child-rights-based approach guaranteed under the United Nations Convention on the Rights of the Child?
- Whether there exists consistency in the functioning of Juvenile Justice Boards across different regions in India in handling similar categories of juvenile offences?

## 1.7 Objectives of the Study

- To examine the legal framework governing the Juvenile Justice Board (JJB) under the Juvenile Justice (Care and Protection of Children) Act, 2015 and analyze its objectives in dealing with children in conflict with law.
- To analyze the concept of rehabilitation in juvenile justice administration, including counselling, education, vocational training, and social reintegration measures provided under the Act.
- To study the punitive elements within the juvenile justice system, particularly in cases involving heinous offences and preliminary assessment procedures.
- To evaluate the powers, functions, and responsibilities of the Juvenile Justice Board in ensuring a child-friendly and reformatory approach while maintaining accountability.
- To assess the effectiveness of the Juvenile Justice Board in balancing reformation and deterrence, especially in light of recent amendments and judicial interpretations.
- To examine landmark judicial decisions such as *Dr. Subramanian Swamy v. Raju* and their impact on the approach toward juvenile punishment and rehabilitation.
- To identify practical challenges faced by Juvenile Justice Boards, including infrastructural limitations, lack of trained personnel, and societal stigma.



## 1.8 HYPOTHESIS

The present study on “Role of Juvenile Justice Board in Balancing Rehabilitation and Punishment” is based on the hypothesis that the Juvenile Justice Board (JJB), functioning under the Juvenile Justice (Care and Protection of Children) Act, 2015, is primarily designed to follow a reformative approach aimed at the rehabilitation and social reintegration of children in conflict with law, rather than imposing punitive sanctions.

## 1.9 Research Methodology

- Doctrinal research
- Analysis of statutes
- Case law analysis
- Secondary sources like journals, reports .

## 1.10 LIMITATION O THE STUDY

This study is primarily doctrinal in nature and relies on secondary sources such as statutes, case laws, journals, reports, and online materials. Due to the absence of direct fieldwork or empirical interviews with Juvenile Justice Board members, social workers, or juveniles, the practical insights into the functioning of JJBs are limited. There is limited availability of region-specific and updated statistical data regarding the actual functioning and outcomes of Juvenile Justice Boards, particularly in states like Tamil Nadu. This restricts the ability to make highly precise empirical conclusions.

The scope of the study is confined to the Indian legal framework, and while international instruments such as the United Nations Convention on the Rights of the Child are referred to for comparative understanding, a detailed comparative analysis with multiple foreign jurisdictions is not extensively covered. The judicial interpretations and legal provisions are constantly evolving. Therefore, any recent amendments, new case laws, or policy changes after the period of research may not be fully incorporated into this study. The study focuses mainly on the legal and institutional role of the Juvenile Justice Board, and does not deeply explore psychological or sociological dimensions of juvenile behaviour beyond legal interpretation due to word and time constraints typical of academic submission, the research cannot exhaustively cover every individual case or situational variation in juvenile justice proceedings across India.

## 1.11 SCHEME OF THE STUDY

The present research project on “Role of Juvenile Justice Board in Balancing Rehabilitation and Punishment” under the Juvenile Justice (Care and Protection of Children) Act, 2015 is systematically structured to ensure a clear and logical flow of analysis this study is divided into multiple chapters, each dealing with a specific aspect of juvenile justice and the functioning of the Juvenile Justice Board.

- Chapter 1: Introduction
- Chapter 2 : Conceptual framework
- Chapter 3 : Juvenile justice board composition and powers
- Chapter 4 : Rehabilitation mechanisms under the act
- Chapter 5 : Punishment elements in the board
- Chapter 6 : Judicial approach
- Chapter 7 : Challenges faced by juvenile justice board
- Chapter 8 : Critical analysis
- Chapter 9 : Suggestions and reforms
- Chapter 10 : Conclusion



## **CHAPTER II**

### **CONCEPTUAL FRAMEWORK**

#### **2.1 Meaning of Juvenile and Child in Conflict with Law**

Under Section 2(12) of the JJ Act, a child is a person below 18 years. The expression “Child in Conflict with Law” (CCL) is specifically defined under Section 2(13) of the Juvenile Justice (Care and Protection of Children) Act, 2015. It means: A child who is alleged or found to have committed an offence and who has not completed 18 years of age on the date of commission of such offence.

Important Elements: The person must be below 18 years. The offence must have been committed before attaining 18 years. The child may either be:

- Alleged to have committed an offence, or
- Found guilty after inquiry by the Juvenile Justice Board.

#### **2.2 Theories of Punishment in Juvenile Justice**

##### **1. Retributive Theory**

The retributive theory of punishment, which is based on the idea of “an eye for an eye,” is largely rejected in the juvenile justice framework. The Act discourages punitive measures such as imprisonment or harsh penalties, as they can have long-lasting negative effects on a child’s mental and emotional development. Instead, it replaces retribution with corrective measures such as community service, group counseling, and probation. The idea is that children should not suffer punishment for the sake of revenge but should be guided toward understanding the consequences of their actions

##### **2. Deterrent Theory**

The Act also incorporates elements of the deterrent theory, but in a very limited and modified manner. While traditional deterrence aims to prevent crime through fear of punishment, in juvenile justice this is softened to avoid psychological harm. For children aged 16–18 involved in heinous offences, the Act allows for a preliminary assessment and possible transfer to adult courts, thereby introducing a form of deterrence. However, even in such cases, the focus remains on reform rather than retribution, and safeguards are in place to ensure that the child’s rights are protected.

##### **3. Preventive (Incapacitation) Theory**

The offender is prevented from committing further crimes by restricting liberty (e.g., detention). Application in Juvenile Justice: , Used only when necessary. Children may be placed in:

- Observation Homes
- Special Homes

Detention is temporary and aimed at protection and reform, not punishment. Key Principle: Institutionalization is the last resort.

##### **4. Reformatory Theory (Most Important in Juvenile Justice)**

The primary theory reflected in the Act is the reformatory theory, which emphasizes that children in conflict with law are not hardened criminals but individuals capable of change. It recognizes that juvenile delinquency often arises from socio-economic factors, lack of education, family breakdown, or peer influence. Therefore, instead of imposing harsh penalties, the system focuses on counseling, education, vocational training, and



psychological support through institutions like Observation Homes and Special Homes. The aim is to reform the child's behavior and reintegrate them into society as responsible citizens

## 5. Restorative Theory

The retributive theory of punishment, which is based on the idea of “an eye for an eye,” is largely rejected in the juvenile justice framework. The Act discourages punitive measures such as imprisonment or harsh penalties, as they can have long-lasting negative effects on a child's mental and emotional development. Instead, it replaces retribution with corrective measures such as community service, group counseling, and probation. The idea is that children should not suffer punishment for the sake of revenge but should be guided toward understanding the consequences of their actions.

The Juvenile Justice Act incorporates multiple types of punishment theories—reformatory, rehabilitative, restorative, deterrent (limited), and welfare-oriented—while rejecting retributive principles. Together, these theories aim to strike a balance between accountability and compassion, ensuring that children are guided toward positive transformation rather than subjected to punitive suffering.

the Act reflects theory, which views juvenile offenders as children in need of care and protection rather than punishment. This theory underlines the entire juvenile justice framework, emphasizing that the State has a responsibility to ensure the well-being, development, and protection of children. It aligns with constitutional principles and international standards like the United Nations Convention on the Rights of the Child, which advocate for child-friendly justice systems. the theories of punishment under the Juvenile Justice Act are a blend of reformatory, rehabilitative, restorative, and welfare approaches, with minimal reliance on deterrence and almost complete rejection of retribution. The overarching objective is not to punish but to transform and reintegrate the child into society, ensuring both justice and the child's holistic development

### 2.3 Need for a balanced approach

A balanced approach is essential because juveniles are still in their formative years, and the justice system must protect society while also ensuring the child's future is not permanently damaged.

- Recognition of Juveniles as Reformable Individuals
- Ensuring Accountability for Serious Offences
- Protection of Society
- Compliance with Legal Principles
- Preventing Stigmatization
- Addressing Root Causes of Delinquency
- Promoting Restorative Justice

## CHAPTER III

### JUVENILE JUSTICE BOARD: COMPOSITION AND POWERS

#### 3.1 Composition

Under Section 4 of the Juvenile Justice (Care and Protection of Children) Act, 2015:

- Metropolitan Magistrate or Judicial Magistrate First Class
- Two social workers (at least one woman)

This ensures judicial and social perspectives.



### 3.2 Powers and Functions

**The Juvenile Justice Board (JJB):** To ensure a child-friendly approach in dealing with children in conflict with law. The Board, consisting of a Judicial Magistrate and two social workers, exercises both judicial and welfare functions. One of its primary powers is to inquire into cases involving juveniles and determine whether the child has committed an offence. Unlike regular criminal courts, the JJB follows informal and child-sensitive procedures, ensuring that the child is not subjected to intimidation or harsh treatment. It has the authority to conduct trials in a manner that protects the dignity and rights of the child, including holding proceedings in a non-adversarial environment.

Another crucial function of the Board is to ensure the proper care, protection, and development of the child during the inquiry process. It has the power to order the child to be placed in Observation Homes or under the supervision of probation officers or fit persons, instead of police custody or jail. The Board also directs the preparation of a Social Investigation Report, which helps in understanding the background, family conditions, and psychological status of the child. Based on this report, the Board makes decisions that are in the best interest of the child, focusing on rehabilitation rather than punishment.

The JJB also has the power to dispose of cases by passing appropriate orders under the Act. These include allowing the child to go home after advice or admonition, directing participation in group counseling or community service, imposing fines on parents or guardians, releasing the child on probation under the supervision of a probation officer, or sending the child to a Special Home for rehabilitation. Importantly, the Board cannot impose harsh punishments such as imprisonment or the death penalty, reflecting the reformatory nature of juvenile justice.

In cases involving heinous offences committed by children aged between 16 and 18 years, the Board performs a special function of conducting a preliminary assessment of the child's mental and physical capacity to commit the offence, their ability to understand the consequences, and the circumstances in which the offence was committed. Based on this assessment, the Board may decide whether the case should be transferred to the Children's Court for trial as an adult. This power is exercised with great caution and requires the assistance of psychologists or experts.

Further, the Board plays a vital role in ensuring legal aid and safeguarding the rights of the child. It ensures that the child has access to a legal practitioner and that their rights are not violated at any stage. The Board also monitors the work of institutions like Observation Homes and Special Homes, ensuring that proper facilities, education, and rehabilitation services are provided.

Additionally, the JJB has the function of rehabilitation and social reintegration of children. It formulates and supervises Individual Care Plans, encourages family-based care, and facilitates aftercare programs to help children reintegrate into society. The Board also collaborates with NGOs, social workers, and government agencies to provide support services such as counseling, education, and vocational training.

In conclusion, the Juvenile Justice Board under the Juvenile Justice Act exercises wide-ranging powers that combine judicial authority with welfare responsibilities. Its functions are centered on inquiry, protection, rehabilitation, and reintegration of children, ensuring that justice is delivered in a compassionate and reformatory manner rather than a punitive one.



### 3.3 Preliminary Assessment – A Shift Toward Punitive Approach

Under Section 15 of the JJ Act:

When a child aged between 16 and 18 years is alleged to have committed a heinous offence (offence with punishment of 7 years or more), the Juvenile Justice Board (JJB) must conduct a preliminary assessment regarding:

- Mental capacity to commit the offence
- Physical capacity to commit the offence
- Ability to understand the consequences
- Circumstances in which the offence was committed

The provision was introduced after the public outrage following the 2012 Delhi gang rape (Nirbhaya case), where one of the accused was a juvenile. This incident led to demands for stricter punishment for juveniles involved in serious crimes.

In *Dr. Subramanian Swamy v. Raju*, the Supreme Court upheld constitutional validity of treating all under 18 as juveniles under the old law, but later Parliament amended the Act in 2015. The shift toward a punitive approach is evident in the potential consequences of such transfer. If tried as an adult, the child may face stricter penalties, including longer periods of incarceration, although certain safeguards remain in place (such as separate detention from adult offenders until a certain age). This creates a dual system within juvenile justice, where some children are treated differently based on the gravity of their alleged offence and their perceived maturity. Critics argue that this undermines the fundamental principle that all children are capable of reform and should be treated within a protective framework. The purpose of this assessment is to evaluate the child's mental and physical capacity to commit the offence, their ability to understand its consequences, and the circumstances in which the offence was committed. Based on this evaluation, the Board may decide whether the child should be tried as an adult before a Children's Court.

However, the law attempts to balance this punitive shift with procedural safeguards. The preliminary assessment is not a trial but a careful evaluation that must be conducted by the JJB with the assistance of psychologists or experienced experts. The Board is required to consider the child's background, psychological state, and social environment before making a decision. Moreover, the assessment must be conducted in a child-friendly manner, and the child retains the right to appeal the Board's decision. These safeguards are intended to prevent arbitrary or unjust transfers to adult courts.

From a critical perspective, the introduction of preliminary assessment has sparked debate regarding its compatibility with international standards, particularly the United Nations Convention on the Rights of the Child, which emphasizes rehabilitation and prohibits treating children as adults in criminal justice systems. Opponents argue that it may lead to stigmatization and hinder the child's chances of reintegration, while supporters contend that it is necessary to address serious juvenile crimes and ensure justice for victims. The preliminary assessment provision represents a nuanced but clear shift toward a more punitive and deterrent-oriented approach within the juvenile justice framework. While it seeks to address the realities of serious juvenile offending, it also challenges the traditional reformatory philosophy of juvenile justice, creating an ongoing tension between the goals of child welfare and societal protection.



### 3.4 Balancing child rights and social interest

The Juvenile Justice Board plays a crucial role in balancing the rights of children in conflict with law with the broader interests of society. On one hand, children are entitled to protection, dignity, education, and opportunities for rehabilitation under the Juvenile Justice (Care and Protection of Children) Act, 2015, as they are considered capable of reform due to their age and vulnerability. The society expects the justice system to maintain public safety, protect victims, and ensure accountability for offences committed by juveniles. The JJB achieves this balance by adopting child-friendly procedures while also considering the seriousness of the offence, the juvenile's mental and physical maturity, and the potential risk to society. Rehabilitation measures such as counseling, education, and vocational training are prioritized to reform the child and prevent future offending, which ultimately serves social interests by reducing recidivism. Thus, the balanced approach of the JJB ensures that child rights are protected without compromising social order, creating a system that promotes both justice and long-term societal welfare.

## CHAPTER IV

### REHABILITATION MECHANISMS UNDER THE ACT

#### 4.1 Rehabilitation Measures

##### I. Institutional Rehabilitation Mechanisms

- Observation Homes
  - Temporary reception of children during inquiry.
  - Provide basic care, counseling, education, and medical support.
  - Ensure child-friendly environment.
- Special Homes
  - For children found to have committed offences.
  - Stay up to a maximum of 3 years.
  - Focus on:
    - Education
    - Vocational training
    - Behavioral therapy
    - Skill development
- Place of Safety
  - For children aged 16–18 involved in heinous offences.
  - Separate from adult prisons.
  - Focus on reform even when tried as adult.
- Children's Homes
  - For CNCP.
  - Provide shelter, food, clothing, healthcare, and emotional care.



## II. Non-Institutional Rehabilitation Mechanisms

The Act prefers family-based and community-based rehabilitation, considering institutionalization as a last resort.

- Adoption
  - Permanent rehabilitation for orphaned, abandoned, or surrendered children.
  - Child declared legally free for adoption.
  - Promotes stable family environment.
- Foster Care
  - Temporary family-based care.
  - Suitable when biological family is unavailable or unsafe.
  - Periodic monitoring by authorities.
- Sponsorship
  - Financial support to families to prevent abandonment.
  - Assists with education, health, and nutrition.
- Aftercare Programmes
  - Support for children leaving institutional care after 18 years.
  - Assistance in:
    - Education
    - Employment
    - Housing
    - Skill training

## III. Social Reintegration Measures

Section 39 of the Act emphasizes restoration and reintegration.

- Individual Care Plan
  - Prepared for every child.
  - Includes education, therapy, skill development, and reintegration strategy.
- Counseling and Psychological Support
  - Trauma care.
  - Behavioral correction.
  - Mental health support.
- Education and Vocational Training
  - Formal schooling.
  - Open schooling.
  - Skill-based training for employment.



➤ Community-Based Rehabilitation

- Community service.
- Supervision by probation officers.
- Family counseling.

#### IV. Role of Authorities in Rehabilitation

➤ Juvenile Justice Board (JJB)

- Orders rehabilitation measures for CCL.
- Ensures no child is sent to jail.

➤ Child Welfare Committee (CWC)

- Orders care and protection measures for CNCP.
- Monitors placement and restoration.

#### V. Principles Guiding Rehabilitation

The Act follows principles such as:

- Best interest of the child
- Presumption of innocence
- Fresh start principle (removal of disqualification)
- Institutionalization as last resort
- Dignity and worth of the child

It also aligns with international standards like the United Nations Convention on the Rights of the Child, which emphasizes reintegration into society.

#### 4.2 Individual Care Plan

An **Individual Care Plan** is a personalized rehabilitation and development strategy prepared for children in conflict with law or children in need of care and protection under the Juvenile Justice system. It is designed to address the specific needs, background, behavior, and future prospects of each child to ensure proper reform, social reintegration, and overall well-being. The ICP includes detailed information about the child's family background, educational status, emotional and psychological condition, health requirements, social environment, and the circumstances that led to the child's involvement in unlawful activities. Based on this assessment, the Juvenile Justice Board, Child Welfare Committee, probation officers, social workers, and counselors develop a structured plan focusing on education, vocational training, counseling, mental health support, behavioral correction, and family restoration.

In Chennai and other regions, the effective implementation of ICPs is essential for ensuring that juveniles are transformed into responsible citizens while safeguarding their rights. By focusing on individualized care, the Juvenile Justice system promotes reform, reduces recidivism, and strengthens the balance between child welfare and social justice.



### 4.3 Role of Observation Homes and Special Homes

**Observation Homes:** are temporary residential facilities established for juveniles during the pendency of inquiry before the Juvenile Justice Board. Their primary role is to provide safe custody, basic necessities, education, counseling, medical care, and psychological support while the child's case is being assessed. Observation Homes ensure that juveniles are kept away from adult offenders and are treated with dignity. They also help authorities understand the child's social background, behavior, and rehabilitation needs through social investigation reports.

**Special Homes:** on the other hand, are long-term rehabilitative institutions meant for juveniles who have been found involved in offences and require structured reformatory care. These homes focus on correctional measures through education, vocational training, skill development, therapy, and behavioral counseling. The objective is to reform juveniles and prepare them for successful reintegration into society as responsible individuals.

Both institutions play a significant role in balancing rehabilitation with accountability. They address the root causes of juvenile delinquency, such as poverty, abuse, neglect, or lack of education, while promoting discipline and social responsibility. In Chennai, the effectiveness of Observation Homes and Special Homes directly influences the success of juvenile justice administration by reducing repeat offences and ensuring child welfare.

## CHAPTER V

### PUNISHMENT ELEMENTS IN JUVENILE JUSTICE

#### 5.1 Concept of Punishment in Juvenile Law

The concept of punishment in juvenile law differs significantly from the traditional criminal justice system applied to adults. Juvenile law is based on the principle that children are developmentally immature, emotionally vulnerable, and more capable of reform than adult offenders. Therefore, the primary focus is not on retribution but on rehabilitation, reformation, and social reintegration.

Under the Juvenile Justice (Care and Protection of Children) Act, 2015, punishment for juveniles is designed to be corrective rather than punitive. The law recognizes that children in conflict with law often engage in offences due to social, economic, psychological, or environmental factors such as poverty, neglect, abuse, or peer pressure. The objective of juvenile punishment is to hold the child accountable while safeguarding their rights and future. Harsh penalties, such as death sentences or life imprisonment without the possibility of release, are prohibited for juveniles. Even in cases involving heinous offences committed by children aged 16–18, the law requires a preliminary assessment by the Juvenile Justice Board to determine the child's mental and physical capacity before deciding on further legal action.

Punishment in juvenile law also incorporates restorative justice principles, encouraging juveniles to understand the consequences of their actions, repair harm where possible, and rebuild their relationship with society. This approach reduces stigmatization and increases the likelihood of positive behavioral change.

#### 5.2 Classification of offences

Under the act the offences committed by children in conflict with law are classified into different categories based on the severity of punishment prescribed under the Indian Penal Code or other relevant laws. This classification helps the Juvenile Justice Board determine the appropriate legal response, balancing rehabilitation with accountability.



### ➤ Petty Offences

Petty offences are those for which the maximum punishment prescribed is imprisonment up to three years. These offences are considered less serious in nature and are generally addressed through counseling, probation, community service, or other reformatory measures. Examples may include minor theft, simple assault, or public nuisance.

### ➤ Serious Offences

Serious offences are offences for which the punishment prescribed is imprisonment between three and seven years. These offences require closer scrutiny by the Juvenile Justice Board, and the child may be placed under supervision, counseling, or rehabilitation programs. Examples include more significant theft, causing grievous hurt, or certain property-related crimes.

### ➤ Heinous Offences

Heinous offences are offences for which the minimum punishment prescribed is seven years or more. These include grave crimes such as rape, murder, or certain forms of aggravated assault. In cases where a child aged 16–18 is alleged to have committed a heinous offence, the Juvenile Justice Board conducts a preliminary assessment of the child's mental and physical capacity, ability to understand consequences, and circumstances of the offence. Based on this, the case may be transferred to the Children's Court for trial as an adult in exceptional cases.

This classification ensures that:

- Minor offenders are not subjected to unnecessarily harsh treatment
- Serious and heinous crimes receive proportionate legal attention
- Rehabilitation remains the central goal while maintaining public safety
- The justice system can adopt child-specific interventions based on offence gravity

## 5.3 Criticism of punitive provisions

The punitive provisions introduced under the Juvenile Justice (Care and Protection of Children) Act, 2015, particularly regarding children aged 16–18 accused of heinous offences, have attracted significant criticism from legal scholars, child rights activists, and social reformers. These provisions allow for the possibility of treating certain juveniles as adults after a preliminary assessment by the Juvenile Justice Board, which many argue undermines the rehabilitative philosophy of juvenile justice. One major criticism is that punitive measures contradict the fundamental principle that children, due to their age and psychological immaturity, are more capable of reform than adults. Subjecting juveniles to harsher punishments may expose them to stigmatization, social exclusion, and long-term psychological harm, reducing their chances of successful reintegration into society.

Critics also argue that the law's focus on punishment is often influenced by public outrage rather than scientific understanding of adolescent development. Neuroscientific studies suggest that juveniles may lack full emotional and cognitive maturity, making adult-like criminal responsibility inappropriate in many cases. Another concern is the subjective nature of the preliminary assessment process, where determining a juvenile's mental and physical capacity can be inconsistent and may lead to arbitrary decisions. This raises the risk of unequal treatment and misuse of discretion.



The possibility of trying juveniles as adults is also criticized for violating international child rights standards, particularly the principles laid down in the United Nations Convention on the Rights of the Child (UNCRC), which emphasizes rehabilitation over retribution. While punitive provisions aim to address serious juvenile crime and satisfy societal demands for justice, they are widely criticized for weakening child-centered justice, increasing stigmatization, and shifting the juvenile justice system away from its core objective of reformation and rehabilitation.

#### 5.4 Preliminary assessment under Section 15

Section 15 of the act provides for a **preliminary assessment** by the Juvenile Justice Board when a child aged between 16 and 18 years is alleged to have committed a heinous offence. This provision was introduced to determine whether such a juvenile should be treated within the juvenile justice framework or whether the matter should be transferred to the Children's Court for trial as an adult.

The preliminary assessment is not a trial but an evaluative process in which the Board examines the child's **mental and physical capacity to commit the offence**, the child's **ability to understand the consequences** of the act, and the **circumstances in which the offence was committed**. For this purpose, the Board may seek assistance from psychologists, psycho-social workers, or other experts. The main objective of Section 15 is to strike a balance between child protection and societal interest by ensuring that serious offences committed by older juveniles receive appropriate scrutiny. However, the assessment must be conducted carefully, keeping in mind that children are still developing emotionally and mentally. The preliminary assessment under Section 15 serves as a gateway mechanism that determines the future legal path of the juvenile.

## CHAPTER VI

### LANDMARK CASE LAWS AND JUDICIAL APPROACH

#### 6.1 Analysis of important judgments

Judicial decisions have played a significant role in shaping the juvenile justice system in India by interpreting the principles of rehabilitation, child rights, and accountability. Important judgments provide guidance on how the Juvenile Justice Act should be implemented while balancing the welfare of the child with societal interests.

In **Pratap Singh v. State of Jharkhand (2005)**, where the Supreme Court clarified that the relevant date for determining juvenility is the date of commission of the offence, not the date when the accused is brought before the court. This judgment strengthened child protection by ensuring that eligible juveniles receive the benefits of juvenile law.

In **Hari Ram v. State of Rajasthan (2009)**, the Supreme Court reaffirmed the beneficial nature of juvenile legislation and held that even those who were above 18 at the time of trial but below 18 at the time of offence could claim protection under the Juvenile Justice Act. This case reinforced the reformative philosophy of juvenile justice.

The **Mukesh & Anr. v. State (NCT of Delhi) (2017)**, commonly associated with the Nirbhaya case, triggered nationwide debate regarding juvenile involvement in heinous crimes. Although the juvenile offender was tried under the juvenile system, public criticism of perceived leniency influenced the enactment of the Juvenile Justice Act, 2015, introducing Section 15 for preliminary assessment.



In **Shilpa Mittal v. State (NCT of Delhi) (2020)**, the Supreme Court addressed the classification of offences and held that offences not fitting clearly within petty, serious, or heinous categories should be treated as serious offences. This judgment ensured legal clarity and prevented arbitrary classification.

These judgments collectively demonstrate the judiciary's evolving role in interpreting juvenile law. While earlier judgments strongly emphasized child welfare and rehabilitation, later developments reflect growing concern for public safety and accountability in serious offences.

## 6.2 Judicial Interpretation of Juvenile Justice principles

The judiciary has played a crucial role in interpreting and strengthening the principles of juvenile justice in India. Courts have consistently emphasized that the Juvenile Justice system is fundamentally based on the doctrines of **reformation, rehabilitation, restoration, and child welfare**, rather than retribution or harsh punishment. The principles recognized by the judiciary is that **juvenility must be determined based on the age of the accused at the time of commission of the offence**. In *Pratap Singh v. State of Jharkhand*, the Supreme Court upheld this principle, ensuring that children are not deprived of legal protection due to procedural delays.

Judicial interpretation has also supported the principle of **best interest of the child**, which requires authorities to consider the child's physical, emotional, educational, and social needs. Courts have repeatedly stated that children should not be exposed to the criminal justice system in the same manner as adults. The enactment of the Juvenile Justice Act, 2015, the judiciary has recognized a nuanced approach in dealing with heinous offences committed by juveniles aged 16–18. Through Section 15 assessments, courts have acknowledged the need to balance rehabilitation with public safety, though they continue to caution against abandoning child-centric principles.

The judiciary has further upheld principles such as:

- Presumption of innocence
- Dignity and worth of the child
- Fresh start without stigma
- Institutionalization as a last resort
- Social reintegration

## CHAPTER VII

### CHALLENGES FACED BY JUVENILE JUSTICE BOARD

#### 7.1 Constitutional Provisions relating to children

The Constitution of India provides several safeguards to protect the rights, welfare, and development of children. These provisions form the foundation of child protection laws, including juvenile justice, by ensuring that children are treated with dignity and given opportunities for healthy growth.

- **Article 14** guarantees equality before law and equal protection of laws to all persons, including children. It ensures that children are not discriminated against and receive fair legal treatment.
- **Article 15(3)** empowers the State to make special provisions for women and children. This enables the government to enact child welfare laws, protective legislation, and affirmative measures for children's development.



- **Article 21** guarantees the right to life and personal liberty, which has been judicially interpreted to include the right to live with dignity, access education, health, and protection from exploitation.
- **Article 21A** specifically provides the right to free and compulsory education for children between the ages of 6 and 14 years, recognizing education as a fundamental right essential for child development.
- **Article 23** prohibits trafficking, begar, and forced labor, thereby protecting children from exploitation and abuse.
- **Article 24** expressly prohibits the employment of children below the age of 14 years in factories, mines, or hazardous occupations.
- **Article 51A(k)** imposes a fundamental duty on parents or guardians to provide education to children between 6 and 14 years.

Together, these constitutional provisions establish a comprehensive legal framework for protecting children's rights and promoting their welfare.

## 7.2 Role of directive principles

The Directive Principles of State Policy (DPSPs), contained in Part IV of the Constitution of India, play a significant role in shaping laws and policies related to child welfare and juvenile justice. Although these principles are non-justiciable, they serve as fundamental guidelines for the State in establishing a social order based on justice, equality, and protection of vulnerable groups, including children. The Directive Principles emphasize the State's responsibility to ensure healthy development, protection from exploitation, and access to education and opportunities.

- **Article 39(e)** directs the State to protect children from abuse and from being forced by economic necessity into unsuitable occupations.
- **Article 39(f)** mandates that children should be given opportunities to develop in conditions of freedom, dignity, and protection against moral and material abandonment.
- **Article 45** originally focused on free and compulsory education and now emphasizes early childhood care and education for young children. This principle strengthens the foundation for educational and developmental rights of children.

The Directive Principles also influence the formulation of welfare legislation such as the Juvenile Justice (Care and Protection of Children) Act, child labor laws, and policies for child rehabilitation. They encourage the government to prioritize reformative approaches over punitive measures and promote social justice for children in conflict with law. The Directive Principles serve as the moral and constitutional backbone for child-centered governance. They guide legislative reforms, judicial interpretation, and policy initiatives aimed at safeguarding children's rights, ensuring rehabilitation, and fostering an environment where children can grow into responsible citizens. Thus, DPSPs remain crucial in promoting social justice and strengthening the legal framework for child protection in India.

## 7.3 International frame works

International frameworks play a vital role in shaping juvenile justice systems by establishing global standards for the protection, treatment, and rehabilitation of children in conflict with law. India's juvenile justice laws and policies are significantly influenced by these international conventions and guidelines, which emphasize child rights, dignity, and reformative justice.

- The **United Nations Convention on the Rights of the Child (UNCRC), 1989**, which India ratified in 1992. The UNCRC recognizes every child's right to survival, development, protection, and participation.



It requires that children accused of offences be treated in a manner consistent with their dignity and worth, with rehabilitation and reintegration as primary objectives.

- The **Beijing Rules (United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985)** provide comprehensive guidelines for juvenile justice administration. They stress the importance of proportionality, diversion from formal judicial proceedings, and the use of institutionalization only as a last resort.
- The **Riyadh Guidelines (1990)** focus on the prevention of juvenile delinquency by addressing social, educational, and family-based factors that contribute to youth offending. These guidelines encourage community support and social development.
- The **Havana Rules (United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990)** establish standards for the care, treatment, and protection of juveniles placed in institutions, ensuring humane conditions and respect for fundamental rights.
- The **Universal Declaration of Human Rights (UDHR)** and the **International Covenant on Civil and Political Rights (ICCPR)** reinforce the protection of children's dignity and legal safeguards.

**These international frameworks collectively promote principles such as:**

- Best interests of the child
- Rehabilitation and reintegration
- Protection from cruel or degrading treatment
- Fair trial rights
- Institutionalization as a last resort

## CHAPTER VIII

### CRITICAL ANALYSIS

The Juvenile Justice Board (JJB), established under the Juvenile Justice (Care and Protection of Children) Act, 2015, is entrusted with the delicate task of balancing rehabilitation and punishment for children in conflict with law. While the Act is primarily reformative, the inclusion of limited punitive provisions—particularly for heinous offences—has generated significant legal and ethical debate.

A major strength of the JJB lies in its child-centric and reformative approach. The Board conducts inquiries rather than criminal trials, ensures bail as a rule, prohibits imprisonment in regular jails, and prioritizes counseling, probation, community service, and placement in Special Homes. These measures reflect the principle of the *best interest of the child* and align with international standards such as the United Nations Convention on the Rights of the Child, which emphasizes reintegration over retribution.

However, the introduction of preliminary assessment under Section 15 for children aged 16–18 involved in heinous offences marks a shift toward a semi-punitive framework. The JJB must assess mental and physical capacity and the ability to understand consequences before deciding whether to transfer the case to the Children's Court. Critics argue that this provision risks undermining the reformative philosophy of juvenile justice by exposing adolescents to adult trial processes. The Supreme Court in *Shilpa Mittal v. State (NCT of Delhi)* highlighted the need for strict interpretation of offence classification, thereby limiting arbitrary use of punitive provisions and reinforcing procedural safeguards.

Another concern is the subjectivity involved in preliminary assessment. The lack of trained psychologists and uniform standards may lead to inconsistent decisions across jurisdictions. Moreover, public pressure in high-profile cases may influence the Board's discretion, potentially diluting child rights protections. On the other



hand, supporters argue that the JJB's power to transfer cases ensures accountability in exceptionally grave crimes and responds to societal concerns about rising juvenile involvement in serious offences.

From a practical standpoint, infrastructural deficiencies, delays in case disposal, and weak monitoring of rehabilitation orders hinder the Board's effectiveness. Without adequate rehabilitation facilities and aftercare support, the reformative goals remain theoretical rather than fully realized.

The Juvenile Justice Board represents a hybrid justice model—predominantly reformative but cautiously incorporating punitive elements for serious offences. While the framework seeks to balance child welfare with societal interests, its success depends on careful application, expert involvement, and strong institutional support to ensure that the rehabilitative spirit of juvenile justice is not overshadowed by punitive tendencies.

The JJB's balancing mechanism is theoretically sound but practically fragile. The success of this balance depends on:

- Availability of expert psychologists
- Proper training of Board members
- Insulation from media pressure
- Strengthening rehabilitation infrastructure
- Effective monitoring of aftercare

If these safeguards function properly, the punitive provisions remain exceptional and controlled. However, if misapplied, they risk transforming juvenile justice into a semi-criminal justice system. The Juvenile Justice Board (JJB), constituted under the Juvenile Justice (Care and Protection of Children) Act, 2015, occupies a central position in India's juvenile justice system. It is entrusted with the complex responsibility of balancing two competing objectives: rehabilitation of the child and accountability for criminal behaviour. Another area of concern is the lack of uniformity and consistency in decision-making by Juvenile Justice Boards. The success of rehabilitation largely depends on the discretion, sensitivity, and expertise of Board members, but in practice, there is variation in how cases are handled. Inadequate training and lack of specialized knowledge in child psychology can affect the quality of decisions, including rehabilitation plans.

## CHAPTER IX

### SUGGESTIONS AND REFORMS

The effective functioning of the Juvenile Justice Board (JJB) under the Juvenile Justice (Care and Protection of Children) Act, 2015 requires structural, procedural, and policy-level reforms to ensure a genuine balance between rehabilitation and accountability. First, there is a pressing need to strengthen the rehabilitative infrastructure attached to the JJB, including well-equipped observation homes, access to trained child psychologists, social workers, probation officers, and vocational trainers. Without adequate institutional support, the reformative mandate of the Board risks becoming merely symbolic. The government must allocate dedicated funds to improve child care institutions and ensure periodic monitoring of their standards.

The clearer guidelines should be framed for conducting preliminary assessments in cases involving children aged 16–18 accused of heinous offences. At present, inconsistencies in psychological evaluation and the absence of uniform assessment protocols may lead to subjective decision-making. Establishing standardized assessment models with multidisciplinary expert involvement would enhance transparency, fairness, and child-sensitive adjudication. Continuous training programmes for JJB members on child psychology, criminology, restorative justice principles, and trauma-informed approaches should be made mandatory to ensure informed decision-making.



The restorative justice framework should be formally integrated into JJB proceedings. Mechanisms such as victim-offender mediation, family group conferencing, and community-based rehabilitation can bridge the gap between societal demands for justice and the child's need for reintegration. Such approaches align with international obligations under the United Nations Convention on the Rights of the Child, which emphasizes the best interests of the child and reintegration into society.

The periodic judicial review and independent oversight mechanisms should be strengthened to prevent procedural delays and safeguard children's rights. Digital case management systems may be introduced to ensure transparency and expedite inquiries. Awareness programmes for parents, communities, and law enforcement authorities are equally essential to reduce stigmatization and promote a reformative outlook toward juvenile offenders.

The legislative reconsideration may be undertaken to reassess the balance between punitive transfer provisions and rehabilitative objectives, ensuring that societal pressure does not overshadow child rights jurisprudence. The long-term goal of reform must be to transform the Juvenile Justice Board from a quasi-criminal forum into a therapeutic and restorative institution that upholds constitutional morality while ensuring proportional accountability.

- Strengthen psychological assessment mechanisms.
- Increase trained child psychologists in JJB.
- Improve infrastructure of observation homes.
- Mandatory legal aid awareness.
- Community-based rehabilitation programs.
- Periodic monitoring by High Courts.
- Avoid sensational media coverage.

## CHAPTER X

### CONCLUSION

The Juvenile Justice Board serves as a bridge between compassion and accountability. While the juvenile justice system in India is fundamentally reformative, the inclusion of punitive elements for heinous offences represents a pragmatic approach to contemporary realities. Juvenile Justice Board (JJB), constituted under the Juvenile Justice (Care and Protection of Children) Act, 2015, occupies a pivotal position in India's juvenile justice framework by attempting to reconcile two seemingly conflicting objectives-rehabilitation of the child and accountability for unlawful conduct. The Board is not designed as a conventional criminal court, but as a specialized, child friendly forum that prioritizes reformative justice while ensuring that serious offences do not go unaddressed. Through its child centric procedures, emphasis on social investigation reports, counselling, and rehabilitation measures, the JJB reflects the constitutional commitment to dignity, equality, and the best interests of the child. At the same time, the introduction of preliminary assessment in heinous offences involving children aged 16–18 demonstrates the legislature's effort to respond to societal concerns regarding deterrence and public safety.

The effectiveness of this balancing act ultimately depends on the sensitivity, expertise, and institutional capacity of the Board. Where rehabilitation is meaningfully implemented through education, psychological support, and community reintegration, the system strengthens both justice and social harmony. Conversely, if punitive considerations overshadow reformative principles, the foundational philosophy of juvenile justice risks dilution. Therefore, the true success of the Juvenile Justice Board lies in its ability to harmonize compassion with responsibility ensuring that children in conflict with law are corrected, not condemned, and reintegrated as responsible members of society while maintaining public confidence in the justice system.



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