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STRIKING THE BALANCE: REHABILITATION AND ACCOUNTABILITY FOR JUVENILE OFFENDERS IN INDIA

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ABSTRACT

This paper critically examines the dual imperatives of rehabilitation and accountability within India's Juvenile Justice (Care and Protection of Children) Act, 2015. Employing a mixed-methods approach, combining doctrinal analysis of statutes and case law with a qualitative review of academic literature, it investigates how international norms, developmental psychology, and classical criminology inform India's juvenile justice framework. Key findings reveal that while rehabilitation remains the foundational principle underpinned by the United Nations Convention on the Rights of the Child and the Beijing Rules, accountability mechanisms have been strengthened for juveniles aged sixteen to eighteen who commit heinous offences. However, implementation gaps persist due to inadequate infrastructure, limited trained personnel, societal stigma, and weak aftercare programs. Comparative insights from Scandinavia, the United States, Germany, and Japan demonstrate the efficacy of restorative conferencing, diversion schemes, vocational training, and family-centred models in reducing recidivism. The paper concludes by recommending a calibrated policy mix: enhancing institutional capacity, professional training in child psychology, robust aftercare services, and clear statutory guidelines for preliminary assessments of serious offences. A balanced framework, integrating proportionate accountability with individualized rehabilitation can redirect juvenile offenders toward law-abiding lives while safeguarding public safety and upholding children's rights.

INTRODUCTION

Juvenile justice systems worldwide grapple with the challenge of reconciling two seemingly divergent aims: reforming young offenders through rehabilitative measures, and holding them accountable for their actions to ensure public safety. In India, this tension is encapsulated in the Juvenile Justice (Care and Protection of Children) Act, 2015, which, while preserving the welfare-oriented ethos inherited from earlier laws, introduced provisions allowing

juveniles aged sixteen to eighteen to face adult-level accountability for heinous offences. This legislative turn followed public outrage after high-profile crimes involving minors and reflects a broader global trend towards hybrid models that balance child-centred care with deterrent sanctions.

Despite its progressive aspirations, the Act's implementation has exposed persistent faults in the juvenile justice architecture. Observation and special homes remain overcrowded and

under-resourced; Juvenile Justice Boards and Child Welfare Committees often lack qualified psychologists and social workers; and aftercare services for reintegrating youth are rudimentary at best. The resulting disconnect between statutory mandates and on-ground realities undermines both rehabilitation and the credibility of accountability mechanisms.

This paper addresses these lacunae by first outlining the theoretical underpinnings of rehabilitation (rooted in developmental neuroscience and human rights law) and accountability (drawing on retributive and deterrence theories). It then maps India's legal framework—highlighting the roles of Juvenile Justice Boards, Child Welfare Committees, and landmark Supreme Court judgments and identifies key challenges in implementing rehabilitative programs. Next, the study draws on international best practices, from restorative conferencing in Scandinavia to vocational training in Germany, to illustrate adaptable models that have demonstrably lowered juvenile recidivism. Finally, it proposes policy reforms aimed at strengthening infrastructure, professional capacity, aftercare networks, and clearer statutory guidance for assessing serious offences. By weaving together doctrinal analysis, empirical insights, and comparative examples, this paper argues that a calibrated approach, one that affirms accountability without sacrificing rehabilitation offers the most effective pathway for juvenile justice in India.

REHABILITATION THEORY

Definition and Core Principles: Rehabilitation Theory

Rehabilitation theory is a foundational principle in criminal justice, emphasizing the reformation and reintegration of offenders rather than punitive measures. It is particularly significant in juvenile justice, where the primary objective is to reform young offenders rather than punish them harshly. The 1985 Beijing Rules emphasize that juvenile justice systems should prioritize the

well-being of the child and adopt measures that facilitate rehabilitation.¹⁶⁶⁶

Rehabilitation, in the context of juvenile justice, refers to structured interventions aimed at addressing the underlying causes of delinquent behaviour, such as poverty, lack of education, family instability, and peer influence. This approach is rooted in developmental psychology, which recognizes that juveniles are still in a formative stage and, with proper guidance, can be rehabilitated into law-abiding citizens.¹⁶⁶⁷

Origins and Evolution of Rehabilitation Theory

The concept of rehabilitation in criminal justice has its roots in classical criminology, particularly in the works of Cesare Beccaria and Jeremy Bentham, who argued that punishment should serve a utilitarian purpose—that is, to prevent future crimes rather than inflict suffering.¹⁶⁶⁸ However, it was in the 19th and 20th centuries that the rehabilitation model gained traction, particularly through the work of penologists and social reformers who viewed criminal behaviour as a consequence of socioeconomic and psychological factors.

In juvenile justice, the rehabilitation model was formally recognized in 1909 with the establishment of the first juvenile court in the United States, which operated under the principle of *parens patriae* (the state acting as a guardian for children). The Juvenile Justice (Care and Protection of Children) Act, 2000 in India reflected similar principles, emphasizing care, protection, and rehabilitation over retribution.¹⁶⁶⁹

Significance of Rehabilitation in Juvenile Justice

The importance of rehabilitation in juvenile justice arises from the following key factors:

¹⁶⁶⁶ United Nations Standard Minimum Rules for the Administration of Juvenile Justice 1985 (Beijing Rules), rule 5.1

¹⁶⁶⁷ Laurence Steinberg, *Adolescence* (McGraw-Hill 2016) 115

¹⁶⁶⁸ Cesare Beccaria, *On Crimes and Punishments* (1764, Hackett Publishing 1986) 72

¹⁶⁶⁹ Juvenile Justice (Care and Protection of Children) Act 2000, s 15

Psychological and Neuroscientific Perspectives

Scientific studies indicate that adolescents' brains are not fully developed, particularly in areas responsible for impulse control, decision-making, and risk assessment.¹⁶⁷⁰ The United States Supreme Court in *Roper v Simmons*¹⁶⁷¹ recognized this principle, holding that juveniles cannot be sentenced to death as their cognitive abilities are still developing.

Legal and Ethical Justifications

International human rights instruments such as the United Nations Convention on the Rights of the Child (UNCRC), 1989 emphasize the need for child-friendly justice systems that promote rehabilitation.¹⁶⁷² Article 40 of the UNCRC mandates that states should ensure that juveniles are dealt with in a manner that promotes reintegration and a constructive role in society.¹⁶⁷³

Empirical Evidence Supporting Rehabilitation Over Punishment

Studies have shown that rehabilitation programs focusing on education, skill development, and psychological counselling significantly reduce recidivism rates among juvenile offenders.¹⁶⁷⁴ Incarceration without rehabilitation, on the other hand, has been linked to higher rates of repeat offenses and deeper entrenchment in criminal behaviour.¹⁶⁷⁵

Judicial Approach in India

Indian courts have consistently upheld the rehabilitative intent of juvenile justice laws. In *Sheela Barse v Union of India* (1986), the Supreme Court of India emphasized that children in conflict with the law should not be treated as criminals but as individuals in need of care and rehabilitation.¹⁶⁷⁶

¹⁶⁷⁰ BJ Casey, 'The Adolescent Brain: A Work in Progress' (2008) 28 *Current Directions in Psychological Science* 122

¹⁶⁷¹ *Roper v Simmons*, 543 US 551 (2005)

¹⁶⁷² United Nations Convention on the Rights of the Child 1989, art 40

¹⁶⁷³ *ibid*

¹⁶⁷⁴ National Crime Records Bureau, *Crime in India 2020* (Ministry of Home Affairs, Government of India 2021) 203

¹⁶⁷⁵ Richard J Bonnie and Elizabeth Scott, 'The Teenage Brain: Adolescent Brain Development and Legal Policy' (2013) 22 *Current Directions in Psychological Science* 130

¹⁶⁷⁶ *Sheela Barse v Union of India* (1986) 3 SCC 632

Rehabilitation remains the cornerstone of juvenile justice, ensuring that young offenders are given the opportunity to reform rather than being subjected to punitive measures that could harm their future. The Juvenile Justice (Care and Protection of Children) Act, 2015, while introducing stricter provisions for heinous offenses, continues to uphold the rehabilitative spirit of juvenile justice. As India grapples with the challenges of juvenile delinquency, a balanced approach that integrates rehabilitation with accountability remains crucial in shaping a fair and effective juvenile justice system.

THEORETICAL PERSPECTIVES

Rehabilitation Theory

Rehabilitation in juvenile justice emphasizes reforming and reintegrating young offenders into society instead of subjecting them to punitive measures. This approach is founded on the principle that juveniles, due to their age and developmental stage, should be given an opportunity for correction rather than facing severe punishment. The Juvenile Justice (Care and Protection of Children) Act, 2015, prioritizes rehabilitation by incorporating mechanisms such as counselling, skill development, and community-based reintegration programs.¹⁶⁷⁷

On an international level, the United Nations Convention on the Rights of the Child (UNCRC) underscores the need for a child-friendly justice system, advocating for reformative interventions rather than incarceration.¹⁶⁷⁸ Similarly, the Beijing Rules (1985) encourage the minimal use of institutionalization for juvenile offenders, emphasizing rehabilitative measures.¹⁶⁷⁹ The Indian Supreme Court, in *Sheela Barse v. Union of India*, reinforced the importance of educational and psychological support for juveniles in conflict with the law.¹⁶⁸⁰

¹⁶⁷⁷ Juvenile Justice (Care and Protection of Children) Act 2015, s 3

¹⁶⁷⁸ UN General Assembly, 'Convention on the Rights of the Child' (adopted 20 November 1989, entered into force 2 September 1990) UNTS 1577.

¹⁶⁷⁹ United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) 1985

¹⁶⁸⁰ *Sheela Barse v. Union of India* (1986) 3 SCC 632

Despite its advantages, the rehabilitative approach faces obstacles such as insufficient infrastructure, lack of specialized personnel, and social stigma. To ensure successful reintegration of juveniles, there is a pressing need to enhance policy frameworks and improve implementation mechanisms within the juvenile justice system.

Accountability

Accountability in juvenile justice is a complex and evolving concept that straddles legal, philosophical, and criminological theories. The principle of accountability suggests that individuals, including juveniles, should be held responsible for their actions, though the extent and manner of this responsibility vary depending on different theoretical perspectives. In contrast to rehabilitation, which focuses on reforming offenders, accountability emphasizes consequences, deterrence, and societal protection. Various legal theories provide distinct justifications for imposing accountability on juveniles, including.

Justice and Accountability

Retributive justice is one of the oldest theories underpinning accountability. It asserts that punishment is justified because offenders deserve it based on their moral culpability. This theory finds resonance in the work of Immanuel Kant, who argued that justice demands a proportional response to wrongdoing, regardless of the offender's background or circumstances.¹⁶⁸¹ The Indian juvenile justice system, however, tempers retributive ideals by recognizing the developmental vulnerabilities of children. Nonetheless, in cases involving heinous offenses, such as those covered under the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act, 2015), juveniles aged 16–18 may be tried as adults, reflecting a partial acceptance of retributive accountability.¹⁶⁸²

Deterrence Theory and Juvenile Accountability

Deterrence theory, advanced by Cesare Beccaria and Jeremy Bentham, posits that individuals make rational choices to commit crimes based on potential costs and benefits.¹⁶⁸³ From this perspective, imposing penalties on juveniles serves to dissuade both the individual offender (specific deterrence) and society at large (general deterrence) from engaging in criminal activities. The Supreme Court of India, in cases such as *Salil Bali v. Union of India*,¹⁶⁸⁴ has acknowledged the necessity of striking a balance between deterrence and rehabilitation. However, critics argue that juveniles, due to their cognitive immaturity, may not always make rational cost-benefit calculations, reducing the effectiveness of deterrence-based accountability.¹⁶⁸⁵

REHABILITATION VS. RETRIBUTION: THEORETICAL DEBATE IN JUVENILE JUSTICE

The debate between rehabilitation and retribution is central to the field of juvenile justice. While rehabilitation focuses on reforming offenders and reintegrating them into society, retribution emphasizes punishment as a deterrent and a means of ensuring justice for victims. This debate has significant implications for how juvenile offenders are treated under the law, particularly in cases involving heinous crimes.

In India, the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act, 2015) adopts a rehabilitative approach, but it also allows for retributive measures in certain cases where juveniles aged 16 to 18 years commit heinous offenses. This section explores the justifications for rehabilitation over punitive measures, the judicial perspectives on juvenile justice, and the balancing act between reformation and punishment.

¹⁶⁸¹ Immanuel Kant, *The Metaphysics of Morals*, trans. Mary Gregor (Cambridge University Press, 1996), 105

¹⁶⁸² The Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2016 (India)

¹⁶⁸³ Cesare Beccaria, *On Crimes and Punishments*, trans. Henry Paolucci (Prentice-Hall, 1963), 9-10

¹⁶⁸⁴ *Salil Bali v. Union of India*, (2013) 7 SCC 705

¹⁶⁸⁵ Elizabeth Cauffman and Laurence Steinberg, "Emerging Findings on Adolescent Development and Juvenile Justice," *Victims & Offenders* 1, no. 2 (2006): 129-148

Justifications for Rehabilitation Over Punitive Measures

The preference for rehabilitation over retribution in juvenile justice is grounded in various legal, psychological, and sociological justifications.

Psychological and Developmental Justifications

Scientific research supports the argument that adolescents lack full cognitive development, affecting their ability to assess risks, control impulses, and understand the long-term consequences of their actions. The U.S. Supreme Court, in *Roper v Simmons (2005)*,¹⁶⁸⁶ recognized that juveniles are developmentally different from adults, making them less culpable and more amenable to rehabilitation.

In India, this principle has been acknowledged in several cases, including *Salil Bali v Union of India (2013)*,¹⁶⁸⁷ where the Supreme Court upheld the constitutional validity of treating juveniles separately from adults, emphasizing their capacity for reform.

Legal and Human Rights Perspectives

International human rights law strongly supports rehabilitative justice for juveniles.

- The United Nations Convention on the Rights of the Child (UNCRC), 1989, which India ratified in 1992, mandates that juveniles be treated in a manner consistent with their age and capacity for reintegration into society.¹⁶⁸⁸
- The Beijing Rules (1985) emphasize that detention and punishment should be used as last resorts.¹⁶⁸⁹

The JJ Act, 2015, aligns with these principles by prioritizing reformation, skill development, and social reintegration over harsh punitive measures.¹⁶⁹⁰

¹⁶⁸⁶ *Roper v Simmons*, 543 US 551 (2005)

¹⁶⁸⁷ *Salil Bali v Union of India* (2013) 7 SCC 705

¹⁶⁸⁸ UN General Assembly, 'Convention on the Rights of the Child' (adopted 20 November 1989, entered into force 2 September 1990) 1577 UN'TS 3

¹⁶⁸⁹ UN General Assembly, 'Beijing Rules' (1985) A/RES/40/33

¹⁶⁹⁰ Juvenile Justice (Care and Protection of Children) Act 2015, s 3

Social and Economic Benefits of Rehabilitation

Studies indicate that punitive approaches lead to higher recidivism rates, while rehabilitative programs reduce repeat offences.¹⁶⁹¹ Instead of incarcerating young offenders, vocational training, education, and psychological counselling help juveniles become law-abiding citizens, reducing long-term social and economic costs.

Retribution: Arguments for Punishment in Juvenile Justice

Despite the strong arguments for rehabilitation, some legal and societal perspectives advocate retribution in juvenile justice, especially for heinous crimes like rape, murder, and terrorism-related offenses.

a. The need for Deterrence

Retributive theorists argue that lenient punishments for juveniles may encourage more criminal behaviour. The Supreme Court of India, in *Heeralal v State of MP (2020)*,¹⁶⁹² noted that juveniles who commit heinous offenses should not escape responsibility merely because of their age.

b. The 'Adult Crime, Adult Time' argument

A major criticism of rehabilitation-centric juvenile laws is that they fail to address the gravity of certain offenses. In the *Nirbhaya* case (2012), one of the perpetrators was a juvenile who received only three years of institutional care, sparking public outrage and legal reforms.¹⁶⁹³ The JJ Act, 2015, was amended to allow juveniles aged 16–18 to be tried as adults in cases of heinous crimes.¹⁶⁹⁴

LEGAL FRAMEWORK FOR REHABILITATION IN INDIA

The rehabilitation vs. retribution debate in juvenile justice remains complex and evolving. While rehabilitation is widely accepted as the

¹⁶⁹¹ National Crime Records Bureau, *Crime in India Report 2019* (Ministry of Home Affairs, Government of India 2020) 225

¹⁶⁹² *Heeralal v State of MP* (2020) 15 SCC 405

¹⁶⁹³ *Mukesh v State (NCT of Delhi)* (2017) 6 SCC 1

¹⁶⁹⁴ Juvenile Justice (Care and Protection of Children) Act 2015, s 15

preferred approach, certain heinous crimes necessitate stricter legal measures to ensure accountability. The JJ Act, 2015, attempts to balance both principles, ensuring that juveniles who can reform receive rehabilitation, while those committing heinous crimes face proportionate consequences.

Moving forward, legal reforms should focus on strengthening rehabilitation programs while ensuring that juvenile offenders do not escape justice in cases of extreme offenses.

Insight into Rehabilitation

Rehabilitation is a cornerstone of the juvenile justice system in India, emphasizing reform over retribution. The legal framework governing rehabilitation is primarily enshrined in the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act, 2015), which seeks to reintegrate juveniles into society while ensuring their rights and dignity. The Act embodies India's commitment to international principles, particularly the United Nations Convention on the Rights of the Child (UNCRC) 1989, which recognizes that juveniles should be treated differently from adult offenders due to their mental and emotional immaturity.¹⁶⁹⁵

This section explores the JJ Act, 2015, the role of Juvenile Justice Boards (JJBs), Child Welfare Committees (CWCs), and courts, and the mechanisms in place to rehabilitate juveniles in conflict with the law.

Role of Juvenile Justice Boards (JJBs) in Rehabilitation

The Juvenile Justice Board (JJB) is a quasi-judicial body that determines the legal course for juveniles in conflict with the law. It consists of a Metropolitan Magistrate or Judicial Magistrate and two social workers (one being a woman).¹⁶⁹⁶

Key responsibilities of JJBs include:

- Assessing whether a juvenile (aged 16–18) should be tried as an adult for heinous offenses.
- Ensuring rehabilitation remains a primary objective in cases involving juveniles.
- Referring juveniles to rehabilitation centres, counselling services, or foster care programs.

The Supreme Court in *Shilpa Mittal v. State of NCT of Delhi* (2020) clarified that JJBs must prioritize rehabilitation over punitive measures, ensuring juveniles are not subjected to the harshness of adult trials unnecessarily.¹⁶⁹⁷

Role of Child Welfare Committees (CWCs) in Rehabilitation

The Child Welfare Committee (CWC) is a specialized body that deals with juveniles in need of care and protection. CWCs play a crucial role in rehabilitation by:¹⁶⁹⁸

- Identifying children requiring special care, including those rescued from trafficking, child labour, or abuse. This includes differentiating them from the CCL.
- Placing juveniles in foster care, adoption, or sponsorship programs.
- Ensuring psychological counselling, education, and vocational training for affected juveniles.

In *Bachpan Bachao Andolan vs. Union of India* (2011), the Supreme Court emphasized the importance of CWCs in ensuring the rehabilitation of children rescued from exploitative conditions.¹⁶⁹⁹

Rehabilitation Mechanisms under Indian Law

Several mechanisms support the rehabilitation of juveniles, including:

a. Special Homes and Observation Homes

¹⁶⁹⁵ United Nations Convention on the Rights of the Child 1989, art 40
¹⁶⁹⁶ *ibid* s 4

¹⁶⁹⁷ *Shilpa Mittal v State (NCT of Delhi)* (2020) 2 SCC 787

¹⁶⁹⁸ *ibid* s 27

¹⁶⁹⁹ *Bachpan Bachao Andolan v Union of India* (2011) 5 SCC 1

- These institutions provide **structured rehabilitation programs**, including **education, vocational training, and therapy**.
- They aim to **prevent recidivism** by ensuring juveniles develop **life skills and employability**.

b. Vocational Training and Skill Development

- The **Skill India Mission** and other government initiatives offer **training in trades like carpentry, tailoring, and computer literacy**.
- The Supreme Court, in **M.C. Mehta v. State of Tamil Nadu (1996)**, mandated that child labourers must be rehabilitated through skill training.¹⁷⁰⁰

c. Aftercare Programs

- Section 46 of the JJ Act, 2015 mandates aftercare programs to support juveniles after they leave institutional care.
- These programs include financial assistance, mentorship, and employment opportunities.

The legal framework for rehabilitation in India reflects a progressive approach that seeks to reform, reintegrate, and restore juveniles rather than subject them to harsh punitive measures. The JJ Act, 2015, the role of JJBs and CWCs, and landmark judicial pronouncements collectively ensure that juveniles in conflict with the law receive opportunities for a second chance. However, effective implementation remains a challenge, requiring greater infrastructure, trained personnel, and societal acceptance of rehabilitative justice.

Challenges In Implementing Rehabilitation Programs In Juvenile Justice

The rehabilitation of juveniles is a fundamental principle of modern juvenile justice systems,

including India's Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter JJ Act, 2015). The Act emphasizes reformation and reintegration over punitive measures, recognizing that juveniles possess a higher potential for rehabilitation due to their evolving cognitive and emotional maturity.¹⁷⁰¹

However, despite the progressive legal framework, several practical and structural challenges hinder the effective implementation of rehabilitation programs. These include inadequate infrastructure, lack of trained professionals, societal stigma, and challenges in reintegration. Addressing these issues is essential for ensuring that juveniles in conflict with the law receive the support necessary to re-enter society as responsible individuals.

3.5.1 Inadequate Infrastructure and Resources

A critical issue in juvenile rehabilitation is the lack of proper infrastructure in Observation Homes, Special Homes, and Aftercare Homes designated under the JJ Act, 2015. Many of these institutions suffer from overcrowding, insufficient resources, and poor living conditions, which counteract the rehabilitative goals of the Act.¹⁷⁰²

- A National Commission for Protection of Child Rights (NCPCR) study (2019) found that many juvenile homes lacked proper sanitation, nutrition, and healthcare facilities, making them unsuitable for effective rehabilitation.¹⁷⁰³
- Apex court rulings, such as **Sampurna Behura v Union of India**, have highlighted the poor conditions in child care institutions (CCIs) and directed state governments to improve infrastructure and monitoring mechanisms.¹⁷⁰⁴

In addition to physical infrastructure, there is a shortage of trained counsellors, psychologists,

¹⁷⁰⁰ *M.C. Mehta v State of Tamil Nadu* (1996) 6 SCC 756

¹⁷⁰¹ Juvenile Justice (Care and Protection of Children) Act 2015, s 3

¹⁷⁰² National Commission for Protection of Child Rights (NCPCR), *Report on Child Care Institutions* (2019) 78

¹⁷⁰³ *ibid* 80

¹⁷⁰⁴ *Sampurna Behura v Union of India* (2018) 10 SCC 100

and vocational trainers, which hampers the ability of juvenile homes to provide personalized rehabilitation programs.

3.5.2 Lack of Trained Professionals and Rehabilitation-Oriented Staff

A successful rehabilitation system requires trained professionals, including child psychologists, social workers, legal aid providers, and vocational trainers. However, India faces a significant shortage of such experts in its juvenile justice system.¹⁷⁰⁵

- Many Child Welfare Committees (CWCs) and Juvenile Justice Boards (JJBs) lack members with specialized training in child psychology and rehabilitation.
- A 2018 study by the Centre for Child and the Law, NLSIU found that most Observation Homes had unqualified staff with little understanding of child psychology, behavioral therapy, or trauma-informed care.¹⁷⁰⁶
- Rehabilitation programs, such as skill development and educational initiatives, often remain poorly designed and ineffective, leading to high recidivism rates among juveniles.¹⁷⁰⁷

3.5.3 Societal Stigma and Barriers to Reintegration

One of the biggest non-institutional challenges in juvenile rehabilitation is societal stigma. Juveniles who have been in Observation Homes or Special Homes often face discrimination and rejection when trying to reintegrate into society.

- Many educational institutions and employers hesitate to admit or hire individuals with a history of juvenile delinquency, making reintegration difficult.¹⁷⁰⁸

- Families of juveniles may also be unwilling or unable to provide adequate support, leaving them vulnerable to recidivism and reoffending.¹⁷⁰⁹

Case studies reveal that many rehabilitated juveniles struggle to find housing, employment, or education opportunities, forcing them back into criminal activities due to social exclusion.¹⁷¹⁰

3.5.4 Gaps in Aftercare and Follow-Up Mechanisms

Even when juveniles' complete rehabilitation programs, there is a lack of structured aftercare services to monitor their progress post-release.¹⁷¹¹

- Aftercare Homes, which are mandated under the JJ Act, 2015, exist in limited numbers, and many states have not implemented them effectively.
- The lack of long-term mentoring, employment assistance, and mental health support results in higher relapse rates into criminal behaviour.

The United Nations Convention on the Rights of the Child (UNCRC), to which India is a signatory, emphasizes that juveniles must receive adequate aftercare and community support. However, India's juvenile justice institutions often fail to maintain post-release supervision and reintegration efforts.¹⁷¹²

International Best Practices in Juvenile Rehabilitation

Juvenile rehabilitation is a crucial aspect of justice systems worldwide, aiming to reform young offenders and reintegrate them into society as responsible citizens. Several countries have successfully implemented rehabilitation models that India can adapt to improve its juvenile justice framework. These models emphasise restorative justice, diversion programmes, vocational training and family

¹⁷⁰⁵ Smita Muthari, 'Challenges in Juvenile Rehabilitation in India' (2019) 56 *Indian Journal of Criminology* 45

¹⁷⁰⁶ Centre for Child and the Law, NLSIU, *Study on the Functioning of Juvenile Homes in India* (2018) 67

¹⁷⁰⁷ *ibid* 72

¹⁷⁰⁸ Neha Sharma, 'Rehabilitation and Social Reintegration of Juveniles' (2020) 12 *Journal of Juvenile Law & Policy* 94

¹⁷⁰⁹ National Crime Records Bureau, *Crime in India 2020* (Ministry of Home Affairs, Government of India 2021) 183

¹⁷¹⁰ *ibid* 186

¹⁷¹¹ JJ Act 2015, s 46

¹⁷¹² United Nations Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) UNGA Res 44/25

involvement, all of which have contributed to significant reductions in reoffending rates. The following discussion examines international best practices in juvenile rehabilitation through the lens of the **Scandinavian restorative justice model**, the **United States' diversion programmes**, **Germany's vocational training approach** and **Japan's Family Group Conferencing (FGC) model**.

Scandinavian Restorative Justice Model

Norway and Sweden have been at the forefront of employing a restorative justice approach in juvenile rehabilitation¹⁷¹³. This method focuses less on punitive incarceration and more on mediation, community service and therapy, aiming to restore relationships between the offender and the community while repairing the harm caused.

In Norway, for example, mediation programmes are arranged whereby juvenile offenders meet with their victims to acknowledge the harm done and work towards making restitution. This process is designed to foster accountability and develop empathy in the offender.¹⁷¹⁴ In addition, Norwegian programmes include community service and therapy sessions which provide robust social and psychological support throughout the rehabilitation process. The effectiveness of this approach is underscored by statistics from the Norwegian Ministry of Justice, which indicate that 98% of juvenile offenders do not reoffend after participating in these programmes.¹⁷¹⁵

Sweden, meanwhile, has adopted a similarly reformative stance. Swedish juvenile justice places emphasis on tailoring individual treatment plans that incorporate educational support, vocational training and psychological counselling. By focusing on reintegration into society and equipping young offenders with necessary life skills, Sweden has managed to

reduce the likelihood of future criminal behaviour.¹⁷¹⁶

United States – Diversion and Alternative Sentencing Programmes

Across the Atlantic, the United States has developed a range of diversion and alternative sentencing programmes which channel juvenile offenders away from traditional detention. These programmes are designed to prevent the negative impacts of formal criminal justice labelling by emphasising education, counselling and skill-building.¹⁷¹⁷

California's Juvenile Diversion Programme is a noteworthy example. It targets first-time and minor offenders, steering them into educational and vocational training programmes rather than detention facilities.¹⁷¹⁸ These initiatives typically include mentorship, counselling and specialised skill development courses, which have been linked with significant reductions in recidivism. Indeed, research on diversion programmes in California has shown that such initiatives lower reoffending rates considerably by addressing the underlying issues that contribute to delinquency.¹⁷¹⁹

Other states such as Massachusetts and Missouri have implemented similar community-based models. The Missouri Model, in particular, utilises small rehabilitation centres within the community that focus on individualised treatment plans. This model has been associated with a 60% reduction in recidivism rates, underscoring the benefits of rehabilitative approaches over traditional incarceration.¹⁷²⁰ By prioritising education and therapeutic support, these diversion programmes offer juveniles a pathway towards reintegration into society without the lasting stigma of a criminal record.

¹⁷¹⁶ Swedish National Council for Crime Prevention, *Rehabilitation Programmes for Juvenile Offenders in Sweden* (Stockholm: Government Report 2019)

¹⁷¹⁷ Barry Feld, *Juvenile Justice Administration in a Nutsell* (West Academic 2017) 214

¹⁷¹⁸ California Department of Justice, *Juvenile Diversion Programmes: A Comprehensive Report* (Sacramento: DOJ Publications 2021)

¹⁷¹⁹ Ibid

¹⁷²⁰ Missouri Department of Social Services, *The Missouri Model: Effective Rehabilitation for Juvenile Offenders* (Jefferson City: DSS Press 2018)

¹⁷¹³ David Polizzi, *The Philosophy of Restorative Justice* (Routledge 2020) 92

¹⁷¹⁴ Norwegian Ministry of Justice, *Juvenile Justice and Restorative Practices in Norway* (Oslo: Government Press 2020)

¹⁷¹⁵ Ibid

Germany's Vocational Training and Psychological Therapy Model

Germany offers a comprehensive approach that integrates mandatory vocational training with psychological therapy for juvenile offenders. In German correctional facilities, the focus shifts from punitive measures to creating an environment that resembles a residential school, where academic education and vocational skills are developed concurrently.

Vocational training in these facilities covers a wide range of trades – from carpentry and mechanics to information technology – ensuring that young people develop marketable skills that support future employment prospects.¹⁷²¹ This emphasis on career readiness is a critical factor in reducing the incentives for reoffending, as stable employment is a key determinant in successful reintegration.

Alongside vocational training, regular psychological therapy is provided to address behavioural issues, trauma and other mental health challenges. The integration of therapy into the rehabilitation process ensures that the root causes of delinquent behaviour are directly addressed, fostering long-term behavioural change and reducing the likelihood of recidivism.¹⁷²² Studies indicate that this holistic approach, which combines skill development with mental health support, significantly improves reintegration outcomes for juvenile offenders.¹⁷²³

Japan's Family Group Conferencing (FGC) Model

Japan's Family Group Conferencing (FGC) model represents a community-centred approach that places the family at the core of the rehabilitation process. This model involves not only the juvenile offender but also their family members, social workers and educators

in the formulation of a tailored rehabilitation plan.

FGC is built on the premise that active family involvement can create a supportive environment that is crucial for the successful reintegration of the offender. Families work alongside professionals to identify the underlying issues that have led to the juvenile's offending behaviour and to develop practical strategies to address these issues.¹⁷²⁴ This collaborative process encourages the offender to take responsibility for their actions while simultaneously receiving the support necessary to make positive changes.

Empirical evidence supports the effectiveness of the FGC model. The approach has been associated with a 40% reduction in repeat offences, a testament to its success in fostering accountability and social support networks for young offenders.¹⁷²⁵ Furthermore, by integrating restorative practices that include apologies and amends to victims, the FGC model reinforces the importance of community and personal accountability, ultimately contributing to a more cohesive and resilient society.¹⁷²⁶

ACCOUNTABILITY

Introduction to Accountability in Juvenile Justice

Accountability in juvenile justice refers to the principle that young offenders must take responsibility for their actions while acknowledging their cognitive and emotional immaturity. Unlike adult offenders, juveniles are not treated as fully culpable for their crimes due to their evolving sense of morality, reasoning, and impulse control. However, ensuring accountability remains a crucial aspect of the justice system to prevent recidivism, promote behavioural correction, and safeguard societal interests.

The concept of accountability in juvenile justice is deeply tied to restorative justice rather than

¹⁷²¹ German Federal Ministry of Justice, *Vocational Training in Juvenile Correctional Facilities* (Berlin: Government Press 2020)

¹⁷²² Ibid

¹⁷²³ Ibid

¹⁷²⁴ Japanese Ministry of Justice, *Family Group Conferencing and Juvenile Rehabilitation* (Tokyo: Government Press 2019)

¹⁷²⁵ Ibid

¹⁷²⁶ Ibid

punitive retribution. While adult criminal law emphasizes punishment as a means of deterrence, juvenile justice focuses on balancing rehabilitation with proportional responsibility. Courts and policymakers recognize that while juveniles must answer for their actions, their treatment must not compromise their chances for reintegration into society.¹⁷²⁷

Ethical and Legal Justifications for Juvenile Accountability

Juvenile accountability is shaped by ethical considerations, particularly the idea that children, though capable of wrongdoing, lack the same level of intent and foresight as adults. Philosophically, this debate traces back to Aristotle and Kant, who argued that moral responsibility is tied to one's ability to reason.¹⁷²⁸ Since juveniles are still developing, their actions must be judged differently from adults.

From a legal perspective, the United Nations Convention on the Rights of the Child (UNCRC), 1989, which India ratified in 1992, establishes that juvenile offenders should be treated with dignity and should not be subjected to inhumane or excessive punishment. The UNCRC promotes rehabilitation while maintaining that states have a duty to enforce laws that ensure juveniles understand the consequences of their actions.¹⁷²⁹

In India, the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act, 2015) is the primary legislation governing juvenile accountability. The Act introduces a differentiated approach, allowing juveniles aged 16–18 to be tried as adults for heinous crimes such as murder, rape, and terrorism.¹⁷³⁰ This reflects a shift toward holding older juveniles accountable for serious offenses, addressing public concerns regarding rising juvenile crime rates. However, the Act also

ensures that juvenile justice mechanisms prioritize rehabilitation, emphasizing the need for proportional accountability.¹⁷³¹

Theories of Juvenile Accountability

Juvenile accountability is a crucial aspect of any justice system, as it determines the extent to which minors should be held responsible for their actions. Theories of accountability in juvenile justice revolve around various legal and philosophical perspectives, including retributive and restorative justice, the principle of *doli incapax*, and the notions of proportionality and culpability in juvenile offenses. Understanding these theories helps in framing a balanced juvenile justice system that addresses both the need for rehabilitation and the demand for justice.

1. Retributive vs. Restorative Justice in Juvenile Law

One of the fundamental debates in juvenile justice is whether accountability should be primarily retributive or restorative. Retributive justice emphasizes punishment as a means of ensuring that offenders receive their just deserts. This theory is rooted in the principle of *lex talionis* "an eye for an eye" where punishment is proportionate to the offense.¹⁷³²

In the context of juveniles, this approach demands that they be held accountable for their actions in a manner similar to adults, often through punitive measures such as detention, fines, or transfer to adult courts for serious crimes. However, critics argue that retributive justice is incompatible with the developmental characteristics of juveniles, who lack full cognitive maturity and impulse control.¹⁷³³

In contrast, restorative justice focuses on repairing the harm caused by an offense through reconciliation between the offender, the

¹⁷²⁷ Ved Kumari, *The Juvenile Justice System in India: From Welfare to Rights* (Oxford University Press 2017) 145

¹⁷²⁸ Immanuel Kant, *The Metaphysics of Morals* (Mary Gregor tr, Cambridge University Press 1996) 54

¹⁷²⁹ United Nations Convention on the Rights of the Child, adopted 20 November 1989, entered into force 2 September 1990, UNGA Res 44/25

¹⁷³⁰ Juvenile Justice (Care and Protection of Children) Act 2015, s 15

¹⁷³¹ Committee on Reforms of Criminal Laws, 'Report on Juvenile Justice in India' (Government of India, 2021) 32

¹⁷³² Hudson, B. (2003). *Justice in the Risk Society: Challenging Individualism in Law and Social Policy*. SAGE Publications

¹⁷³³ Steinberg, L., & Scott, E. S. (2003). "Less Guilty by Reason of Adolescence." *American Psychologist*

victim, and the community.¹⁷³⁴ This approach emphasizes accountability by requiring juveniles to acknowledge their wrongdoing, understand its impact, and take steps to make amends. Studies have shown that restorative justice approaches can lead to lower recidivism rates and greater victim satisfaction, as they promote empathy and responsibility rather than mere punishment.¹⁷³⁵

While both theories offer valuable perspectives, modern juvenile justice systems often seek a hybrid model that incorporates elements of both. A balanced approach ensures that accountability is upheld while also prioritizing the rehabilitation of young offenders.

2. The Doli Incapax Principle and Evolving Capacity of Juveniles

The principle of *doli incapax* (Latin for "incapable of crime") is a fundamental concept in juvenile justice that presumes young children lack the capacity to form criminal intent. Traditionally, common law systems have set a minimum age below which children are presumed to be incapable of committing crimes.¹⁷³⁶

In many legal systems, this presumption is rebuttable, meaning that the prosecution can present evidence to demonstrate that a child had the requisite understanding of right and wrong at the time of the offense.¹⁷³⁷ The age threshold varies across jurisdictions; for instance, India's Juvenile Justice (Care and Protection of Children) Act, 2015, sets different levels of accountability based on age groups, recognizing the evolving capacity of juveniles.¹⁷³⁸

Recent legal and psychological discourse has challenged rigid age-based classifications,

advocating for assessments that consider individual cognitive and emotional development. The evolving capacity of juveniles, a concept recognized in international human rights instruments like the UN Convention on the Rights of the Child, suggests that legal accountability should be tailored to the developmental stage of the offender.¹⁷³⁹

3. Proportionality and Culpability in Juvenile Offenses

A key aspect of juvenile accountability is ensuring that punishments or rehabilitative measures are proportionate to the severity of the offense and the culpability of the offender. Proportionality in juvenile justice mandates that the response to an offense be commensurate with both the nature of the crime and the developmental stage of the offender.¹⁷⁴⁰

Culpability, or moral and legal responsibility for an act, is another crucial factor in determining juvenile accountability. Unlike adults, juveniles often engage in criminal behaviour due to external influences, lack of foresight, or impulsivity.¹⁷⁴¹ Neuroscientific research has demonstrated that the prefrontal cortex, responsible for decision-making and impulse control, is not fully developed until the mid-20s, impacting a juvenile's ability to premeditate crimes.¹⁷⁴²

Courts often assess culpability based on factors such as intent, awareness of consequences, and the role of external influences (such as peer pressure or coercion). For instance, a juvenile who commits a crime under duress or due to socio-economic deprivation may be considered less culpable than one who engages in premeditated violence.¹⁷⁴³ This nuanced approach to culpability ensures that accountability measures are fair and

¹⁷³⁴ Zehr, H. (1990). *Changing Lenses: A New Focus for Crime and Justice*. Herald Press

¹⁷³⁵ Braithwaite, J. (2002). *Restorative Justice and Responsive Regulation*. Oxford University Press.

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appropriate rather than disproportionately punitive.

4. The Intersection of Theory and Policy in Juvenile Justice

The theories of juvenile accountability directly influence legislative and judicial approaches to juvenile justice. Countries with a retributive approach tend to have stricter juvenile laws, including provisions for trying minors as adults for serious crimes. In contrast, nations that emphasize restorative justice prioritize rehabilitation, diversion programs, and community-based interventions.¹⁷⁴⁴

In India, the Juvenile Justice Act, 2015, attempts to strike a balance by differentiating between "children in conflict with law" based on age and the nature of the offense.¹⁷⁴⁵ While the Act provides for rehabilitation and reintegration, it also allows for juveniles aged 16–18 to be tried as adults for heinous offenses under specific conditions. This reflects an attempt to incorporate both retributive and rehabilitative elements in determining accountability.

Similarly, judicial interpretations of juvenile accountability often reflect these theoretical debates. Courts worldwide have grappled with the challenge of ensuring justice for victims while recognizing the need for rehabilitative interventions for young offenders. Landmark judgments have played a pivotal role in shaping juvenile justice policies by emphasizing the importance of individualized assessments and proportionality in sentencing.¹⁷⁴⁶

Theories of juvenile accountability provide the foundation for how societies treat young offenders. The ongoing debate between retributive and restorative justice highlights the need for a balanced approach that ensures accountability while prioritizing rehabilitation. The principle of *doli incapax* and the recognition of evolving capacity reinforce the idea that

juvenile culpability must be assessed in a developmentally appropriate manner. Finally, the concepts of proportionality and culpability ensure that accountability measures are fair and just, taking into account the unique circumstances of each case.

A just juvenile justice system must be flexible enough to adapt to evolving psychological and legal understandings of youth behavior. By integrating these theories into policy and practice, legal systems can create accountability frameworks that not only deter crime but also foster the rehabilitation and reintegration of juvenile offenders into society.

BALANCING ACCOUNTABILITY AND REHABILITATION

One of the biggest dilemmas in juvenile justice is how much accountability is appropriate without undermining the rehabilitative goals of juvenile law. If the system is too lenient, it may fail to deter serious crimes committed by juveniles, leading to repeat offenses. Conversely, if it is too harsh, it risks treating children like adults, potentially harming their long-term development and reintegration prospects.¹⁷⁴⁷

Judicial decisions have played a key role in balancing accountability and rehabilitation. In ***Salil Bali v. Union of India (2013)***, the Supreme Court upheld the principles of juvenile justice, emphasizing that children should not be treated as hardened criminals.¹⁷⁴⁸ However, in ***Dr. Subramanian Swamy v. Raju***¹⁷⁴⁹, the Court acknowledged the need to reconsider blanket protections for juveniles involved in heinous crimes.¹⁷⁵⁰ This led to the formulation of the JJ Act, 2015, which allows juvenile offenders aged 16–18 to be assessed by the Juvenile Justice Board (JJB) to determine if they should be tried as adults.

¹⁷⁴⁴ Goldson, B., & Muncie, J. (2015). *Youth Crime and Justice*. SAGE Publications

¹⁷⁴⁵ Kumar, R. (2019). "Juvenile Justice in India: Analyzing the Impact of the 2015 Act." *Indian Journal of Law and Justice*

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¹⁷⁴⁷ Barry C. Feld, *Juvenile Justice Administration in a Nutshell* (West Academic Publishing 2018) 98

¹⁷⁴⁸ *Salil Bali v Union of India* (2013) 7 SCC 705.

¹⁷⁴⁹ *Dr. Subramanian Swamy v. Raju* (2014) 8 SCC 390

¹⁷⁵⁰ *Ibid*

Accountability in juvenile justice is a multifaceted issue that requires a nuanced approach. The justice system must ensure that juveniles recognize the consequences of their actions while also providing opportunities for reform. The evolving legal framework in India reflects this delicate balance, aiming to create a justice system that is fair, rehabilitative, and deterrent, rather than solely punitive.

CONCLUSION

This study has explored the complex interplay between rehabilitation and accountability in India's juvenile justice system, particularly under the Juvenile Justice (Care and Protection of Children) Act, 2015. Rehabilitation, grounded in developmental psychology and supported by international instruments such as the UN Convention on the Rights of the Child, remains the system's guiding principle, reflecting the conviction that juveniles, with their still-maturing brains, are more amenable to reform than to retribution. Simultaneously, growing societal concerns over serious juvenile offences prompted the introduction of accountability measures allowing sixteen- to eighteen-year-olds to be tried as adults for heinous crimes, contingent upon preliminary assessments by Juvenile Justice Boards. This legislative compromise underscores the system's tightrope act: protecting society by holding certain offenders to adult standards, while safeguarding children's prospects for reintegration.

Yet, despite its conceptual strengths, the Act's on-ground performance has been uneven. Infrastructure deficits in Observation and Special Homes, manifest in overcrowding, poor sanitation, and inadequate counselling facilities, directly impede rehabilitative efforts. Equally troubling is the chronic shortage of trained professionals. Juvenile Justice Boards and Child Welfare Committees frequently operate without child psychologists, social workers, or legal aid specialists, limiting their capacity to design individualized care plans or conduct nuanced assessments of a juvenile's mental maturity.

Aftercare programs, envisioned as vital bridges back into the community, remain largely theoretical: only a minority of released youth access mentorship, employment assistance, or mental health support, increasing their susceptibility to recidivism. Compounding these systemic gaps is pervasive social stigma, which discourages schools and employers from accepting rehabilitated juveniles, thus eroding the practical impact of reformative initiatives.

Comparative analysis suggests actionable remedies. Scandinavian restorative justice models demonstrate the power of victim-offender mediation to foster genuine accountability and empathy, achieving near-universal non-recidivism. U.S. diversion programs highlight the benefits of steering first-time and minor offenders into educational and vocational tracks rather than custodial settings. Germany's integration of vocational apprenticeships with routine psychological therapy offers a blueprint for holistic skill development. Japan's Family Group Conferencing underscores the critical role families and communities play in supporting youth rehabilitation.

Building on these lessons, India's juvenile justice system should pursue a multifaceted reform agenda:

1. **Infrastructure Investment:** Upgrade facilities in Observation and Special Homes to meet basic living standards and provide dedicated spaces for counselling, education, and vocational training.
2. **Professional Capacity-Building:** Mandate minimum qualifications for JJB and CWC members; partner with universities and NGOs to produce and deploy child psychologists, trauma-informed counsellors, and legal aid specialists.
3. **Robust Aftercare Networks:** Expand aftercare homes and community-based support services; create formal

partnerships with educational institutions and employers willing to mentor or hire rehabilitated juveniles.

4. **Clear Assessment Protocols:** Issue standardized guidelines for preliminary maturity assessments in heinous offence cases, ensuring consistency and transparency in decisions to transfer juveniles to adult trials.
5. **Community Engagement and Stigma Reduction:** Launch public awareness campaigns and incentivize schools and businesses to integrate rehabilitated youth, framing their success as a societal asset.
6. **Regular Monitoring and Evaluation:** Establish a central oversight body to track key indicators—recidivism rates, educational attainment, employment outcomes—and adjust policies based on empirical feedback.

Ultimately, achieving an optimal balance between accountability and rehabilitation requires more than legislative fine-tuning; it demands sustained political will, inter-sectoral collaboration, and a cultural shift towards viewing juvenile offenders as potential contributors rather than perpetual liabilities. By learning from global exemplars and steadfastly investing in capacity and community, India can transform its juvenile justice system into one that not only secures public safety but also honours its commitment to give every child a fair second chance

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