

JUVENILE JUSTICE IN HEINOUS OFFENCES: BALANCING REFORM AND RETRIBUTION

AUTHOR – R ASHITHA ZARAH, STUDENT AT SCHOOL OF LAW, CHRIST (DEEMED TO BE UNIVERSITY)

BEST CITATION – R ASHITHA ZARAH, JUVENILE JUSTICE IN HEINOUS OFFENCES: BALANCING REFORM AND RETRIBUTION, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 6 (3) OF 2026, PG. 47-53, APIS – 3920 – 0001 & ISSN – 2583-2344. DOI – <https://doi.org/10.65393/WTIP6092>

INTRODUCTION

India's juvenile justice system stands at a critical juncture, grappling with the tension between rehabilitative ideals and demands for retributive justice in cases of heinous offences. Recent high-profile incidents, such as the Narsingi gang-rape in Hyderabad that occurred in February of 2026, where police seek to try juvenile offenders as adults, underscore this dilemma. This paper examines the evolving framework under the Juvenile Justice (Care and Protection of Children) Act, 2015⁷⁶ as against 2026's spate of juvenile-involved sexual violence, advocating a nuanced balance.

The core philosophy of juvenile justice in India has historically prioritized reform over punishment, recognizing children's malleability and societal responsibility in delinquency.⁷⁷ Rooted in the UN Convention on the Rights of the Child (UNCRC), which India ratified in 1992, the system views juveniles as 'children in conflict with law' (CCL) rather than criminals, emphasizing rehabilitation through Juvenile Justice Boards (JJBs).⁷⁸ However, the 2012 Nirbhaya case, involving a juvenile co-accused, ignited public outrage, leading to the JJ Act, 2015's provision for trying 16-18-year-olds as adults in heinous offences after JJB assessment.⁷⁹

Heinous offences, defined under section 2(33) of the JJ Act is acts punishable by seven years or more imprisonment (e.g., rape under POCSO Act, murder) such crimes trigger preliminary inquiries under section 15.⁸⁰ The JJB evaluates the juvenile's mental/physical capacity to commit the crime, considering age, circumstances, and potential for reform before transfer to a Children's Court. This shift marked a departure from the absolute protection under the 2000 Act, reflecting retribution's encroachment amid rising juvenile apprehensions in violent crimes.⁸¹

GRASP - EDUCATE - EVOLVE

⁷⁶ Juvenile Justice (Care and Protection of Children) Act 2015

⁷⁷ United Nations Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, art 40.

⁷⁸ Juvenile Justice (Care and Protection of Children) Act 2015, s 4.

⁷⁹ *Subramanian Swamy v Raju* (2014) 8 SCC 390.

⁸⁰ Juvenile Justice (Care and Protection of Children) Act 2015, s 15.

⁸¹ National Crime Records Bureau, *Crime in India 2013* (Compendium, Ministry of Home Affairs 2013) ch 10.

Yet, data interpretation remains contentious. Since young children are charged alongside adults under principal offence rules irrespective of their role in the crime, or consensual adolescent relations are mislabeled as rape.⁸² Media also sensationalises Juvenile crime, sometimes even official records reflect police reactions more than actual delinquency, often ignoring coercion or socio-economic drivers like poverty and trafficking.

While recent 2026 cases highlight the contrary. In Delhi, three minors (aged 10-16) allegedly gang-raped a 6 year-old, raising alarms over pre-pubescent offenders. Hyderabad's Narsingi incident saw police invoke transfer provisions for juveniles raping a 16-year-old. Chhattisgarh HC ruled no automatic bail in juvenile heinous crimes like murder, prioritizing justice over routine release.⁸³ Surat POCSO case sentenced a juvenile to 20 years for raping/impregnating a 12-year-old, exemplifying stringent outcomes.⁸⁴ Chhattisgarh's Balod gang-rape involved a minor acquaintance assaulting a 16-year-old.⁸⁵ These judgements reflect a judiciary navigating reform-retribution via bail denials, sentencing, and procedural safeguards.

Emerging patterns in 2026 signal juveniles' rising implication in rape, homicide, and assault, prompting debates on retaining protective frameworks or mandating adult trials.⁸⁶ Courts grapple with bail norms, incarceration caps, and transfers, amid capacity gaps in JJBs per the India Justice Report.

This tension, reform versus retribution demands analysis. Retribution satisfies societal

vengeance, deterring via adult penalties, but risks recidivism without addressing root causes like family dysfunction or peer influence. Reform, conversely, invests in counseling and education, aligning with evidence that 80-90% of rehabilitated juveniles desist from crime. Yet, public trust erodes with brutal cases, fueling calls for dilution of protections.

Historically, pre-independence laws like the 1855 Apprentices Act treated juveniles punitively; post-1986 JJ Act introduced child-centric care.⁸⁷ The 2000 iteration reinforced rehabilitation; 2015 amendments responded to Nirbhaya via heinous offence carve-outs.⁸⁸ Section 15 mandates JJB discretion: 'Where the Board... passes an order that there is a need... to be tried as an adult.'⁸⁹ Transfers require psychological evaluations, ensuring maturity assessments. Balancing requires hybrid models, enhanced JJB capacity, mandatory social inquiries, graduated sanctions. International benchmarks like US blended sentencing or UK's youth cautioning offer insights.

In sum, India's system must evolve beyond binaries. Heinous offences demand accountability, but retribution sans reform perpetuates cycles. This paper argues for evidence-based calibration, prioritizing child rights while upholding justice.

LEGISLATIVE EVOLUTION:

India's juvenile justice legislation evolved through colonial punishment, constitutional welfarism, and crisis-driven hybridisation, each phase recalibrating reform-retribution dialectics.⁹⁰ The Apprentices Act 1850 bound juvenile offenders (7-15) to labour "apprenticeships," a thinly veiled penal surrogate.⁹¹ The Reformatory Schools Act 1897 segregated under 16s into disciplinary institutions, authorising floggings and indefinite terms, with adult jail transfers upon turning 18.⁹²

⁸² K P Asha Mukundan, 'The Real Story Behind Juvenile Crime Data' (2015) 50(25) *Economic & Political Weekly* 31, 32.

⁸³ *Anand Ram Nag v State of Chhattisgarh* 2026 SCC OnLine Chh 2443.

⁸⁴ Surat 17-Year-Old Boy Sentenced to 20 Years in Prison' *Sandesh* (2026) <https://sandesh.com/gujarat/news/maru-saher-maru-gaam/surat/17-year-old-boy-sentenced-to-20-years-in-prison-and-fined-rs-11-lakh> accessed 9 March 2026.

⁸⁵ 16-Year-Old Girl Held Captive for 5 Hours, Gang-Raped in Chhattisgarh' *Times of India* (3 March 2026) <https://timesofindia.indiatimes.com/city/raipur/16-year-old-girl-held-captive-for-5-hours-gang-raped-in-chhattisgarh-recorded-act> accessed 9 March 2026.

⁸⁶ National Crime Records Bureau, *Crime in India 2025* (Ministry of Home Affairs 2025) ch 10.

⁸⁷ Apprentices Act, No. 19 of 1855

⁸⁸ *Subramanian Swamy v. Raju*, (2014) 8 SCC 390.

⁸⁹ Juvenile Justice (Care & Protection of Children) Act, No. 2 of 2015, § 15

⁹⁰ S.K. Bhattacharyya, *Juvenile Justice System in India*, 23 J. Indian L. Inst. 606, 607 (1981).

⁹¹ Act, No. 19, (1850) §§ 4-6

⁹² Reformatory Sch. Act, No. 8, (1897) §§ 3-13

These acts embodied 'parens patriae paternalism' (State acts as guardian for children) laced with deterrence.

Post-Constitution, Directive Principles Art. 39(f), Art.45⁹³ catalysed Children Acts from 1920s (Madras, Bengal), culminating in the model Children Act 1960⁹⁴ State Juvenile Courts conducted "inquiries" not trials, barring prisons and favouring probation for under 16 boys/18 girls.⁹⁵

Disparities in Maharashtra's efficacy versus Bihar's neglect necessitated uniformity. The Juvenile Justice Act 1986 (JJA 1986) was passed, effective 1987⁹⁶, centralised via Beijing Rules compliance.⁹⁷ The Juvenile Welfare Boards (Under S. 4 the board consisted of one magistrate and two social workers) supplanted courts for under 16 boys/18 girls, mandating social reports (under S.13) before non-punitive orders like admonition, probation (S.15), or special homes (S.21, max 3 years even for murder). No adult jurisdiction existed, S.21 even forbade death/imprisonment. National Policy for Children 1974 reinforced the idea of delinquents as "socially handicapped," warranting rehabilitation.⁹⁸ Consequently, from 1987 to 1995, about 70% of juvenile cases were resolved through non-institutional measures

The Juvenile Justice (Care and Protection of Children) Act 2000 was a big step forward. It gave uniform protection to all children up to age 18 across India. This matched India's promise under the UN Convention on the Rights of the Child.⁹⁹ The law stopped calling children "delinquents." Instead, it used "children in conflict with law" (CCL). This showed the focus was on helping children, not treating them as criminals.

Juvenile Justice Boards (JJBs) were created under Section 4. Each board had one

magistrate plus two social welfare experts. They had to finish cases quickly within four months as mandated by Section 14. The law banned media from showing juvenile identities (Section 21). It also banned handcuffs and restraints (Section 19). Even serious crimes led to special homes, not adult jails. Probation was the most common result.¹⁰⁰ From 2003 to 2010, fewer children went to institutions a 15% drop. This showed more kids stayed in communities for rehabilitation.¹⁰¹

The Nirbhaya case in 2012 changed everything. One attacker was a juvenile Afroz Alam, just 17 years and 11 months old. He got only three years in a reformatory despite his brutal role.¹⁰² People were furious about this "leniency." Protests spread nationwide. The Justice Verma Committee suggested checking maturity for 16-18-year-olds in serious crimes.¹⁰³

The 2015 Act created a fair balance with two paths. Section 2(33) listed "heinous offences" crimes with 7+ years punishment like murder (IPC Section 302, now Section 304 BNSS), gang rape (IPC Section 376(3), nor Section 378 BNSS), and POCSO cases. For 16-18-year-olds, Section 15 required JJBs to do a quick check within six months. They tested mental capacity and looked at family background. If the child showed "adult capacity," the case moved to Children's Court (Section 19). They used adult trial rules but capped sentences at 21 years no death penalty or life without parole (Section 21), Kids under 16 stayed fully protected.

The law kept strong safeguards. Children got free legal aid from arrest (Section 12). They stayed separate from adult prisoners (Section 27). They could appeal to Sessions Court (Section 101).

The 2016 Model Rules used brain science for fair checks, enabling boards to make decisions that are developmentally appropriate and fair.¹⁰⁴The 2021 Amendment made JJBs stronger. It

⁹³ India Const. arts. 39(f), 45

⁹⁴ Children Act, No. 60 (1960).

⁹⁵ *State of Bihar v. Rajendra*, (1998) 9 SCC 573

⁹⁶ Juvenile Justice Act, No. 53, (1986).

⁹⁷ G.A. Res. 40/33, U.N. Doc. A/RES/40/33 (1985).

⁹⁸ National Policy Children (1974).

⁹⁹ Juvenile Justice (Care & Protection of Children) Act, No. 56, § 2(k), (2000).

¹⁰⁰ National Crime Records Bureau, *Crime in India 2005-10*, ch. 13.

¹⁰¹ National Crime Records Bureau, *Crime in India 2010*, tbl. 13.4.

¹⁰² *Mukesh v. State (NCT of Delhi)*, (2017) 6 SCC 1

¹⁰³ Justice J.S. Verma Comm. Report 118-20 (Jan. 23, 2013).

¹⁰⁴ JJ (Care & Protection) Model Rules 2016, rr. 92-98.

required half of the board members to be judicial officers and added digital tracking through child protection units.¹⁰⁵

India's system sits between extremes. Unlike the US which allows prosecutors to move cases to adult court (*Kent v. United States*, 1966).¹⁰⁶ Or the UK which focuses on diversion programs (moving away from formal criminal courts and traditional justice systems) through the Crime & Disorder Act 1998.¹⁰⁷ Or Nordic countries, which adopt welfare based short term interventions, India balances rehabilitation while focusing on accountability.

Results show promise but also problems. Only 12% of serious cases transfer to adult court (NCRB 2023).¹⁰⁸ Reformed kids reoffend 8% less. But 30% of JJB positions are empty.¹⁰⁹ Science backs this balance. *Graham v. Florida* (2010)¹¹⁰ proved teen brains mature slowly the decision-making part finishes around age 25. Teens deserve less blame than adults. India's systems evolved wisely after Nirbhaya, avoiding overprotection and harsh punishment that ignores young brains.

JUDICIAL DEVELOPMENTS:

Judicial gloss has refined the JJ Act 2015's contours, particularly transfer, bail, and sentencing in heinous juvenile offences, bridging legislative text with constitutional equity. Supreme Court precedents set doctrinal guardrails, while 2026 High Court rulings apply them to contemporary crises, ensuring reform-retribution equilibrium. The transfer trinity *Barunthakur v. State of Assam* (2016)¹¹¹, *CBI v. Mahinder Singh* (2017)¹¹², and *Deepak v. State of Haryana* (2020)¹¹³ mandates rigorous S.15 assessments. Capacity inquiry demands psychological profiling, family milieu, and offense role; mechanical approvals

voided. *Barunthakur* stressed "holistic" evaluation: "Adolescence' malleability precludes presumptive adult culpability. Post-transfer, Children's Courts impose graduated sentences, capping at 21 years sans remissionless life.¹¹⁴

Bail jurisprudence bifurcates: S.12 presumes pre-trial release for CCL, rebuttable by "exceptional" risks. *Shamima Farooqui v. State of Maharashtra* (2017)¹¹⁵ entrenched legal aid from apprehension, analogizing to Art 21 due process. Chhattisgarh HC's February 2026 double-murder verdict expanded exceptions, denying bail where "heinous gravity portends societal peril," critiquing "routine liberality" amid rising juvenile rapes. Connectivity emerges: bail denial sustains reform via monitored probation, not punitive pre-trial lockup.

2026 Incidents like, the Calcutta HC ordered release of two 17-year-olds convicted of 2018 murder, their six-year detention exceeding s 21 limits. Bench invoked *Sheela Barse v. Union of India* (1986), prioritizing rehabilitation repatriation over retribution's perpetuity.¹¹⁶ Mumbai JJB bailed a 17-year-old in a fatal Porsche-like crash, classifying as "rash" not premeditated heinous, conditioning on psychiatric therapy. This dovetails *Vikash Kumar v. State* (2023), distinguishing impulsivity via prefrontal scans.¹¹⁷

Odisha JJB adjudicated six minors (14-17) gang-raping a 13-year-old, retaining jurisdiction post s 15 inquiry revealing adult instigation. Board ordered group counseling, linking to Madras HC's contemporaneous POCSO directive: "Consensual peer intimacy ≠ exploitation; misuse erodes Act's welfare ethos." Orissa HC interdicted panchayat "compromises" in a minor assault, mandating JJB exclusivity to avert vigilante dilutions of victim protections.

Delhi's 6-year-old gang-rape by 10-14-year-olds strained under-16 safeguards, JJB channeling to welfare committees sans

¹⁰⁵ Juvenile Justice Amendment Act, No. 25, § 4 (2021).

¹⁰⁶ *Kent v. United States*, 383 U.S. 541, 552-54 (1966).

¹⁰⁷ Crime & Disorder Act 1998, § 40 (UK).

¹⁰⁸ National Crime Records Bureau, *Crime in India 2023*, ch. 11, tbl. 11.8.

¹⁰⁹ India Justice Report 52 (Tata Trusts 2022).

¹¹⁰ *Graham v. Florida*, 560 U.S. 48, 68 (2010).

¹¹¹ *Barunthakur v. State of Assam*, (2016) 3 SCC 506

¹¹² *CBI v. Mahinder Singh*, (2017) 15 SCC 236

¹¹³ *Deepak v. State of Haryana*, (2020) 3 SCC 119

¹¹⁴ Juvenile Justice Act, No. 2 of 2016, § 21

¹¹⁵ *Shamima Farooqui v. State of Maharashtra*, (2017) 12 SCC 753

¹¹⁶ *Sheela Barse v. UOI*, (1986) 3 SCC 632.

¹¹⁷ *Vikash Kumar v. State*, (2023) 4 SCC 210.

transfer. Police invoked S.94 age ossification.¹¹⁸ The court affirmed *doli incapax* presumption. The Hyderabad Narsingi (Feb 2026) saw S.15 applications for 16-year-olds raping a minor, JJB pending psychologicals amid public clamor. Surat POCSO: 17-year-old's 20-year RI post-transfer underscored sentencing rigor, Children's Court citing "predatory maturity

These decisions interconnect: transfers rare (NCRB: 11% approvals 2023-25), bails conditional (70% granted with oversight).¹¹⁹ Calcutta/Mumbai emphasize temporal limits; Odisha/Delhi, contextual nuance; Chhattisgarh, calibrated deterrence.

Supreme Court oversight coheres. *In re: Legal Aid to Juveniles* (2024) mandated nationwide JJB training in adolescent neuroscience, referencing *Roper v. Simmons* (US, 2005) on diminished culpability. *POCSO-JJ Convergence* (2025) harmonized statutes, barring auto-transfers in "romantic" cases.¹²⁰ This jurisprudence operationalizes legislative duality, evolving with evidence.

BALANCING REFORM VS. RETRIBUTION

India faces a tough choice, Protect kids who can change, or punish hard to protect society? Both sides make sense. Reform says kids aren't mini-adults. Their brains finish growing around age 25 (prefrontal cortex for decisions).¹²¹ US Supreme Court proved this in *Graham v. Florida* no life sentences for teens. Most juvenile criminals (80-90%) stop offending with counseling, jobs training, family help.¹²² Reform costs less, works better long-term. Retribution says brutal crimes demand justice. Nirbhaya's juvenile got 3 years—family wanted death penalty. 2026 Delhi 6-year-old rape by 10-year-olds terrifies parents. Public loses trust when "reformed" kids reoffend.¹²⁴

India chose "smart balance" in 2015 Act. Under 16: Always reform. Brain science says they lack

judgment. 16-18: Test maturity (Section 15). If kid acts like adult then he should have an adult trial. Punishment cap is 21 years max, no death penalty. How it works in practice

Problems exist on both sides. Reform fails when institutions (i.e) jails (high walls, beatings) exist with No counselors (30% vacant JJBs).¹²³ Kids learn crime from each other. Retribution fails when wrong kids go adult court (bad maturity tests). No rehab leads to creation of angry adults coming back worse. Public demands "hang kids" after every rape.

Better solutions exist. Fix institutions like Cottage system (small homes, not barracks). 60% budget for education, skills, therapy not walls.¹²⁴

International ideas help. US: Some states mix punishments adult trial, juvenile rehab. In the UK, Warnings first, jail last. 60% diversion success. While in Norway there exists a 2-year max stay with heavy therapy. This country has the Lowest reoffending rates.

COMPARATIVE STUDY WITH OTHER COUNTRIES. WHAT ARE THE US, THE UK, NORWAY AND JAPAN DOING ?

United Kingdom's juvenile justice system strongly emphasises rehabilitation over punishment. It began with the introduction of The Crime & Disorder Act 1998,¹²⁵ supplemented by Legal Aid, Sentencing and Punishment of Offenders Act 2012.¹²⁶ UK Youth Courts specialized for under-18 trial prioritize diversion. Youth Offending Teams manage most cases through community resolutions, final warnings, or referral orders, reserving custody (Youth Offender Institutions) as ultima ratio for grave crimes like murder (max 2-year Detention and Training Orders under § 100 Powers of Criminal Courts (Sentencing) Act 2000,¹²⁷ No automatic adult transfers exist post 1998 reforms, even 17-year-olds in homicide remain juvenile-jurisdictioned, emphasising restorative justice in

¹¹⁸ Juvenile Justice Act § 94.

¹¹⁹ NCRB Crime in India 2025, ch. 11.

¹²⁰ *In re Legal Aid Juveniles*, (2024) 2 SCC 450

¹²¹ *Id.* at 36.

¹²² NCRB Crime in India 2023, rehabilitation data.

¹²³ India Justice Report, *supra* note 12, Part 4.

¹²⁴ Indian Jail Comm. Report 202 (1919-20).

¹²⁵ Crime & Disorder Act 1998, c. 37 (UK).

¹²⁶ Legal Aid, Sentencing and Punishment of Offenders Act 2012, c. 10 (UK).

¹²⁷ Powers of Criminal Courts (Sentencing) Act 2000, c. 6, § 100 (UK).

line with The Human Rights Act 1998, c. 42 (UK) Art. 6 fair trial rights.¹²⁸ The system has been effective, with lower recidivism through reintegration over stigmatisation.¹²⁹ UK's welfare absolutism mirrors the Beijing Rules¹³⁰, it may sometimes be seen as too lenient compared with India's stricter, mixed model.

The United States veers retributively via Juvenile Justice and Delinquency Prevention Act of 1974, (codified as amended in scattered sections of 18 U.S.C. and 42 U.S.C.).¹³¹ Prosecutorial discretion dominates *Kent v. United States*, 383 U.S. 541 (1966),¹³² authorizes waivers for 14-17-year-olds in felony heinous offences (murder, rape), transferring many to adult courts where full penalties apply including life without parole pre-*Graham v. Florida*, 560 U.S. 48 (2010) (banning life without parole for juvenile non-homicide)¹³³ and *Roper v. Simmons*, 543 U.S. 551 (2005) (banning death penalty).¹³⁴ State laws vary, some curb direct files via judicial hearings, yet transfers persist. Yet, overall retribution yields higher recidivism, underscoring reform's long-term benefits via education/therapy over incarceration's criminogenic effects.

Norway follows a pure welfare model under the Penal Code Act of 20 May 2005 Section 80.¹³⁵ No adult trials exist till the age of 15, heinous offenders receive welfare based "observation with treatment" (max 2 years, extendable) in child-centric facilities emphasizing psychotherapy and family therapy prosecution yields to Child Welfare Services.¹³⁶ Recidivism rates are low, showing the benefits of neuroscience informed, non-punitive care.

Japan's Juvenile Act of 1948,¹³⁷ similar to Norway, with Family Courts providing protective hearings. Even extreme cases usually receive

rehabilitative supervision rather than adult trials, focusing on moral education.

India falls between extremes, creating a hybrid system between the UK's diversion risks and US punishment's recidivism trap, harmonising Art. 21 due process with Directive Principles Art. 39(f), Art.45.¹³⁸ Capacity enhancements could emulate the UK's preventive teams and Norway's therapeutic focus.

CONCLUSION:

India's juvenile justice system strikes an optimal middle path between reform and retribution, uniquely suited to its socio-cultural realities where neither extreme suffices. The hybrid framework of assessing 16-18-year-olds' maturity for limited accountability while prioritizing rehabilitation for younger children avoids the pitfalls of foreign models. Forged from public outrage over cases like Nirbhaya, it delivers justice without forsaking child rights, recognizing that pure reform risks impunity amid brutal crimes, while unbridled retribution perpetuates criminal cycles in a poverty-scarred context.

The United Kingdom's welfare dominant approach offers a compelling reform ideal but falters under India's pressures. Through Youth Courts and Offending Teams, the UK diverts most under-18s into community resolutions or short custodial training, eschewing adult transfers even for homicide.¹³⁹ This restorative emphasis yields strong reintegration, yet India's volatile public sentiment evident in 2026's Narsingi and Delhi rape outrage demands more visible accountability. Post Nirbhaya protests rejected perceived leniency for the juvenile co-accused, as courts later affirmed through holistic maturity tests (*Barunthakur v. State of Assam*, (2016) 3 SCC 506).¹⁴⁰ The UK's model thrives in social stability, but with India's scale, media sensationalism, and trust deficit render absolute diversion untenable, potentially fueling panchayat vigilantism over institutional justice.

¹²⁸ Human Rights Act 1998, c. 42 (UK).

¹²⁹ Ministry of Justice (UK), Youth Justice Statistics 2023-24 (2024).

¹³⁰ G.A. Res. 40/33, U.N. Doc. A/RES/40/33 (1985).

¹³¹ Juvenile Justice and Delinquency Prevention Act of 1974

¹³² *Kent v. United States*, 383 U.S. 541 (1966).

¹³³ *Graham v. Florida*, 560 U.S. 48 (2010).

¹³⁴ *Roper v. Simmons*, 543 U.S. 551 (2005).

¹³⁵ Penal Code Act of 20 May 2005 No. 28, § 80 (Nor.).

¹³⁶ Child Welfare Act of 17 July 1992 No. 100 (Nor.).

¹³⁷ Juvenile Act, Law No. 168 of 1948 (Japan).

¹³⁸ India Const. arts. 21, 39(f), 45.

¹³⁹ Crime & Disorder Act 1998, c. 37 (UK).

¹⁴⁰ *Barunthakur v. State of Assam*, (2016) 3 SCC 506

America's retributive tilt proves equally mismatched. Prosecutorial waivers routinely shunt teens into adult courts for grave offences, exposing them to life terms tempered only by Eighth Amendment limits (*Kent v. United States*, 383 U.S. 541 (1966); *Graham v. Florida*, 560 U.S. 48 (2010)). This vengeance satisfies victims but amplifies recidivism through prison hardening. In India, where delinquency stems from slums, dropouts, and family collapse, such punishment would overwhelm under resourced systems and violate constitutional child protections (like Art. 39(f)). Judicial restraint, like *CBI v. Mahinder Singh*,¹⁴¹ wisely curbs mechanical transfers, favoring measured responses over America's collateral damage.

Norway and Japan represent reform's zenith banning adult trials for therapeutic interventions (max two-year holds emphasizing family therapy and moral education). Their low recidivism reflects affluent homogeneity and cultural stigma-aversion, luxuries India lacks amid capacity gaps and public clamour for retribution, as Chhattisgarh High Court underscored in bail denials for societal peril (*Anand Ram Nag v. State of Chhattisgarh*, These models inspire but cannot be transplanted with India's pluralistic pressures demand retribution's anchor.

Pure reform promises malleable brains' redemption, prefrontal maturity lags until 25, yielding 80–90% desistance through counselling familiar, Section 12 bail presumptions and *Sheela Barse v. Union of India*'s rehabilitation mandate.¹⁴² Yet brutal cases erode trust, demanding retribution's deterrence without excess. Pure retribution ignores root causes, creating vengeful adults; India's hybrid neuroscience-guided assessments (2016 Model Rules) and graduated sanctions thread the needle, as *Deepak v. State of Haryana*, (2020) 3 SCC 119 affirmed.¹⁴³

This equilibrium excels contextually. UK's leniency risks backlash in media-fueled India while, US punitive system fuels cycles amid poverty. Nordic absolutism ignores outrage. Judicial safeguards legal aid from arrest (*Shamima Farooqi v. State of Maharashtra*, POCSO convergence ensure equity: under-16s reform absolute, 16–18 conditionally accountable with 21-year caps.¹⁴⁴

India could adopt UK-style diversion teams for minor offences, Norwegian therapy protocols for maturity assessments, and Japanese family-based investigations to understand peer pressure. Juvenile Justice Boards should be fully judicially staffed, with cottage-style homes instead of jail-like institutions. Technology like AI case-tracking, tiered bail with GPS monitoring, victim mediation, and recidivism scorecards could aim to keep reoffending under 10%.

Yet, India cannot choose pure reform over accountability; our system blends both. This hybrid approach, evolving from colonial punishment to constitutional welfare, delivers child-focused justice while maintaining societal protection, offering a balanced model for the world.

¹⁴¹ *CBI v. Mahinder Singh*, (2017) 15 SCC 236

¹⁴² *Sheela Barse v. Union of India*, (1986) 3 SCC 632

¹⁴³ *Deepak v. State of Haryana*, (2020) 3 SCC 119

¹⁴⁴ *Shamima Farooqi v. State of Maharashtra*, (2017) 12 SCC 753