

Disparities in the Treatment of Girl Child Offenders Under India's Juvenile Justice Framework

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Abstract: *This article examines the gendered disparities in the treatment of girl child offenders under India's Juvenile Justice (Care and Protection of Children) Act, 2015, and argues that the system remains structurally male-centric despite its reformative intent. Drawing on NCRB data, legal provisions, and socio-legal analysis, it shows that girls in conflict with law often emerge from settings of abuse, trafficking, early marriage, poverty, and exploitation rather than from conventional patterns of delinquency. The study further highlights how institutional scarcity, social stigma, and weak gender-responsive rehabilitation mechanisms intensify their vulnerability within the justice process. It concludes that a trauma-informed, restorative, and community-based approach is necessary to ensure equitable application of the "best interest of the child" principle.*

Keywords: Juvenile Justice, girl child offenders, gender-responsive reform, child right

1. Introduction

India's juvenile Act 2015, is premised on the reformative ideal that children in conflict with the law requires rehabilitation, not retribution¹. Yet this framework, despite its progressive mandate, operates through a lens that is profoundly male-centric. With male juveniles constituting over 90% of all apprehended offenders according to National Crime Records Bureau (NCRB) data², the institutional apparatus- from observation homes to vocational training modules- has been constructed, implicitly and explicitly, around the male juvenile offender.

The girl child offender occupies an invisible and precarious position within this system³. Her pathways into delinquency are frequently distinct from those of her male counterparts, rooted in systemic victimization: early marriage, trafficking, domestic abuse, sexual exploitation, and acute socio-economic deprivation. When she enters the formal justice process, she confronts not only the legal consequences of her actions but also a societal stigmatization that is uniquely gendered and often permanent⁴.

This article undertakes a critical socio-legal analysis of the disparities in the treatment of the girl child offenders in India. It examines how the Nirbhaya case -a case involving a male juvenile offender-fundamentally reshaped the legal landscape. It further identifies the structural and institutional gaps that prevent girl offenders from receiving gender responsive rehabilitation and proposes a framework anchored in restorative justice and trauma informed care⁵.

¹ The Juvenile Justice (Care and Protection of Children) Act, 2015, § 2(13) (India).

² National Crime Records Bureau. (2024). *Crime in India: Annual reports (2022–2024)*. Ministry of Home Affairs, Government of India

³ The Juvenile Justice (Care and Protection of Children) Act, 2015, § 3 (India)

⁴ Bhattacharya, S. K. (1981). Juvenile justice system in India. *Journal of the Indian Law Institute*, 23(4), 606–612

⁵ Justice Verma Committee. (2013). *Report of the Committee on Amendments to Criminal Law*. Government of India

2. Literature Survey

The literature on juvenile justice in India has traditionally focused on reformative care, child rights, and the tension between punishment and rehabilitation, especially after major legal developments surrounding the Nirbhaya case. Early scholarship on juvenile justice emphasized the welfare model and the developmental incapacity of children, while later studies increasingly addressed institutional shortcomings, access to legal aid, and the implementation gap between law and practice.

A significant body of work also discusses how juvenile justice institutions were designed around male offenders, leaving girl child offenders underrepresented in research and policy. Studies and reports cited in the article point to the role of domestic violence, trafficking, sexual exploitation, and poverty as key pathways into conflict with law for girls. The literature further shows that girls often face a dual burden: legal processing as offenders and social processing as stigmatized victims, with limited gender-specific rehabilitation facilities available to them.

Recent policy reports and legal commentary have highlighted the need for child-friendly legal aid, trained woman members on Juvenile Justice Boards, privacy protections, and aftercare support, but the article notes that these protections remain uneven in implementation. Overall, the literature reveals a clear gap in gender-responsive juvenile justice scholarship, especially concerning girl children whose offending is closely tied to structural vulnerability rather than habitual criminality.

3. Methodology

This article adopts a socio-legal and doctrinal research design, combining statutory analysis with critical examination of secondary sources. It analyzes the Juvenile Justice (Care and Protection of Children) Act, 2015, relevant model rules, NALSA legal aid frameworks, and related judicial and policy developments to assess how the

legal system responds to girl child offenders.

The study also uses secondary empirical material such as NCRB crime statistics, government reports, and published academic commentary to identify broader patterns of juvenile offending and institutional response. A thematic approach is used to organize the discussion around key issues such as vulnerability, trafficking, institutional scarcity, rehabilitation, legal aid, and privacy protection.

The methodology is interpretive rather than experimental, aiming to connect legal norms with social realities and to evaluate whether the current juvenile justice framework meets the needs of girl children in conflict with law. The article's analytical lens is grounded in gender justice, child rights, and restorative justice principles.

4. Results and Discussion

4.1 The Economic Vulnerability

Families in the lowest income quintiles frequently withdraw daughters from school before the completion of secondary education, either to supplement household income or to comply with early marriage arrangements. A girl who has been ejected from the educational system by the age of twelve or thirteen enters a landscape of profound structural vulnerability : susceptible to recruitment by criminal networks, to sexual exploitation by adults who promise protection or income, and to coerced participation in activities that eventually bring her before the Juvenile Justice Board.

4.2 From Exploitation to Criminal Implication: The Trafficking Nexus

The relationship between human trafficking and female juvenile offending represents one of the most critically underexamined dimensions of India's child justice discourse. Girls who are trafficked for domestic labor, sexual exploitation or bonded work are frequently instrumentalized by their traffickers for ancillary criminal purposes: carrying contraband, facilitating financial fraud, or acting as intermediaries in criminal transactions⁶. When such girls come to the attention of law enforcement, the legal apparatus may process them as offenders rather than as trafficking survivors, depending largely on the nature of the apprehended act and the investigation lens applied by the arresting officer and the JJB⁷.

4.3 Institutional Scarcity: The Girls 'Home Problem

Among the most tangible manifestations of the system's gendered inadequacy is the acute scarcity of dedicated institutional facilities for female Juveniles. Observation Homes-the first point of institutional detention for juveniles apprehended by Law enforcement and special homes designated for longer term rehabilitative custody are

overwhelmingly calibrated for male residents⁸. In numerous states and union territories dedicated female facilities are either absent entirely or exist only in the state capital, requiring the transfer of girl offenders hundreds of kilometers from their homes and families. This separation from family makes things worse. It removes the support she needs to recover and reintegrate. Distance alone can destroy the chance of successful rehabilitation⁹.

4.4 The Nirbhaya case and its effect on Girl Child offenders

A young woman was viciously gang-raped on a bus in New Delhi on December 16, 2012. Two weeks later, she passed away from her wounds. A minor who was only a few months away from turning eighteen was one of the six accused. He spent the maximum amount of time permitted by the previous 2000 Act- three years- in a reform home. The public was outraged. People demanded tougher laws for juvenile offenders. This pressure led directly to the new juvenile justice act, 2015. Although the Nirbhaya case involved a male offender, the new law has had significant consequences for girl child offenders too.

4.5 Mandatory registration of child care institutions

Before 2015, many homes housing children had no proper oversight. The Nirbhaya case highlighted how dangerous unregulated facilities could be. The 2015 Act made it compulsory for all child care institutions to register with the government and undergo regular inspections. This was a positive change. It created more accountability, especially for homes housing girl juveniles where the risk of abuse was high?

4.6 Legal Aid Defense counsel (LADC) for juveniles

Under the JJ Act and NALSA (child friendly Legal Services) Scheme²⁰²⁴, every child in conflict with the law is entitled to free Legal Aid, ensuring that no case goes with Advocate. The LADC system employs Chief, Deputy, Assistant Legal Aid Defense Counsels who are hired based on merit and experience to provide full time legal service. The system focuses on child friendly procedures¹⁰.

4.7 A woman member on the Juvenile Justice Board

The JJB, formed under Section 4 of the Juvenile justice Act, 2025, consists of a principal Magistrate and two social workers, one of whom be a woman¹¹. Women members are required to have at least seven years of experience working with children in health, education, or welfare or be qualified professionals in child psychology, sociology, law, psychiatry. Women members play a key role in designing and overseeing rehabilitation plans tailored to the specific

⁸ National Crime Records Bureau. (2024). *Crime in India: Annual reports*. Ministry of Home Affairs, Government of India

⁹ The Juvenile Justice (Care and Protection of Children) Act, 2015, §§ 41, 49–50 (India)

¹⁰ National Legal Services Authority. (2022). *Legal Aid Defense Counsel Scheme (LADCS)*. NALSA, Government of India

¹¹ The Juvenile Justice (Care and Protection of Children) Act, 2015, § 4 (India).

⁶ The Immoral Traffic (Prevention) Act, 1956 (India)

⁷ United Nations Office on Drugs and Crime. (2024). *Global report on trafficking in persons*. UNODC

needs of the child, including girls who may have faced abuse or exploitation.

4.8 The 16 to 18 Transfer Rule

The most debatable change in the 2015 Act is the provision that allows juveniles between 16 and 18 years of age to be tried as adults if they are accused of heinous offences. This rule was created in response to the Nirbhaya Case. It was meant to ensure that serious crimes by older teenagers do not go lightly punished. But for girl child offenders, it creates a specific risk. Girl child offenders often commit non-violent, survival-based crimes (theft, runaway) driven by prior trauma, abuse, poverty, differing from the violent crime focus of their male counterparts¹². The Supreme Court of India has consistently refused to lower the age of criminal responsibility. As recently as December 2021, a Three-Judge bench headed by Chief Justice P. Sathasivam rejected petitions that sought to reinterpret the term 'juvenile' or to allow criminal courts rather than the Juvenile Justice Board to deremine Juvenility. This position reflects a sound understanding of child development and human rights.

4.9 Rising concern over India's Juvenile Justice Crisis

Chief Justice Surya Kant highlighted the growing burden of pending cases in India's courts, drawing attention to the severe impact on juvenile justice (5.4cr cases pending across trial courts & High Courts). A **new India Justice Report (IJR)** study, '**Juvenile Justice and Children in Conflict with the Law: A Study of Capacity at the Frontlines**', reveals the disturbing state of India's Juvenile Justice system. As of October 31, 2023, 55% of 1,00,904 cases before Juvenile Justice Boards (JJBs) remained unresolved, 45,091 cases had been disposed of. Urgent judicial and governmental intervention is necessary to strengthen juvenile boards, improve accountability, and protect children from being lost in a failing justice system.¹³

4.10 Protect privacy of children in conflict with Law

Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015, strictly prohibits the disclosure of the name, photograph, school, family, address, or any other detail that may reveal the identity of a child involved in criminal or protective legal matters. Legal consequences entails punishment of imprisonment upto six months, fine upto Rs 2 lakh or both. Such violations not only attract legal consequences but also cause deep psychological and social harm to the child and their family. This section plays an important role in protecting girl child offenders, who often face greater stigma, trauma, social vulnerability than boys. Girls involved in legal proceedings often face harsher societal judgment due to gender stereotypes. Privacy protection shields girls from lifelong reputational harm¹⁴.

¹² *Dr. Subramanian Swamy v. Raju*, (2014) 8 SCC 390 (India)., *Salil Bali v. Union of India*, (2013) 7 SCC 705 (India)., *Mukesh*

¹³ The Economic Times. (2025, November 27). Don't leave our kids in judicial limbo. *The Economic Times*

¹⁴ The Juvenile Justice (Care and Protection of Children) Act, 2015, Section 74 (India); Ministry of Women and Child Development. (2016). *Model rules under the Juvenile Justice (Care and Protection of Children) Act, 2015*. Government of

4.11 Why rehabilitation matters more than punishment for girls in conflict with law

For the majority of girl child offenders, whose crimes stem from poverty, abuse or coercion, The Juvenile Justice System should rely on restorative approaches rather than institutional detention. Community based processes that focuses on healing, reparation, reintegration are far more appropriate than placing traumatised girls in institutions. Girls need ongoing support. A structured aftercare program, supervised by trained social workers, should be available for at least two years without this girls often return to the same dangerous circumstances that led to their offending in the first place¹⁵.

The analysis shows that girl child offenders are not adequately served by a juvenile justice system built primarily around male delinquency patterns. The article finds that girls often enter the system through pathways shaped by abuse, exploitation, trafficking, forced marriage, and poverty, which means their conduct is frequently survival-based rather than criminally motivated in the conventional sense.

A major finding is that institutional and procedural responses remain insufficiently gender-sensitive. Dedicated facilities for girls are scarce, observation homes and special homes are often male-oriented, and separation from family and community weakens rehabilitation outcomes. Even where legal safeguards exist, such as privacy protection, legal aid, and the presence of a woman member on the Juvenile Justice Board, implementation gaps limit their practical effectiveness.

The discussion also shows that reforms inspired by the Nirbhaya case had mixed consequences. While the 2015 Act strengthened oversight and accountability in child care institutions, it also introduced harsher attitudes toward older juveniles that may not reflect the realities of girl offenders, whose acts are often linked to trauma and coercion. The article therefore argues that restorative justice, trauma-informed counselling, education, skill development, and community-based aftercare are more appropriate than punitive detention for most girl child offenders.

Overall, the results suggest that the juvenile justice system must shift from a formally gender-neutral model to a substantively gender-responsive one if it is to protect the best interests of girl children in conflict with law.

5. Future Scope

Future research can strengthen this topic through field-based empirical studies involving girl child offenders, their families, probation officers, Juvenile Justice Board members, and institutional staff. Comparative district-level and state-level studies would help identify how variations in infrastructure, legal aid, and welfare delivery affect rehabilitation outcomes for girls.

There is also scope for longitudinal research on post-release India.

reintegration, recidivism, education continuity, mental health, and family support systems for girl juveniles. Another important area is the evaluation of how effectively privacy protections, woman board members, and child-friendly legal aid schemes function in practice.

Further legal scholarship can explore whether the current framework under the Juvenile Justice Act should be supplemented by gender-specific rules, trauma screening protocols, and mandatory aftercare standards for girls in conflict with law. Such work would contribute to a more evidence-based, child-centered, and gender-responsive juvenile justice policy.

6. Conclusion

Girl child offenders are the unseen faces of India's juvenile justice system. They come before courts with quiet, survival based crimes. Behind those crimes are stories of trauma, poverty, abuse, exploitation. The system, built largely for boys, doesn't see these stories. The responsibility of state agencies doesn't end when a girl is placed in a home. It deepens. The institutions tasked with her care must offer real programs: Safety awareness, legal education, trauma counselling, skill training¹⁵. These programs must be delivered with care and overseen with accountability. Social audits must ensure that what is promised is actually delivered. Girl child offenders are not simply juveniles who broke the law. They are, in almost every case, children who were broken by the world before the law ever noticed them¹⁶.

The focus going forward must be on three things: Gender specific interventions that respond to the real lives of girl children, regular and honest reviews of how the system is performing, and a commitment to placing the best interests of the child at the heart of every policy and every decision. When the system achieves this, it will not just be fulfilling a legal obligation. It will be doing what every child deserves.

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¹⁵ Ministry of Women and Child Development. (2022). *Juvenile Justice (Care and Protection of Children) Act*, 2015. Government of India.

¹⁶ The Juvenile Justice (Care and Protection of Children) Act, 2015, Section 39–40, 46 (India).