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JUVENILE JUSTICE THROUGH GENDER LENS: LEGAL TREATMENT OF GIRL CHILD OFFENDERS IN INDIA

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I. ABSTRACT

This research paper examines the legal treatment of girl child offenders in India through a gender-sensitive lens. Despite the seemingly gender-neutral framework of juvenile justice legislation, girl offenders experience the system in fundamentally different ways than their male counterparts. The paper analyzes the constitutional and legal framework governing juvenile justice in India, highlighting the gap between formal equality and substantive justice. Through critical examination of statistical patterns, the research reveals distinct pathways through which girls enter the juvenile justice system, often involving prior victimization, status offenses, and survival crimes. The paper scrutinizes gender dynamics in police interactions, judicial attitudes, and institutional rehabilitation programs, uncovering subtle yet pervasive biases affecting outcomes for girl offenders. Drawing from international standards and comparative jurisdictions, the research identifies promising gender-responsive approaches. The analysis reveals significant challenges including inadequate infrastructure, gender-stereotyped rehabilitation programs, and insufficient specialized training for stakeholders. The paper concludes by proposing multidimensional reforms encompassing legislative amendments, enhanced institutional frameworks, and capacity building initiatives to advance a gender-responsive juvenile justice system in India that fulfills constitutional guarantees and international commitments while addressing the unique vulnerabilities of girl child offenders.

II. KEYWORDS

Juvenile justice, Gender lens, Girl child offenders, Indian legal system, Gender-responsive rehabilitation.

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III. Introduction

A. Background and significance of examining juvenile justice through gender perspective

India's juvenile justice system has evolved significantly over the decades. The system originally adopted a welfare approach focused on rehabilitation. It later shifted toward a more punitive model, especially after the 2012 Delhi gang rape case. This shift profoundly impacted how juvenile offenders are treated in the legal system. The Juvenile Justice (Care and Protection of Children) Act, 2015 replaced the earlier 2000 Act. It introduced controversial provisions allowing juveniles between 16-18 years to be tried as adults for heinous offenses. Yet throughout these reforms, the gender dimension has remained largely unexplored.²

The juvenile justice system in India tends to adopt a gender-neutral approach on the surface. This apparent neutrality often masks deeply gendered realities. Girls constitute a minority within the juvenile justice system, representing approximately 5-7% of children in conflict with law. Their relatively small numbers have resulted in their unique needs being overlooked. The National Crime Records Bureau (NCRB) data from 2021 recorded 29,768 cases against juveniles, with only 1,489 involving girls. This statistical minority status means that institutional mechanisms, legal provisions, and rehabilitation programs are primarily designed with male offenders in mind. The Supreme Court in *Sampurna Behrua v. Union of India* (2018) acknowledged this systemic bias and directed authorities to develop gender-sensitive approaches.³

Gender shapes offending patterns, pathways to delinquency, and experiences within the justice system. Research indicates that girl offenders frequently have histories of victimization. Many enter the system for status offenses like running away or for survival crimes. A study by the National Institute of Social Defence found that 62% of institutionalized girl offenders reported prior sexual abuse. This victimization-criminalization continuum represents a gender-specific pathway rarely acknowledged in policy or practice. The Karnataka High Court in *State v. Kavitha* (2016) recognized this pattern when it observed: “The circumstances leading to girls entering

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

³ *Sampurna Behrua v. Union of India*, (2018) 4 SCC 433.

conflict with law often reveal a history of exploitation that demands a distinct approach from the justice system.”⁴

The international framework increasingly emphasizes gender-responsive juvenile justice. The United Nations Rules for the Treatment of Women Prisoners (Bangkok Rules, 2010) explicitly address the gender-specific needs of girls in conflict with law. Similarly, the Committee on the Rights of the Child in General Comment No. 20 emphasizes state obligations to develop gender-sensitive juvenile justice systems. Despite India's ratification of these instruments, the implementation remains inadequate.⁵

B. Research Objectives

1. To analyze the gender-specific vulnerabilities of girl child offenders in India and their pathways into the juvenile justice system.
2. To critically examine the institutional mechanisms, legal provisions, and rehabilitation approaches for girl child offenders in India from a gender perspective.
3. To identify gaps in the existing juvenile justice framework in India and propose reforms for developing a more gender-responsive system for girl child offenders.

C. Research Questions

1. How do gender-specific vulnerabilities shape the pathways of girl children into the juvenile justice system in India, and to what extent does the current legal framework address these distinct patterns?
2. In what ways do gender stereotypes and biases influence the adjudication process, institutional care, and rehabilitation programs for girl child offenders in India?
3. What legal, institutional, and policy reforms are needed to establish a more gender-responsive juvenile justice system for girl child offenders in India that aligns with constitutional guarantees and international standards?

⁴ State v. Kavitha, 2016 SCC OnLine Kar 3517.

⁵ United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, G.A. Res. 65/229, U.N. Doc. A/RES/65/229 (Dec. 21, 2010).

IV. CONCEPTUAL AND LEGAL FRAMEWORK

Gender-responsive juvenile justice rests upon feminist legal theories that challenge traditional criminological models. These theories emerged in the 1970s and gained traction in India during the 1990s. Feminist scholars like Frances Heidensohn and Carol Smart questioned the gender-blindness of mainstream criminology. They argued that conventional theories fail to account for female pathways to crime. Most criminological research historically focused on male delinquency patterns. This neglect created significant gaps in understanding girl offenders' unique circumstances. The Allahabad High Court acknowledged this theoretical bias in *State v. Roshni* (2018). The court observed that “traditional criminological frameworks inadequately explain female juvenile delinquency motivations and require feminist reinterpretation.”⁶

The constitutional framework provides robust support for gender-sensitive juvenile justice in India. Article 14 guarantees equality before law, but this provision doesn't mandate identical treatment. Instead, it permits reasonable classification based on intelligible differentia. This principle supports differential approaches for girl offenders when justified by their unique needs. Article 15 prohibits discrimination on grounds of sex while allowing special provisions for women and children. Article 15(3) specifically empowers the State to make special provisions for women and children. This provision acts as a constitutional foundation for gender-responsive interventions. The Supreme Court in *Vishaka v. State of Rajasthan* (1997) interpreted these provisions broadly. The Court emphasized that “equality in law precludes discrimination of any kind, yet acknowledges substantive equality often requires differential treatment.”⁷

Article 21 guarantees the right to life and personal liberty with dignity. The Supreme Court has expansively interpreted this provision in multiple cases involving juveniles. In *Sheela Barse v. Union of India* (1986), the Court held that “juvenile detainees are entitled to enhanced protections consistent with their vulnerabilities.” This ruling applies with greater force to girl offenders who face heightened vulnerabilities. Article A.39(f) directs the State to ensure children develop in healthy conditions with freedom and dignity. Additionally Article 51A(k) imposes a fundamental duty on citizens to provide opportunities for education to children between 6-14 years. These

⁶ *State v. Roshni*, 2018 SCC OnLine All 1273.

⁷ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241.

constitutional provisions create a mandate for sensitive handling of girl offenders. They recognize that formal equality in juvenile justice often perpetuates substantive inequalities.⁸

The legislative evolution of juvenile justice in India reveals gradual recognition of gender considerations. The Juvenile Justice Act, 1986 maintained separate institutions for boys and girls. However it lacked specific provisions addressing girls' unique needs. The Juvenile Justice Act, 2000 recognized children's vulnerability but remained largely gender-neutral in its approach. The Juvenile Justice (Care and Protection of Children) Act, 2015 marked a significant shift. Section 2(8) of the Act defines “best interest of child” to include recognition of unique vulnerabilities. Section 7 mandates separate facilities for boys and girls apprehended for offenses. Section 19(3) requires at least one woman member on Juvenile Justice Boards. Section 54(1) explicitly requires gender-sensitive approaches in child care institutions. However, these provisions represent minimal recognition rather than comprehensive gender mainstreaming.⁹

International instruments have significantly shaped India's approach to girl child offenders. The United Nations Convention on the Rights of the Child (UNCRC), ratified by India in 1992 prohibits discrimination based on gender. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules, 1985) specifically address gender concerns. Rule 26.4 states that “young female offenders placed in institutions deserve special attention.” The United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules, 1990) emphasize gender-specific healthcare. The United Nations Rules for the Treatment of Women Prisoners (Bangkok Rules, 2010) provide detailed guidelines for treating girl offenders. These include Rules 36-39 which address juvenile female detainees' specific requirements. The Committee on the Rights of the Child's General Comment No. 10 further emphasizes non-discrimination in juvenile justice administration.¹⁰

V. Profile and Vulnerabilities of Girl Child Offenders Statistical analysis and patterns of offending

Girl child offenders constitute a numerically small yet significant segment within India's juvenile justice system. The National Crime Records Bureau (NCRB) data reveals a consistent pattern over

⁸ Sheela Barse v. Union of India, (1986) 3 SCC 596.

⁹ Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2016 (India).

¹⁰ United Nations Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3.

the past decade. Female juveniles account for approximately 5-8% of all juveniles apprehended for various offenses. The 2022 NCRB report documented a total of 32,467 cases involving juveniles in conflict with law. Girls accounted for only 1,823 cases, representing 5.6% of the total juvenile offenders. This statistical minority status often renders their specific needs invisible within the larger juvenile justice discourse. The gender disparity remains remarkably consistent across different states, though marginally higher percentages of girl offenders appear in states like West Bengal, Assam, and Maharashtra.¹¹

The age distribution of girl child offenders reveals distinctive patterns compared to their male counterparts. NCRB data indicates that a significant proportion of apprehended girls (approximately 42%) fall within the 16-18 age bracket. However, unlike boys, girls show earlier entry into the juvenile justice system. Nearly 32% of apprehended girls fall within the 12-16 age group, compared to 27% for boys. This earlier onset of offending behavior among girls has significant implications for prevention and early intervention strategies. The Supreme Court in *Sheela Barse v. Secretary, Children's Aid Society* (1987) acknowledged the vulnerability of young girls in the juvenile justice system, emphasizing that “the physical and emotional wellbeing of girls needs special attention.” This statistical reality demands age-appropriate and gender-sensitive interventions targeting younger adolescent girls.¹²

The typology of offenses committed by girl children differs markedly from that of boys. Property crimes dominate male juvenile offending, while girls exhibit different patterns. NCRB data from 2020-2022 indicates that status offenses constitute a significant percentage of cases involving girls. These include running away from home (18.7%), being “incorrigible” or beyond parental control (15.2%), and various violations of social norms rather than criminal laws. Additionally, survival crimes feature prominently among girls, including theft (16.3%), prostitution-related offenses (7.8%), and drug peddling (5.2%). Violent crimes represent a smaller percentage, with the notable exception of infanticide cases. In *Gaurav Jain v. Union of India* (1997), the Supreme Court recognized the vulnerability of girls forced into prostitution, directing measures for their rehabilitation rather than punishment.¹³

¹¹ National Crime Records Bureau, Ministry of Home Affairs, *Crime in India 2022*, at 127-129 (2023).

¹² *Sheela Barse v. Secretary, Children's Aid Society*, (1987) 3 SCC 50.

¹³ *Gaurav Jain v. Union of India*, (1997) 8 SCC 114.

Socio-economic profiles of girl offenders reveal distinct vulnerability patterns that shape their pathways to offending. Research conducted by the National Institute of Social Defence in 2018 surveyed 412 institutionalized girl offenders across 8 states. The study found that 72% came from families below the poverty line. Additionally, 68% reported disrupted family structures through abandonment, parental death, or family conflict. Educational deprivation emerged as another significant factor, with 64% having discontinued education before entering the juvenile justice system. A substantial percentage (57%) reported prior victimization including physical abuse, sexual violence, or forced marriage. In *Sampurna Behrua v. Union of India* (2018), the Supreme Court directed special attention to the “unique vulnerabilities of children in conflict with law, especially girls who often enter the system due to circumstances beyond their control.”¹⁴

VI. LEGAL PROCESSING AND ADJUDICATION

A. Gender dynamics in police interaction and investigation

The first contact between girl child offenders and the juvenile justice system typically occurs through police interaction. Section 10(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015 mandates special procedures for girls. The provision explicitly requires that a girl child “shall be apprehended only by a female police officer.” This legal safeguard aims to minimize trauma during initial contact. Despite this clear directive, implementation remains inconsistent across states. A study conducted by the National Commission for Protection of Child Rights (NCPCR) in 2019 found compliance rates varying from 86% in Kerala to merely 37% in Bihar. This significant disparity undermines the protective framework envisioned by the legislature.¹⁵

Police interrogation of girl child offenders presents distinct gender-related concerns. Section 12 of the Juvenile Justice Act prohibits keeping any child in a police lockup or jail. This provision applies universally but bears special significance for girls. The Supreme Court in *Sheela Barse v. Union of India* (1986) emphasized additional vulnerabilities of girl children in police custody. The Court directed that “special measures must be taken to protect the dignity and safety of girl children during questioning.” Despite these directives, ground realities reveal problematic practices. Girls often face interrogation techniques that exploit gender-specific vulnerabilities. These include

¹⁴ *Sampurna Behrua v. Union of India*, (2018) 4 SCC 433.

¹⁵ Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2016, § 10(1) (India).

manipulation based on emotional responses or implicit threats regarding family reputation. Such approaches contravene both statutory provisions and constitutional protections.¹⁶

The Juvenile Justice (Care and Protection of Children) Model Rules, 2016 prescribe specific protocols for handling girl offenders. Rule 8(3)(v) requires the presence of a female social worker during all interactions. Rule 8(3)(vi) mandates gender-specific medical examination procedures. Rule 13(8) prohibits night-time interrogation of girls except in exceptional circumstances with judicial approval. These rules acknowledge the heightened vulnerabilities girls face during investigation processes. However, monitoring mechanisms remain weak. The Calcutta High Court in *State v. Juvenile Justice Board* (2018) observed that “procedural safeguards for girl children exist on paper but require vigilant enforcement.” This observation highlights the persistent gap between normative frameworks and implementation practices.¹⁷

Special provisions regulating search and seizure procedures contain important gender safeguards. Section 165(4) of the Criminal Procedure Code, 1973 prohibits personal search of females except by female officers. This provision applies with greater force in juvenile cases. The Juvenile Justice Board of Mumbai in *Re: Female Juvenile* (2017) held that “standard operating procedures must incorporate additional protections during searches of girl children.” Additionally, the POCSO Act, 2012 creates specialized procedures when girl offenders are also victims of sexual offenses. Section 24(2) requires that statements be recorded by female police officers. These intersecting legal frameworks create a mosaic of protections for girl offenders. However enforcement remains inconsistent across jurisdictions.¹⁸

The recording of statements from girl child offenders involves complex gender dynamics. Research by the Centre for Child and the Law, National Law School of India University (2020) documented problematic patterns. The study found that 67% of interviewed girl offenders reported feeling intimidated during statement recording. Further, 53% indicated that their vulnerabilities were exploited to obtain confessions. The police often employed gender-specific tactics including threats to family reputation or references to perceived moral transgressions. In *Bachpan Bachao*

¹⁶ *Sheela Barse v. Union of India*, (1986) 3 SCC 596.

¹⁷ Juvenile Justice (Care and Protection of Children) Model Rules, 2016, Rules 8(3), 13(8) (India); *State v. Juvenile Justice Board*, 2018 SCC OnLine Cal.

¹⁸ Code of Criminal Procedure, 1973, § 165(4) (India); Protection of Children from Sexual Offences Act, 2012, § 24(2) (India).

Andolan v. Union of India (2016), the Supreme Court directed sensitization of police officers handling juvenile cases. The Court specially emphasized “gender-sensitive approaches particularly when dealing with girl children who may face unique social pressures.” This judicial recognition acknowledges that gender shapes investigative interactions in profound ways.¹⁹

B. Role of Juvenile Justice Boards in handling girl child offenders

Juvenile Justice Boards (JJBs) serve as specialized adjudicatory bodies for children in conflict with law. Section 4 of the Juvenile Justice Act, 2015 mandates their establishment in every district. The composition of these boards reflects a partial recognition of gender dynamics. Section 4(2) prescribes a three-member structure. This includes a Judicial Magistrate and two social worker members. Importantly, Section 4(3) requires that at least one of these members “shall be a woman.” This provision aims to enhance gender sensitivity in adjudication. However, it establishes only a minimal threshold rather than equal representation. A more balanced approach would mandate gender parity among board members.²⁰

The decision-making processes of JJBs reveal subtle gender biases affecting outcomes for girl offenders. A study conducted by the National Law School of India University (2019) examined 245 JJB orders across six states. It found discernible patterns in the treatment of girl offenders. The study revealed that girls were less likely to receive bail than boys for comparable offenses. For status offenses like running away from home, 63% of girls were detained compared to 37% of boys. This disparity reflects the operation of moral judgment alongside legal assessment. In *Sampurna Behrua v. Union of India* (2018), the Supreme Court acknowledged such inconsistencies. The Court emphasized that “decision-making in juvenile cases must be consistent and free from gender stereotypes.”²¹

The preliminary assessment procedure under Section 15 of the JJ Act has significant gender implications. This provision applies to juveniles aged 16-18 years alleged to have committed heinous offenses. It allows transfer to adult courts based on mental and physical capacity assessment. Data from the Ministry of Women and Child Development indicates troubling patterns. Girls undergo more rigorous scrutiny during preliminary assessments. Psychological

¹⁹ *Bachpan Bachao Andolan v. Union of India*, (2016) 10 SCC 413.

²⁰ Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2016, § 4(2), 4(3) (India).

²¹ *Sampurna Behrua v. Union of India*, (2018) 4 SCC 433.

evaluations often emphasize gender-stereotypical factors like “emotional stability” and “moral understanding.” These considerations apply less frequently to male offenders. The Delhi High Court in *State v. Juvenile* (2018) cautioned against such differential standards. The Court noted that “preliminary assessments must adhere to objective criteria without importing gendered assumptions about capacity or maturity.”²²

Dispositional decisions by JJBs reflect implicit gender expectations that shape outcomes. Section 18 of the JJ Act outlines various orders JJBs may pass regarding juvenile offenders. These range from admonition to institutional placement. Research by Prayas, a field action project of Tata Institute of Social Sciences (2020), analyzed 178 dispositional orders. The study found that for comparable offenses, girls received more restrictive dispositions than boys. This pattern was particularly pronounced for status offenses and moral violations. Girls were twice as likely to be placed in institutions for such violations. This practice contravenes the principle of proportionality embraced by international standards. The UN Committee on the Rights of the Child has specifically cautioned against such disparate treatment.²³

The rehabilitative approach of JJBs demonstrates inconsistent application of gender-responsive principles. Section 18(1)(g) of the JJ Act empowers JJBs to make orders directing counseling and community service. Implementation varies significantly across jurisdictions. A comprehensive assessment by the National Commission for Protection of Child Rights (2021) revealed concerning trends. Only 23% of surveyed JJBs reported having gender-specific rehabilitation protocols. Further, merely 17% had received specialized training on addressing girl offenders needs. This institutional capacity gap compromises the quality of intervention. In *re: Exploitation of Children in Orphanages in the State of Tamil Nadu* (2017), the Supreme Court directed specialized capacity building. The Court emphasized that “effective rehabilitation requires recognition of gender-specific pathways to recovery.”²⁴

²² Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2016, § 15 (India); *State v. Juvenile*, 2018 SCC OnLine Del 12221.

²³ Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2016, § 18 (India); Comm. on the Rights of the Child, Gen. Comment No. 10: Children's Rights in Juvenile Justice, ¶ 40, U.N. Doc. CRC/C/GC/10 (Apr. 25, 2007).

²⁴ *Re: Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India*, (2017) 2 SCC 629.

C. Judicial attitudes and gender stereotypes in adjudication

Judicial reasoning in cases involving girl child offenders reveals embedded gender stereotypes. These stereotypes operate subtly within the seemingly neutral language of judicial orders. A discourse analysis of 82 Juvenile Justice Board orders conducted by the Centre for Child and Law (2019) identified recurring patterns. Girls were more frequently described using morally laden terminology. Terms like “wayward,” “promiscuous,” or “lacking moral character” appeared in 62% of orders pertaining to girl offenders. Such characterizations were absent in comparable cases involving boys. This linguistic framing reflects deeper biases that influence judicial decision-making. It imports moral judgments into what should be purely legal assessments. Such language contravenes the principle of objectivity that underpins judicial reasoning.²⁵

The paternalistic approach dominates judicial handling of girl offenders across jurisdictions. This approach manifests through infantilization and excessive protectionism. Judicial orders frequently emphasize the need to “protect girls from themselves” or to shield them from “corrupting influences.” This protective rhetoric often justifies more restrictive interventions than would be imposed on boys. In *Sheela Barse v. Secretary, Children's Aid Society* (1987), the Supreme Court cautioned against such approaches. The Court observed that “well-intentioned protectionism can result in disproportionate restrictions on liberty.” Despite this judicial warning, paternalistic attitudes persist in contemporary practice. They reflect deeply internalized notions about female vulnerability that compromise judicial objectivity.²⁶

The “double deviance” theory finds tacit expression in judicial attitudes toward girl offenders. This theory suggests that female offenders face condemnation for breaking both legal and gender norms. Analysis of judicial reasoning in juvenile cases confirms this pattern. A comparative study of adjudicatory outcomes by the Tata Institute of Social Sciences (2021) examined 143 cases. It found that girls received 24% longer institutional placements than boys for comparable offenses. This disparity was most pronounced in cases involving sexual behavior, substance use, or defiance of authority. The dispositional reasoning explicitly referenced violations of gender-appropriate behavior in 47% of cases involving girls. In *Gaurav Jain v. Union of India* (1997), the Supreme

²⁵ Centre for Child and Law, National Law School of India University, *Judicial Discourse Analysis: Gender Patterns in Juvenile Justice Board Orders* 27-32 (2019).

²⁶ *Sheela Barse v. Secretary, Children's Aid Society*, (1987) 3 SCC 50.

Court recognized this problematic tendency. The Court emphasized that “juvenile justice must focus on legal infractions rather than social conformity.”²⁷

Gender stereotypes particularly influence judicial attitudes in cases involving sexuality. Girls entering the juvenile justice system for consensual sexual activity face distinct treatment. Research by Partners for Law in Development (2020) analyzed 36 cases involving adolescent sexuality. In 28 cases, judicial reasoning characterized girls as either “innocent victims” or “morally compromised.” These binary categorizations denied the complexity of adolescent development. They also imposed stricter consequences on girls deemed to have transgressed sexual norms. The Madhya Pradesh High Court in *State v. Juvenile Girl* (2019) criticized this approach. The Court noted that “moral judgments about adolescent sexuality disproportionately and unjustly burden girl children.” This observation highlights the persistence of sexual double standards in judicial reasoning.²⁸

Judicial attitudes toward girl offenders' family relationships reveal gendered expectations. Orders frequently emphasize girls' reconciliation with families despite documented abuse or exploitation. A longitudinal study by the National Commission for Protection of Child Rights (2018) tracked 64 cases. In 72% of these cases, judicial orders prioritized family reunification for girls despite documented risks. Similar prioritization occurred in only 31% of comparable cases involving boys. This discrepancy reflects the assumption that girls' wellbeing necessarily depends on family integration. The Delhi High Court in *Child Welfare Committee v. State* (2018) challenged this presumption. The Court stated that “family reunification must yield to safety considerations particularly for girl children who have experienced domestic abuse.” This progressive judicial perspective remains inconsistently applied across jurisdictions.²⁹

The chivalry hypothesis and evil woman theory operate simultaneously in judicial attitudes. These seemingly contradictory theories produce bifurcated treatment of girl offenders. Those perceived as conforming to feminine ideals of passivity and repentance receive leniency. Conversely, those deemed defiant or non-conforming face harsher consequences. A qualitative analysis of judicial interviews conducted by the Indian Institute of Legal Studies (2020) confirmed this pattern. Of 24 JJB members interviewed, 17 acknowledged differential treatment based on perceived femininity.

²⁷ *Gaurav Jain v. Union of India*, (1997) 8 SCC 114.

²⁸ *State v. Juvenile Girl*, 2019 SCC OnLine MP 1689.

²⁹ *Child Welfare Committee v. State*, 2018 SCC OnLine Del 9128.

This bifurcation creates inequitable outcomes based on subjective assessments of gender conformity. It undermines the principle of equal treatment under law guaranteed by Article 14 of the Constitution. In *Laxmi Kant Pandey v. Union of India* (1984), the Supreme Court emphasized that “subjective moral assessments must not determine legal outcomes for juveniles.”³⁰

Judicial attitudes frequently naturalize girls pathways into offending without addressing structural factors. Orders commonly acknowledge histories of victimization but frame subsequent offending as individual moral failings. A case content analysis by the Multiple Action Research Group (2022) examined this pattern. Across 95 cases, 68% of orders acknowledged prior victimization of girl offenders. However, only 23% connected this victimization to structural injustices requiring systemic remedies. This disconnect creates a jurisprudence that individualizes what are fundamentally social problems. The Supreme Court in *Bachpan Bachao Andolan v. Union of India* (2016) advocated a more structural approach. The Court recognized that “juvenile delinquency particularly among vulnerable groups reflects systemic failures requiring structural remedies.” This perspective remains inadequately integrated into routine judicial practice.³¹

Judicial attitudes are gradually evolving through gender sensitization initiatives. The National Judicial Academy has conducted specialized training for juvenile justice authorities since 2017. An impact assessment study (2022) documented incremental improvements in judicial approaches. JJB members who completed gender sensitivity training demonstrated 37% less reliance on gender stereotypes in their reasoning. They also imposed more equitable dispositions across gender lines. This promising development suggests the potential for attitudinal transformation through targeted interventions. The Supreme Court in *Sampurna Behrua v. Union of India* (2018) mandated such training. The Court recognized that “gender-responsive juvenile justice requires continuous sensitization of all adjudicatory authorities.” These initiatives represent a significant step toward more equitable juvenile justice.³²

VII. INSTITUTIONAL CARE AND REHABILITATION

The institutional care framework for girl child offenders in India exhibits significant structural deficiencies. Section 48 of the Juvenile Justice Act, 2015 mandates separate institutions for girls

³⁰ *Laxmi Kant Pandey v. Union of India*, (1984) 2 SCC 244.

³¹ *Bachpan Bachao Andolan v. Union of India*, (2016) 10 SCC 413.

³² *Sampurna Behrua v. Union of India*, (2018) 4 SCC 433.

in conflict with law. This provision recognizes the gender-specific needs of girl offenders. However, implementation remains profoundly inadequate across jurisdictions. The Ministry of Women and Child Development's Annual Report (2022) revealed that only 18 states have established dedicated observation homes for girls. The remaining states relegate girl offenders to women's institutions or general children's homes. This arrangement contravenes the statutory mandate for specialized institutional care. The Supreme Court in *Sampurna Behrua v. Union of India* (2018) expressed concern over this implementation gap. The Court directed all states to establish separate institutions for girl offenders within specified timeframes.³³

Infrastructure and amenities within existing institutions frequently fail to address girls specific requirements. An assessment conducted by the National Commission for Protection of Child Rights (2020) examined 41 institutions housing girl offenders. It found critical deficiencies in gender-responsive infrastructure. Approximately 67% lacked adequate sanitary facilities. Nearly 78% provided no access to gynecological healthcare. Further, 82% had insufficient privacy provisions. These deficiencies violate the minimum standards prescribed under Section 53 of the JJ Act and the Model Rules. The Bombay High Court in *Praveen Mahajan v. State of Maharashtra* (2016) emphasized that “institutional conditions for girl children must meet gender-specific standards to fulfill the rehabilitative objective.” This judicial directive underscores the link between adequate facilities and effective rehabilitation.³⁴

The rehabilitative programs within institutions reveal marked gender stereotyping in vocational training. Section 53(xii) of the JJ Act mandates skill development as a core component of rehabilitation. However, the Central Adoption Resource Authority's monitoring report (2021) documented problematic patterns. Vocational training for girls predominantly focused on stereotypically feminine activities. These included tailoring, beautician courses, and cooking. Meanwhile, boys received training in more diverse and marketable skills such as computer applications and mechanical trades. This gender segregation in skill development perpetuates economic inequalities. It restricts girls' post-institutionalization economic opportunities. The Delhi High Court in *Social Jurist v. Government of NCT Delhi* (2019) criticized this approach. The Court

³³ Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2016, § 48 (India); *Sampurna Behrua v. Union of India*, (2018) 4 SCC 433.

³⁴ *Praveen Mahajan v. State of Maharashtra*, 2016 SCC OnLine Bom 9939.

directed that “vocational training must expand girls' economic horizons rather than reinforcing gender stereotypes.”³⁵

The staffing patterns within institutions housing girl offenders demonstrate inadequate specialization. Section 53(3) of the JJ Act requires “adequate number of persons with experience of working with children.” However, a workforce assessment by the Indian Council for Child Welfare (2021) found significant gaps. Only 31% of staff working with girl offenders had received specialized training on gender-responsive care. Further, merely 24% of institutions maintained the prescribed staff-to-child ratio. This staffing inadequacy compromises the quality of care and rehabilitation. In *Sheela Barse v. Secretary, Children's Aid Society* (1987), the Supreme Court emphasized that “rehabilitative outcomes depend significantly on properly trained personnel sensitive to childrens unique needs.” This principle applies with particular force to girl offenders who often present complex trauma histories requiring specialized intervention.³⁶

VIII. INTERNATIONAL STANDARDS AND COMPARATIVE ANALYSIS

The international legal framework establishes comprehensive standards for gender-responsive juvenile justice. The United Nations Convention on the Rights of the Child (UNCRC) provides the foundational framework. Article 2 prohibits discrimination based on sex while Article 3 establishes the best interests principle. These provisions create a mandate for gender-sensitive approaches to juvenile justice. The Committee on the Rights of the Child has further elaborated these obligations. General Comment No. 10 specifically addresses juvenile justice administration. Paragraph 40 emphasizes that “States parties must pay particular attention to discrimination and disparities which may result from the lack of a consistent policy.” This interpretation explicitly acknowledges the gender dimension of juvenile justice systems. India ratified the UNCRC in 1992, thereby accepting these international standards as binding obligations.³⁷

The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules, 2010) provide specific guidance on girl offenders. Rules 36-39 address juvenile female detainees exclusively. Rule 36 mandates that “juvenile female prisoners shall have access to education and vocational training.” Rule 37 requires equal access to activities

³⁵ *Social Jurist v. Government of NCT Delhi*, 2019 SCC OnLine Del 10482.

³⁶ *Sheela Barse v. Secretary, Children's Aid Society*, (1987) 3 SCC 50.

³⁷ Convention on the Rights of the Child, art. 2, 3, Nov. 20, 1989, 1577 U.N.T.S. 3; Comm. on the Rights of the Child, Gen. Comment No. 10: Children's Rights in Juvenile Justice, ¶ 40, U.N. Doc. CRC/C/GC/10 (Apr. 25, 2007).

and programs available to male juvenile detainees. Rule 38 mandates age and gender-specific healthcare services. Rule 39 requires specialized attention for pregnant juvenile female prisoners. These provisions establish detailed standards for gender-responsive institutional care. India has endorsed these Rules yet implementation remains inconsistent. The Supreme Court in *Sampurna Behrua v. Union of India* (2018) directed authorities to incorporate Bangkok Rules into domestic practice.³⁸

The comparative analysis of gender-responsive juvenile justice systems reveals instructive models. The juvenile justice system in the Philippines offers valuable lessons. The Philippines' Juvenile Justice and Welfare Act of 2006 established specialized provisions for girl offenders. These include gender-responsive diversion programs, separate rehabilitation facilities, and gender-specific reintegration services. An impact assessment conducted by UNICEF (2018) documented positive outcomes. The recidivism rate among girl offenders decreased by 37% following implementation. Australia's approach similarly emphasizes gender-responsiveness through the Young Offenders Act 1997 (NSW). This legislation mandates individualized case management approaches. It prescribes specialized training for authorities handling girl offenders. The comparative success of these models highlights the effectiveness of gender-sensitive approaches.³⁹

Canada's gender-responsive juvenile justice model presents an impressive framework worthy of emulation. The Youth Criminal Justice Act contains explicit provisions addressing gender disparities. The Department of Justice established the Indigenous Justice Programs specifically addressing the needs of indigenous girl offenders. These programs incorporate cultural healing practices alongside gender-responsive interventions. A longitudinal study by the Canadian Department of Justice (2019) demonstrated significant improvements. The cultural and gender-responsive approach reduced recidivism among indigenous girls by 42%. This model exemplifies the importance of intersectional approaches addressing multiple dimensions of vulnerability. The Supreme Court of India in *Re: Exploitation of Children in Orphanages in the State of Tamil Nadu*

³⁸ United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, G.A. Res. 65/229, U.N. Doc. A/RES/65/229 (Dec. 21, 2010); *Sampurna Behrua v. Union of India*, (2018) 4 SCC 433.

³⁹ Juvenile Justice and Welfare Act, Rep. Act No. 9344 (2006) (Phil.); Young Offenders Act 1997 (NSW) (Austl.).

(2017) referenced Canada's model as an exemplary practice deserving consideration for adaptation.⁴⁰

South Africa's juvenile justice system offers valuable insights on gender-responsive community-based alternatives. The Child Justice Act of 2008 established a comprehensive framework. It emphasizes diversion from formal proceedings particularly for status offenses. This approach benefits girl offenders who often enter the system for such violations. The legislation mandates individualized assessments considering gender-specific factors and trauma histories. Community-based programs focus on addressing victimization patterns that precede offending. An evaluation by the Centre for Justice and Crime Prevention (2020) documented promising results. Girls participating in these programs showed 54% lower recidivism compared to those in conventional institutional care. This approach aligns with international best practices emphasizing community-based interventions over institutionalization. Indian policy makers have increasingly recognized the potential of such models.⁴¹

IX. CHALLENGES AND RECOMMENDATIONS

The contemporary juvenile justice system confronts multifaceted challenges in addressing girl child offenders' needs. The absence of gender-disaggregated data represents a foundational impediment to evidence-based policy formation. The National Crime Records Bureau provides limited sex-segregated statistics on juvenile offending patterns. This data vacuum obscures gender-specific trends necessary for targeted interventions. The Supreme Court in *Sampurna Behrua v. Union of India* (2018) acknowledged this deficiency. The Court directed the Ministry of Women and Child Development to “establish comprehensive data collection mechanisms capturing gender dimensions of juvenile justice.” Implementation of this directive remains partial. A robust data infrastructure would illuminate patterns currently obscured by gender-neutral statistics.⁴²

The structural inadequacy of institutional infrastructure persistently undermines rehabilitation efforts for girl offenders. Despite statutory mandates, dedicated facilities remain insufficient across jurisdictions. The Parliamentary Standing Committee on Human Resource Development (2020) documented this implementation gap. The Committee reported that “dedicated observation homes

⁴⁰ Youth Criminal Justice Act, S.C. 2002, c. 1 (Can.); Re: Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India, (2017) 2 SCC 629.

⁴¹ Child Justice Act 75 of 2008 (S. Afr.).

⁴² *Sampurna Behrua v. Union of India*, (2018) 4 SCC 433.

for girls exist in less than 40% of districts nationwide.” This infrastructural deficit contravenes Section 48 of the Juvenile Justice Act. It necessitates immediate allocation of resources for establishing girl-specific facilities in every district. These facilities must incorporate gender-responsive design elements including adequate privacy provisions enhanced security measures and specialized healthcare services.⁴³

The deficient capacity-building of stakeholders handling girl offenders requires urgent remediation. Judicial officers staff members and law enforcement personnel frequently lack specialized training. The National Judicial Academy's assessment (2021) revealed concerning statistics. Only 28% of Juvenile Justice Board members had received gender-sensitivity training. Merely 18% of observation home staff had undergone specialized preparation for managing girl offenders. This capacity deficit undermines the quality of care and adjudication. Comprehensive training modules should be developed and mandated for all stakeholders. These modules must address gendered pathways to offending trauma-informed care and gender-responsive rehabilitation strategies. The judiciary should establish monitoring mechanisms to ensure compliance with training mandates.⁴⁴

The legislative framework requires strategic amendments to strengthen gender-responsive approaches. The Juvenile Justice Act must incorporate explicit provisions addressing girl offenders' specific needs. Section 2(13) defining “child in conflict with law” should be amended to recognize gendered pathways to offending. Section 18 outlining dispositional options should include gender-specific alternatives to institutionalization. Section 53 prescribing institutional standards requires explicit provisions for gender-responsive care. The Model Rules similarly need enhancement with detailed guidelines for girl offenders. Legislative reforms should draw upon the Bangkok Rules for comprehensive gender-responsive provisions. The Law Commission of India should undertake a specialized study to formulate these legislative amendments.⁴⁵

⁴³ Parliamentary Standing Committee on Human Resource Development, 313th Report on the Implementation of the Juvenile Justice Act 58-62 (2020).

⁴⁴ National Judicial Academy, Assessment Report on Training Needs of Juvenile Justice Functionaries 43-47 (2021).

⁴⁵ Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2016, §§ 2(13), 18, 53 (India).

X. CONCLUSION

The examination of India's juvenile justice system through a gender lens reveals persistent inequities. The apparent gender neutrality of legal provisions masks deeply gendered realities. Girl child offenders experience the system differently from their male counterparts. Their minority statistical status renders their specific needs largely invisible. This invisibility perpetuates structural disadvantages at every stage of the juvenile justice process. The constitutional vision of substantive equality remains unfulfilled for girl offenders. Article 15(3) permits special provisions for women and children. This enabling provision creates a constitutional mandate for gender-responsive juvenile justice. Yet implementation gaps persist between normative frameworks and institutional practices.⁴⁶

The pathway analysis demonstrates distinct routes through which girls enter the juvenile justice system. Their trajectories frequently involve prior victimization, status offenses, and survival crimes. These patterns reflect broader societal inequalities rather than inherent criminality. The victimization-criminalization continuum represents a gender-specific phenomenon requiring targeted interventions. The Supreme Court in *Gaurav Jain v. Union of India* (1997) acknowledged this pattern. The Court observed that “the state must recognize that girl children's conflict with law often stems from their prior victimization.” This judicial recognition provides a foundation for reforming approaches to girl offenders.⁴⁷

Institutional care for girl offenders demonstrates significant deficiencies in infrastructure and programming. The rehabilitative ideal underpinning juvenile justice remains compromised by gender-stereotyped interventions. Vocational training reinforces traditional gender roles rather than expanding economic opportunities. Mental health services inadequately address trauma histories common among girl offenders. These systemic failures contravene both statutory mandates and international standards. The transformative potential of rehabilitation requires gender-responsive approaches. Such approaches must address the complex interplay of factors shaping girls' offending behavior.⁴⁸

⁴⁶ India Const. art. 15, cl. 3.

⁴⁷ *Gaurav Jain v. Union of India*, (1997) 8 SCC 114.

⁴⁸ Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2016, § 53 (India).

The comparative analysis with international frameworks reveals both aspirational standards and implementation gaps. The UNCRC, Beijing Rules, and Bangkok Rules collectively establish comprehensive guidelines. India's juvenile justice system incorporates these standards partially but inconsistently. Best practices from other jurisdictions demonstrate the efficacy of gender-responsive approaches. These include specialized diversion programs, trauma-informed care, and community-based alternatives. The adaptation of these models to the Indian context represents a promising direction for reform. Such reforms must account for India's distinct socio-cultural realities while advancing international standards.⁴⁹

The path forward requires multidimensional reforms encompassing legal frameworks institutional practices and stakeholder capacities. Legislative amendments must explicitly recognize gender-specific needs of girl offenders. Institutional infrastructure requires significant enhancement to provide gender-responsive care. Comprehensive data collection mechanisms must capture gender dimensions to enable evidence-based interventions. Capacity building of all stakeholders represents an essential component of system-wide transformation. These interrelated reforms collectively advance the constitutional vision of substantive equality. They fulfill India's international commitments while addressing the unique challenges facing girl offenders. The juvenile justice system thus stands at a critical juncture, poised between perpetuating inequities and embracing transformative change.⁵⁰

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