Research Article

Juvenile Justice In India Under The New Criminal Laws: A Critical Analysis Of The Bharatiya Nyaya Sanhita, 2023

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Abstract

The commencement of the Bharatiya Nyaya Sanhita, 2023 (BNS), on 1 July 2024 marks a major change in India's substantive criminal law. Its implications for children who come into conflict with law must, however, be understood alongside the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act), which continues to provide the specialised framework for child justice. This article critically examines the interaction between the BNS and the JJ Act, focusing on the criminal responsibility of children under Sections 20 and 21 of the BNS; the BNS provisions that protect children from exploitation; the classification of offences under the JJ Act; and the preliminary assessment of children aged sixteen to eighteen years alleged to have committed heinous offences. It further considers constitutional principles, international child-rights standards and leading Supreme Court decisions. The study adopts a doctrinal and analytical methodology based on primary legislation, judicial decisions, international instruments and secondary legal materials. It argues that the BNS has not created a self-contained juvenile justice regime. Rather, substantive offences under the BNS operate within the specialised procedural and rehabilitative structure of the JJ Act. The principal challenge is therefore one of coherent implementation: ensuring reliable age determination, individualised maturity assessment, child-friendly procedures, privacy, legal assistance and meaningful rehabilitation. The article recommends clearer operational guidance, specialist assessment capacity, strengthened institutional resources, victim-sensitive processes and sustained aftercare.

Keywords: Juvenile justice; Bharatiya Nyaya Sanhita, 2023; Juvenile Justice Act, 2015; child in conflict with law; criminal responsibility; rehabilitation; child rights; preliminary assessment.

1. Introduction

The treatment of children accused of criminal conduct is a distinctive concern of criminal jurisprudence. A child is not simply a smaller version of an adult offender. Developmental maturity, capacity for impulse control, susceptibility to peer and adult influence, family circumstances, education, exposure to violence and socio-economic vulnerability may shape a child's conduct in ways that differ materially from adult offending. A justice system that ignores these differences risks imposing consequences that are disproportionate, counterproductive and inconsistent with the child's dignity and prospects of reintegration. The modern juvenile justice approach consequently combines accountability with protection, education, restoration and social reintegration.

India's juvenile justice framework has evolved from legislation focused on separate treatment towards a more comprehensive model of care, protection, adjudication and rehabilitation. The Juvenile Justice (Care and Protection of Children) Act, 2015 is the principal special legislation for children in conflict with law and children in need of care and protection. It defines a child as a person who has not completed eighteen years and requires decision-making to be guided by the child's best interests and a child-friendly approach. The Act was amended in 2021, including changes to institutional oversight and aspects of offence classification. Its long title places care, protection, development, treatment and social reintegration at the centre of the statutory scheme.[1]

The Bharatiya Nyaya Sanhita, 2023 replaced the Indian Penal Code, 1860, as the principal substantive criminal code from 1 July 2024. The BNS defines offences and punishments and retains general exceptions concerning children. Sections 20 and 21 address, respectively, acts of children under seven years and acts of children above seven but under twelve years who have not attained sufficient maturity of understanding. The BNS also creates specific offences directed at conduct that exploits children, including Section 95, which criminalises hiring, employing or engaging a child to commit an offence.[2]

The central legal distinction is between substantive criminal law and the special system for dealing with a child accused of an offence. The BNS identifies criminal conduct and provides the relevant offence provisions. The JJ Act determines the specialised forum, inquiry process, safeguards and rehabilitative orders applicable to a person who was below eighteen years on the date of the alleged offence. The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) and Bharatiya Sakshya Adhiniyam, 2023 (BSA) form part of the wider procedural and evidentiary framework, but must be applied consistently with the special protections available to children.[3]

This article argues that the most important question is not whether the BNS has independently transformed juvenile justice, but whether the new substantive criminal code can be integrated coherently with the continuing special statute. The analysis considers the relationship between age and maturity, the treatment of heinous offences, the protection of children recruited into criminal activity, constitutional and international standards, judicial interpretation and institutional implementation.

2. Research Objectives, Questions and Scope

The principal objective is to critically analyse the position of juvenile justice in India following the commencement of the BNS, 2023. The study examines the extent to which the BNS affects the existing framework under the JJ Act and evaluates whether the combined statutory arrangements adequately balance accountability, child protection, victims' interests and rehabilitation. The specific objectives are to explain the age-based rules of criminal responsibility under Sections 20 and 21 of the BNS; analyse the classification of petty, serious and heinous offences under the JJ Act; examine the preliminary assessment mechanism for certain sixteen-to-eighteen-year-old children; evaluate constitutional, international and judicial standards; and identify reforms needed for effective implementation.

The research is guided by the following questions: What is the legal relationship between the BNS and the JJ Act when a person below eighteen years is alleged to have committed an offence? How do Sections 20 and 21 of the BNS operate alongside the JJ Act's definition of a child in conflict with law? Does the preliminary assessment mechanism under Section 15 adequately protect the developmental rights of adolescents alleged to have committed heinous offences? How should the new criminal laws be implemented without weakening the specialised protections of the juvenile justice system? What institutional reforms are necessary to ensure that rehabilitation is meaningful rather than merely aspirational?

The scope is principally confined to children in conflict with law. The article also considers children as victims or persons exploited for criminal purposes where the BNS has particular relevance. It is national in scope and examines the statutory framework applicable after the commencement of the new criminal laws. It does not undertake a statistical assessment of juvenile offending or claim to measure the performance of individual States, districts or institutions. The analysis is doctrinal and normative rather than empirical.

3. Research Methodology

This study adopts a doctrinal, qualitative and analytical legal research methodology. Doctrinal research is appropriate because the central inquiry concerns the meaning, relationship and application of statutory provisions, constitutional guarantees and judicial interpretations. The primary sources comprise the Constitution of India; the BNS, 2023; the JJ Act, 2015, as amended; the BNSS, 2023; the BSA, 2023; and other relevant child-protection legislation, particularly the Protection of Children from Sexual Offences Act, 2012 and the Information Technology Act, 2000.

The secondary and interpretive sources include reported judgments of the Supreme Court of India, international instruments, government materials, legal commentaries and academic writing on juvenile justice and child development. The principal international instruments considered are the United Nations Convention on the Rights of the Child, 1989 (UNCRC), the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency, 1990 (Riyadh Guidelines), and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990.

The research proceeds in four stages. First, the relevant statutory provisions are identified and interpreted according to their text, structure and purpose. Secondly, the relationship between the general criminal law and the special juvenile justice statute is examined, particularly the distinction between substantive criminal responsibility and the

procedure applicable to children. Thirdly, judicial decisions and international standards are used to evaluate whether the framework is consistent with constitutional values and child-rights principles. Fourthly, the study identifies legal and institutional concerns and develops recommendations. The analysis is descriptive in explaining the law and critical in assessing its adequacy, coherence and implementation.

The study is non-empirical: it does not involve interviews, questionnaires, field observation, case-file sampling or original statistical analysis. It therefore makes no claim that a particular reform has produced a measured outcome. Its conclusions are legal and normative. A limitation is that implementation varies across States and institutions; without field research, the article cannot quantify that variation. Statutory provisions, rules, notifications and later judicial developments should therefore be rechecked against authoritative sources immediately before publication.

4. Evolution And Legal Architecture Of Juvenile Justice In India

The Juvenile Justice Act, 1986 sought to create a more uniform approach to juveniles and recognised the need to separate children from adult criminal processes. It was replaced by the Juvenile Justice (Care and Protection of Children) Act, 2000, which reflected India's developing child-rights commitments and the standards of the UNCRC. The 2015 Act further consolidated the law relating to children in conflict with law and children in need of care and protection. It established a specialised institutional structure and expressly linked adjudication with care, protection, development, treatment and social reintegration.[1]

The JJ Act creates distinct institutions for distinct categories of children. Juvenile Justice Boards (JJBs) inquire into matters involving children in conflict with law, while Child Welfare Committees deal with children in need of care and protection. The Act also provides for observation homes, special homes, places of safety, child care institutions, probation officers and other support mechanisms. This architecture reflects the proposition that a child's contact with the criminal justice system should trigger a specialised response, rather than routine adult criminal processing.

The 2015 Act nevertheless introduced a differentiated approach for children aged sixteen to eighteen years alleged to have committed heinous offences. Under Section 15, the JJB conducts a preliminary assessment of the child's mental and physical capacity to commit the alleged offence, ability to understand its consequences and the circumstances in which it was allegedly committed. This assessment is not a trial and does not determine guilt. If the statutory conditions are met, the Board may transfer the matter to the Children's Court in accordance with the Act. The Children's Court must then independently consider the statutory requirements and the need for trial of the child as an adult; transfer is not an automatic consequence of the allegation.

The 2021 amendment altered aspects of the JJ Act, including institutional oversight and the classification of certain offences. The statutory categories are consequential because they determine the applicable route. Petty offences generally carry a maximum punishment of imprisonment up to three years. Serious offences are defined by reference to imprisonment between three and seven years and, following the 2021 amendment, include offences where the maximum punishment exceeds seven years but no minimum sentence is prescribed, or the minimum sentence is less than seven years. Heinous offences are offences for which the minimum punishment under the relevant law is imprisonment for seven years or more.[4] The actual statutory wording must be consulted in every case.

The legal architecture is layered. The BNS supplies substantive definitions of offences and punishments; the JJ Act supplies the specialised child justice process; the BNSS and BSA govern general criminal procedure and evidence subject to applicable special law; and other statutes may apply depending on the conduct. This division of functions is central to avoiding the mistaken assumption that the BNS has replaced the JJ Act.

Table 1 Summarises the principal statutory roles relevant to a child alleged to have committed an offence

Legal instrument	Primary function	Relevance to juvenile justice
Bharatiya Nyaya Sanhita, 2023	Defines offences, punishments and general exceptions.	Sections 20–21 address criminal incapacity/maturity for young children; Section 95 targets adults who engage children in offences.
Juvenile Justice Act, 2015 (as amended)	Special legislation for children in conflict with law and children in need of care and protection.	Defines child status, creates JJBs and Children's Courts, provides inquiry safeguards, preliminary assessment and rehabilitative orders.
Bharatiya Nagarik Suraksha Sanhita, 2023	General criminal procedure.	Procedural provisions must be read consistently with the special child-sensitive process and safeguards under the JJ Act.
Bharatiya Sakshya Adhiniyam, 2023	General law of evidence.	Relevant to proof of alleged conduct, subject to child-specific procedural protections and applicable special statutes.
POCSO Act, 2012 and other special laws	Address specific forms of harm and exploitation involving children.	May apply where the child is a victim, witness or accused in conduct covered by the relevant statute.

5. Criminal Responsibility Of Children Under The BNS, 2023

Sections 20 and 21 of the BNS appear in Chapter III, which deals with general exceptions. Section 20 provides that nothing is an offence which is done by a child under seven years of age. It establishes an absolute statutory exemption for this age group. The rule reflects the legal presumption that a child below seven lacks the capacity required for criminal responsibility. It is commonly associated with the principle of doli incapax, although the statutory language itself governs the exemption.[2]

Section 21 applies to a child above seven and under twelve years of age who has not attained sufficient maturity of understanding to judge the nature and consequences of the conduct on that particular occasion. Unlike Section 20, the exemption is qualified and depends on the child's maturity in the circumstances of the alleged act. The inquiry is not simply whether the child knew that an act was generally wrong; it concerns sufficient maturity to understand the nature and consequences of the particular conduct. A proper assessment should avoid assumptions based solely on chronological age, school performance, family background or the apparent sophistication of the act.

These provisions must be distinguished from the JJ Act's definition of a child in conflict with law. Under Section 2(13) of the JJ Act, the relevant person is one alleged or found to have committed an offence and who had not completed eighteen years on the date of commission. Sections 20 and 21 of the BNS concern substantive criminal capacity for specified young age groups. The JJ Act, by contrast, provides the specialised route for dealing with children below eighteen. A child aged twelve to seventeen is not automatically exempt from the definition of an offence merely by reason of age; nevertheless, the child is dealt with under the juvenile justice system, subject to the special statutory regime.[1]

A key concern is the practical assessment of maturity. Section 21 of the BNS does not prescribe a detailed protocol for developmental or psychological evaluation. In contested cases, the competent authority should consider evidence relevant to the child's actual understanding and circumstances, rather than relying on stereotypes. Expert assistance may help clarify developmental factors, while the ultimate legal determination remains for the competent authority. Consistent guidance would promote predictability and reduce unequal outcomes.

The BNS also contains provisions that protect children from being used in criminal activity. Section 95 criminalises hiring, employing or engaging a child to commit an offence. The punishment prescribed for the adult recruiter is

imprisonment of not less than three years and which may extend to ten years, together with fine; where the offence is committed, the person may also be punished as if that offence had been committed by that person. The Explanation expressly includes hiring, employing, engaging or using a child for sexual exploitation or pornography.[2] The provision is important because children may be recruited or manipulated for theft, trafficking, drug distribution, organised criminal activity or other offences.

The child's role must be examined in context. Coercion, grooming, threats, dependency, family pressure and exploitation may affect the assessment of culpability and the need for protection. A child used by an adult to commit an offence may simultaneously be a child in conflict with law and a child in need of care and protection, depending on the facts and statutory criteria. The system should investigate the adult's conduct and avoid treating the child solely as an instrument of prosecution.

The BNS contains other provisions concerning offences against children, including exposure and abandonment of a child under twelve years (Section 93), concealment of birth (Section 94), and procuration of a child (Section 96). These provisions should be read with specialised legislation such as the POCSO Act, 2012, and applicable trafficking and child-protection laws. The legal response must distinguish between a child who is an accused person, a child who is a victim, and a child who has been exploited into offending. These categories can overlap and require coordinated intervention.

Table 2 Sets out the principal age-related distinctions and the legal consequence of each category

Age / category	Relevant provision	Legal position	Critical point
Below 7 years	BNS, Section 20	Absolute statutory exception: the act is not an offence.	No inquiry into maturity is required for this statutory age category.
Above 7 and below 12 years	BNS, Section 21	Qualified exception where the child has not attained sufficient maturity to judge the nature and consequences of the act on that occasion.	Maturity is fact-specific; avoid presumptions based only on age or offence seriousness.
Below 18 years on date of alleged offence	JJ Act, Sections 2(12)–2(13), 4, 8 and 14	Child is dealt with under the specialised juvenile justice framework.	Age on the date of commission is central; age determination must follow the Act and applicable rules.
16–18 years, alleged heinous offence	JJ Act, Section 15	JJB conducts preliminary assessment of capacity, understanding and circumstances; statutory transfer process may follow.	Assessment is not a finding of guilt and does not automatically require adult trial.
Child dealt with under the JJ Act	JJ Act, Sections 18, 19 and 21	Rehabilitative orders and Children's Court powers operate within statutory limits; death penalty and life imprisonment without possibility of release are prohibited.	Even serious cases remain subject to child-specific safeguards.

6. Interaction Between The BNS And The Juvenile Justice Act, 2015

The relationship between the BNS and the JJ Act is complementary. The BNS determines whether the alleged conduct falls within an offence provision and identifies the applicable punishment. The JJ Act determines the forum and process when the person was below eighteen years on the date of the alleged offence. The definition and punishment of an offence under the BNS may therefore be relevant to classifying the allegation as petty, serious or heinous under the JJ Act, but the child is not simply subjected to the adult sentencing framework.

Section 15 of the JJ Act is particularly important in cases involving a child aged sixteen to eighteen years alleged to have committed a heinous offence. The JJB undertakes a preliminary assessment of mental and physical capacity, understanding of consequences and circumstances of the alleged offence. The assessment should be individualised,

reasoned and supported by appropriate professional input where necessary. It should not become a shortcut for transferring children to the adult system merely because the allegation is grave or attracts public attention.
The assessment is distinct from adjudication. It does not determine whether the child committed the offence, and it should not be used to prejudge credibility or guilt. The Board must consider the statutory factors and the child's circumstances. The Act also requires the assistance of experienced psychologists or psycho-social workers or other experts in the preliminary assessment, as provided by the statutory scheme and applicable rules. The quality of this process is therefore dependent on access to trained professionals and sufficient time to understand the child's developmental profile.

If the Board considers transfer appropriate under the Act, the Children's Court is not bound mechanically to conduct an adult trial. Section 19 requires the Children's Court to decide whether there is a need for trial of the child as an adult, having regard to the statutory framework. The Act provides a distinct system and limits on dispositions. Section 21 prohibits the imposition of the death penalty and life imprisonment without the possibility of release on a child in conflict with law. These provisions demonstrate that even where a matter proceeds before the Children's Court, the special juvenile framework remains relevant.[1]

The interaction with the BNSS and BSA also requires care. General procedural and evidentiary rules cannot be applied in a manner that defeats the child-friendly protections of the JJ Act. Authorities must ensure that a child is not exposed unnecessarily to police lock-up or adult detention, that identity and privacy are protected, and that legal assistance and the presence of parents or guardians are facilitated in accordance with the Act and applicable rules. The special statute should guide the handling of the child throughout the process.

The Supreme Court's decision in Shilpa Mittal v State (NCT of Delhi) is important to offence classification. The Court considered the difficulty arising where an offence carried a maximum punishment exceeding seven years but did not prescribe a minimum punishment of seven years. It held that such an offence could not be treated as heinous under the then statutory definition and addressed the resulting classification gap. Parliament subsequently amended the JJ Act in 2021 to address the classification of certain offences. The decision demonstrates that classification must be determined by the exact statutory language and applicable amendment, not by a broad impression of seriousness.[5]
The central interpretive principle is that the new criminal codes do not impliedly erase the special protections of the JJ Act. Where a child is involved, authorities must identify the applicable offence provision while also applying the special juvenile justice legislation. This preserves legal certainty and prevents the BNS from being misconstrued as a standalone code for juvenile adjudication.

7. Constitutional, International and Judicial Standards

The Constitution supports a child-sensitive approach through enforceable rights and Directive Principles. Article 14 guarantees equality before the law and equal protection of the laws. Treating children differently from adults is consistent with substantive equality because childhood presents relevant developmental differences. Article 15(3) permits special provisions for children, providing constitutional support for child-specific protective legislation. Article 21 protects life and personal liberty and has been interpreted to require fairness, dignity and just procedure. Articles 39(e) and 39(f) direct the State to protect children against exploitation and ensure opportunities for healthy development in conditions of freedom and dignity. Article 45 reflects the constitutional commitment to early childhood care and education.[6]

India ratified the UNCRC in 1992. Article 3 requires the best interests of the child to be a primary consideration in actions concerning children. Article 37 protects children against torture and cruel, inhuman or degrading treatment and provides that detention or imprisonment should be used only as a measure of last resort and for the shortest appropriate period. Article 40 recognises the right of every child alleged or accused of infringing penal law to treatment consistent with dignity and worth, taking account of age and promoting reintegration. Article 12, concerning the child's right to express views in matters affecting them, is also relevant to child-sensitive decision-making.[7]
The Beijing Rules encourage specialised juvenile justice procedures, proportionality and individualised responses. The Riyadh Guidelines emphasise prevention through family support, education, community participation and social inclusion. The United Nations Rules for the Protection of Juveniles Deprived of their Liberty address conditions of detention and safeguards for children deprived of liberty. Together, these instruments support a system in which

institutionalisation is exceptional and rehabilitation is a central objective.[8]

In Salil Bali v Union of India, the Supreme Court considered challenges to the juvenile age framework and upheld the legislative approach treating persons below eighteen differently from adults. The judgment is significant because it recognised the constitutional and policy basis for a separate juvenile justice system. The seriousness of public concern about particular crimes does not, by itself, displace the statutory distinction between children and adults.[9]

In Subramanian Swamy v Raju, the Court considered the juvenile framework in the context of a serious offence and upheld the legislative approach to the age of juvenility. The judgment reaffirmed that the determination of childhood under the statute is not to be displaced merely because the alleged conduct is grave.[10] In Shilpa Mittal, the Court focused on the statutory meaning of heinous offences and the consequences of an offence whose maximum punishment exceeded seven years but whose minimum did not meet the statutory threshold. The case remains important for careful classification and for understanding the legislative response in the 2021 amendment.[5]
These authorities do not mean that the interests of victims or public safety are irrelevant. Rather, they require a lawful, proportionate and child-sensitive response. The best-interests principle is not a formula that automatically decides every case; it is a substantive consideration requiring reasoned evaluation alongside the child's rights, the rights of victims and legitimate public safety concerns.

8. Critical Analysis and Implementation Challenges

The BNS retains age-based general exceptions but does not itself establish a comprehensive juvenile justice system. This is not necessarily a legislative defect because the JJ Act is the specialised statute. Nevertheless, the commencement of the new criminal codes makes coordinated training and clear operational guidance essential. Police officers, prosecutors, legal services authorities, JJBs and Children's Courts must understand which provisions define the offence and which govern the child's treatment. Without such clarity, there is a risk of procedural confusion, inconsistent classification and inadvertent application of adult-oriented practices.

A persistent tension exists between punitive demands and rehabilitation. Heinous allegations can generate understandable public concern, but public reaction should not replace individualised assessment. The preliminary assessment under Section 15 is especially sensitive because it may influence whether the matter proceeds before the Children's Court. If assessments are conducted without specialist knowledge, adequate information or reasoned conclusions, children may be exposed to inconsistent outcomes. Conversely, a careful assessment can recognise the child's circumstances and ensure that statutory decisions are evidence-based.

The statutory factors in Section 15 require more than a general impression of maturity. Physical capacity, mental capacity, understanding of consequences and circumstances of the alleged offence are distinct considerations. A child's apparent physical development does not necessarily establish psychological maturity. Nor should educational attainment, social class, disability, trauma history or family resources be treated as proxies for criminal understanding. Assessment protocols should be developmentally informed and culturally sensitive, while avoiding diagnostic labels that are not supported by qualified evaluation.

Institutional capacity is another major challenge. The quality of juvenile justice depends on adequately staffed Boards, trained child welfare police officers, probation officers, psychologists, social workers, legal aid providers and properly resourced observation homes and places of safety. Unequal institutional capacity across districts can produce unequal protection in practice. A statutory right has limited value if the child cannot access competent representation, timely inquiry, education, counselling or safe accommodation.

The social contexts of juvenile offending also require attention. Poverty, family violence, school exclusion, homelessness, substance misuse, peer pressure, online grooming and exploitation may contribute to a child's contact with the justice system. These factors do not automatically excuse unlawful conduct, but they are relevant to understanding the child and selecting a proportionate response. A system focused only on the offence may overlook the circumstances that need to change to prevent further harm.

Digital environments create additional complexity. Children may be involved in cyberbullying, online fraud, identity

misuse or circulation of unlawful material, while also being vulnerable to grooming, blackmail and exploitation. Authorities should distinguish intentional conduct from coercion, developmental immaturity and adult manipulation. Digital literacy, school-based prevention and specialised investigative capacity should be developed without compromising privacy or treating every adolescent mistake as serious criminality.

The rights of victims must remain visible. Children who suffer violence, sexual abuse, trafficking or other offences require timely protection, medical and psychological care, privacy and access to justice. A child-sensitive justice system should avoid secondary victimisation while preserving fair process for a child accused of an offence. Victim support and juvenile rehabilitation are not mutually exclusive objectives; both are components of a legitimate justice system.
Finally, post-disposition support is often as important as the inquiry itself. Stigma, interrupted education and weak family or community support may undermine reintegration. Aftercare, vocational opportunities, counselling and coordination with schools and local services are necessary to prevent a child from being permanently labelled by an encounter with the justice system. The Act's concept of aftercare recognises the need for support for eligible young persons leaving institutional care, but the practical availability and continuity of such support require sustained attention.

9. Recommendations and Reform Measures

First, the Central and State Governments should issue coordinated guidance explaining the relationship between the BNS, BNSS, BSA and JJ Act. Such guidance should clarify the role of the special statute, age determination, offence classification, preliminary assessment, transfer decisions and protection of the child's identity. Training materials should use practical case scenarios so that police officers and judicial personnel can apply the framework consistently. Secondly, preliminary assessments under Section 15 should be conducted through a transparent, individualised and multidisciplinary process. Boards should have access to qualified child psychologists, mental health professionals and social workers. Assessment reports should identify the information relied upon, explain the child's developmental capacity and address each statutory factor. The assessment must not presume maturity from the seriousness of the allegation or from physical appearance.

Thirdly, States should strengthen the infrastructure and staffing of JJBs, observation homes, special homes and places of safety. Minimum standards should address safe accommodation, education, recreation, health care, counselling, legal aid and contact with family. Independent inspections and publicly available compliance reporting, with safeguards for children's identities, can improve accountability.

Fourthly, child-friendly policing should be treated as an operational requirement. Police personnel should receive regular training on child development, trauma-informed interviewing, non-stigmatising communication and statutory restrictions on handling children. Special Juvenile Police Units and Child Welfare Police Officers should be adequately staffed. Children should have prompt access to legal assistance and should not be exposed to adult custodial environments.

Fifthly, rehabilitation should be planned individually and continue after the child leaves institutional care. Educational continuity, vocational training, family counselling, community-based supervision and aftercare should be integrated into rehabilitation plans. Authorities should collaborate with schools, local bodies, civil society organisations and employers to reduce stigma and create pathways to reintegration.

Sixthly, prevention programmes should address the social and digital environments in which children live. Schools and communities should provide accessible information about legal rights, cyber safety, consent, online exploitation and the consequences of harmful conduct. Where a child has been recruited or coerced by adults, the system should investigate the adult exploitation and ensure that the child receives appropriate protection.

Finally, reliable data and evaluation are needed. Governments should publish anonymised information on case duration, age determination, legal representation, institutional placement, rehabilitation plans, education and aftercare. Data should be disaggregated appropriately while preventing re-identification. Independent research can assess whether reforms improve fairness and reintegration rather than merely changing institutional statistics.

10. Conclusion

The Bharatiya Nyaya Sanhita, 2023 has altered India's substantive criminal law, but it has not replaced the specialised juvenile justice framework. Sections 20 and 21 preserve age-based protections for young children, while Section 95 addresses the exploitation of children for committing offences. The BNS provisions must be read together with the Juvenile Justice (Care and Protection of Children) Act, 2015, which continues to govern the specialised process for children who were below eighteen years on the date of the alleged offence.

The JJ Act's offence classifications and preliminary assessment mechanism for certain children aged sixteen to eighteen years alleged to have committed heinous offences remain central to the legal debate. The mechanism requires careful application because the seriousness of an allegation cannot, by itself, establish a child's maturity or justify an adult-oriented process. Constitutional guarantees, Supreme Court decisions and international child-rights standards support an approach that is fair, proportionate, child-sensitive and directed towards reintegration.

The principal challenge is not simply legislative change but effective coordination and implementation. Clear guidance, specialist assessments, competent legal assistance, child-friendly policing, adequate institutions and meaningful aftercare are necessary if statutory protections are to operate in practice. A balanced juvenile justice system must recognise the harm suffered by victims and the need for public safety while refusing to treat children as adults in miniature. Its ultimate measure should be whether it protects society, upholds children's rights and enables those who have come into conflict with law to return to education, family and community life with dignity.

References

1. Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2 of 2016 (India).
2. Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023 (India).
3. Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46 of 2023 (India).
4. Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023 (India).
5. Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, No. 23 of 2021 (India).
6. Shilpa Mittal v. State (NCT of Delhi), (2020) 2 SCC 787 (India).
7. Constitution of India (1950).
8. Convention on the Rights of the Child, November 20, 1989, 1577 U.N.T.S. 3.
9. United Nations General Assembly. (1985). United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (A/RES/40/33).
10. United Nations General Assembly. (1990a). United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) (A/RES/45/112).
11. United Nations General Assembly. (1990b). United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (A/RES/45/113).
12. Salil Bali v. Union of India, (2013) 7 SCC 705 (India).
13. Subramanian Swamy v. Raju, (2014) 8 SCC 390 (India).
14. Protection of Children from Sexual Offences Act, 2012, No. 32 of 2012 (India).
15. Information Technology Act, 2000, No. 21 of 2000 (India).
16. United Nations Committee on the Rights of the Child. (2013). General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (CRC/C/GC/14).
17. United Nations Committee on the Rights of the Child. (2019). General comment No. 24 (2019) on children's rights in the child justice system (CRC/C/GC/24).
18. Ministry of Women and Child Development, Government of India. (2016). Juvenile Justice (Care and Protection of Children) Model Rules, 2016, as amended.
19. National Crime Records Bureau, Ministry of Home Affairs, Government of India. (n.d.). Crime in India (Annual reports).