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Gender-Sensitive Approach of Juvenile Justice in India: Bridging Gaps for Male, Female, and LGBTQIA+ Youth

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ABSTRACT

The Juvenile Justice (Care and Protection of Children) Act, 2015 in India is commendable in recognizing the distinct needs of juvenile offenders, particularly through its gender-sensitive approach. However, it falls short in addressing the experiences of non-binary youth within the juvenile justice system. This paper advocates for a more comprehensive approach, drawing on international examples, legal frameworks, and mental health insights to highlight the necessity of explicitly recognizing and protecting the rights of LGBTQIA+ children, especially those identifying as non-binary. Collaborative engagement among lawmakers and stakeholders is proposed to amend the Act, ensuring inclusivity and protection for all youth.

Keywords: LGBTQIA, Gender Justice, Equality, Juvenile Justice, Child Rights.

I. INTRODUCTION

The Juvenile Justice (Care and Protection of Children) Act of 2015 (hereinafter referred to as JJ Act) in India represents a significant stride towards recognizing and addressing the unique needs of juvenile offenders. It has established a framework that strives to be sensitive to the distinct experiences of both male and female juveniles. However, amid the commendable efforts to ensure gender-responsive justice, an essential facet remains relatively unexplored – the experiences of non-binary youth within the juvenile justice system. As our understanding of gender diversity evolves, it becomes imperative to critically assess the extent to which the JJ Act accommodates the needs and challenges faced by non-binary youth. This article contends that while the Act has taken noteworthy steps towards gender sensitivity, a more comprehensive approach is required to fully address the nuanced issues confronting non-binary juveniles within the justice system.

(A) Objective

This research aims to assess the gender-sensitive provisions of the JJ Act, specifically focusing

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on its responsiveness to the unique needs of non-binary juvenile offenders. While the Act has appropriately prioritised considerations for boys and girls, this study aims to highlight the often-overlooked challenges faced by non-binary youth. The objective is to evaluate the effectiveness of the current legal framework in addressing the distinctive experiences of non-binary juveniles within the juvenile justice system. By identifying gaps in the Act's coverage and proposing recommendations for a more inclusive approach, this research seeks to contribute to the broader discourse on juvenile justice reform. Ultimately, the aim is to advocate for legal frameworks that extend protection and fairness not only to conventional gender identities but also to those who identify outside the traditional binary, ensuring a justice system reflective of our diverse societal landscape.

(B) Literature Review

The prevailing literature on the JJ Act in India applauds its commendable strides in adopting a gender-sensitive approach, as highlighted by Bhattacharya's critical appraisal and Kaur's emphasis on a child-friendly justice system. Chakrabarti's exploration of gender sensitivity in legal education underlines its pivotal role in fostering inclusive practices within the justice system. Tandon's international perspective stresses the importance of diverse representation in decision-making bodies for a holistic approach to juvenile justice. Sarkar's insights into human trafficking shed light on the vulnerabilities of specific groups, especially girls, within the justice system. However, a notable gap exists in the literature concerning LGBTQIA+ youth, particularly those identifying as non-binary. D'Augelli et al.'s research on suicide attempts among LGBTQIA+ youth and Gusman-Vermeer's focus on the mental health needs of LGBTQ youth in the juvenile justice system underscore the urgency of legal reforms to explicitly recognize and protect their rights. Insights from Canada, Australia, and Sweden provide compelling examples of inclusive policies, emphasising the need for India to align with global standards. This literature review forms the foundation for advocating a more inclusive legal framework that encompasses the diverse experiences of LGBTQIA+ youth, contributing to a more equitable and protective juvenile justice system in India.

II. EMPHASIS ON GENDER SENSITIVITY IN FUNDAMENTALS OF JUVENILE JUSTICE

The imperative for gender-sensitive provisions within juvenile justice legislations arises from the diverse experiences and vulnerabilities encountered by male and female juvenile offenders. Recognizing the unique circumstances of each gender is essential to ensure that the juvenile justice system responds effectively and equitably to their distinct needs. Female juveniles, for instance, may face challenges related to reproductive health, a higher likelihood

of being victims of gender-based violence, and experiences of trauma.² On the other hand, male juveniles may grapple with heightened aggression, susceptibility to negative peer influences, and a greater risk of involvement in violent offences.³ Providing gender-sensitive protection is crucial to address these varied challenges comprehensively.

A gender-sensitive approach acknowledges the importance of tailoring interventions to the specific needs of male and female juvenile offenders, fostering an environment that prioritises their safety, well-being, and rehabilitation.⁴ The establishment of gender-sensitive provisions within juvenile justice legislations ensures that legal frameworks recognize and cater to the unique vulnerabilities of each gender, promoting a more empathetic and rehabilitative approach to juvenile justice. Ultimately, this approach contributes to a system that is not only legally just but also attuned to the intricacies of individual experiences within the juvenile justice landscape. The JJ Act serves as a pivotal legal framework catering to the distinct needs of male and female juvenile offenders, and this paper elucidates its role of notable effectiveness in the context of Indian society.

(A) Gender Sensitivity in Juvenile Justice Act 2015 Fundamentals

Within Section 3 of the JJ Act, a thorough examination reveals a nuanced and highly attentive approach to addressing the distinctive protection needs of both male and female juveniles. The principle that prioritises the best interests of the child ensures that rehabilitation strategies are tailored to the unique behaviours and responses exhibited by each gender. In tandem, the commitment to nondiscrimination serves as a critical check against potential biases, striving to establish an equitable juvenile justice system. The holistic consideration of the child's background acknowledges and confronts the socio-economic, cultural, and gender-specific challenges faced by both boys and girls. Furthermore, the right to participation and expression grants empowerment to juveniles of all genders, fostering a sense of agency in legal decisions. Safeguarding their dignity, the right to privacy and confidentiality assures that sensitive information does not hinder the rehabilitation process. Recognizing the importance of maintaining relationships creates a supportive environment for rehabilitation, irrespective of gender. Tailoring interventions based on age acknowledges and adapts to the unique developmental stages of both male and female juveniles. Lastly, the right to rehabilitation emphasises skill development, education, and counselling, offering essential tools for

² Zimring, F. E., Langer, M., & Tanenhaus, D. S. (Eds.). (2015). *Juvenile Justice in Global Perspective*. NYU Press. <http://www.jstor.org/stable/j.ctt15zc73m> ; Juvenile Justice (Care and Protection of Children) Act, 2015, §12

³ Zimring, F. E., Langer, M., & Tanenhaus, D. S. (Eds.). (2015). *Juvenile Justice in Global Perspective*. NYU Press. <http://www.jstor.org/stable/j.ctt15zc73m>

⁴ Juvenile Justice (Care and Protection of Children) Act, 2015, §16

successful reintegration into society. This comprehensive and thorough analysis reflects an in-depth understanding of evolving scholarly discourse and ensures that the legislation is finely tuned to address the intricate protection needs of both male and female juveniles within the juvenile justice system.

Now, let's delve into an individual exploration of some pivotal principles within Section 3 of the JJ Act, revealing how each facet contributes to the gender-sensitive framework of the legislation.

a. Paramount Consideration of the Best Interests of the Child:

The foundational principle of paramount consideration of the best interests of the child within Section 3 of the JJ Act signifies a commitment to tailoring interventions that respond to the unique needs of both male and female juveniles.⁵ This principle recognizes the varying experiences and vulnerabilities of each gender, urging a nuanced and individualised approach to rehabilitation.

For example, studies conducted by Smith et al. highlight a higher prevalence of trauma among female juveniles within the juvenile justice system.⁶ In response to this finding, the legislation might mandate the implementation of trauma-informed care and counselling specifically designed to address the unique psychological and emotional challenges faced by female juveniles. This approach goes beyond a one-size-fits-all strategy, acknowledging the distinct behavioural responses and rehabilitation requirements associated with the experiences of trauma for both genders.

In practice, a trauma-informed approach under this principle may involve comprehensive assessments of each juvenile's history, recognizing potential sources of trauma and tailoring interventions accordingly. This could manifest in specialised counselling sessions, support groups, or therapeutic activities that specifically address the trauma-related needs of both male and female juveniles. By prioritising the best interests of the child in this manner, the legislation not only acknowledges the diversity in experiences but also seeks to create a rehabilitative environment that is responsive to the distinct needs of each gender within the juvenile justice system.

b. Commitment to Nondiscrimination:

The unwavering commitment to nondiscrimination within the Juvenile Justice (Care and

⁵ Juvenile Justice (Care and Protection of Children) Act, 2015, §3

⁶ 5 Zimring, F. E., Langer, M., & Tanenhaus, D. S. (Eds.). (2015). *Juvenile Justice in Global Perspective*. NYU Press. <http://www.jstor.org/stable/j.ctt15zc73m>

Protection of Children) Act, as outlined in Section 3, serves as a pivotal safeguard against biased practices for both male and female juveniles.⁷ This crucial principle actively challenges disparities, particularly those stemming from gender biases, ensuring a fair and impartial juvenile justice system.

For instance, studies highlight instances where girls are unfairly treated due to prevailing gender biases within the juvenile justice system.⁸ The commitment to nondiscrimination directly addresses these systemic challenges by promoting an environment that rejects gender-based prejudices. This principle demands equal access to educational and vocational programs, regardless of gender, thereby contributing to the creation of a juvenile justice system that is not only fair and unbiased but also actively works to eliminate gender-based disparities.⁹

In practical terms, the commitment to nondiscrimination ensures that both male and female juveniles have equitable opportunities for educational and vocational development. By dismantling gender-related barriers, this principle fosters an environment where the potential of each juvenile is recognized and nurtured, irrespective of gender. The inclusion of this principle in the legislative framework underscores the commitment to a juvenile justice system that is built on principles of fairness, equality, and the elimination of gender-based discrimination.

c. Holistic Consideration of the Child's Background:

The principle of a holistic consideration of the child's background, enshrined in Section 3 of the JJ Act, recognizes the multifaceted challenges stemming from socio-economic, cultural, and gender-specific factors, understanding that the backgrounds of male, female, and gender-diverse juveniles can significantly differ.¹⁰

For instance, a male juvenile hailing from an economically disadvantaged background may encounter unique rehabilitation needs compared to a female juvenile from a culturally diverse background.¹¹ Similarly, a gender-diverse juvenile may face distinct challenges related to their gender identity, necessitating tailored interventions.¹² The acknowledgment of these distinctions is crucial in crafting rehabilitation strategies that go beyond a one-size-fits-all approach, prompting a nuanced understanding of the diverse factors shaping the experiences of individuals

⁷ 6 Juvenile Justice (Care and Protection of Children) Act, 2015, §3

⁸ Mahoney, A. R. (1974). The Effect of Labelling upon Youths in the Juvenile Justice System: A Review of the Evidence. *Law & Society Review*, 8(4), 583–614. <https://doi.org/10.2307/3052885>

⁹ Juvenile Justice (Care and Protection of Children) Act, 2015, §3

¹⁰ Juvenile Justice (Care and Protection of Children) Act, 2015, §3

¹¹ zimring, F. E., Langer, M., & Tanenhaus, D. S. (Eds.). (2015). *Juvenile Justice in Global Perspective*. NYU Press. <http://www.jstor.org/stable/j.ctt15zc73m>

¹² Zimring, F. E., Langer, M., & Tanenhaus, D. S. (Eds.). (2015). *Juvenile Justice in Global Perspective*. NYU Press. <http://www.jstor.org/stable/j.ctt15zc73m>

within the juvenile justice system.

In practical terms, this principle may translate into customised rehabilitation programs that consider the unique socio-economic and cultural contexts of each juvenile, including those with diverse gender identities. For example, interventions for a gender-diverse juvenile might involve access to supportive counselling services that address the intersectionality of their gender identity and personal background. Tailoring rehabilitation efforts based on these nuanced differences aims to promote equitable outcomes for individuals of all gender identities. This approach aligns with the broader goal of creating a juvenile justice system that recognizes and addresses the specific needs of each individual, fostering an environment that is not only responsive but also considerate of the diverse backgrounds and identities of male, female, and gender-diverse juveniles.

d. Right to Privacy and Confidentiality:

The principle of the right to privacy and confidentiality, enshrined in Section 3 of the Juvenile JJ Act, serves as a safeguard to protect the dignity of male, female, and gender-diverse juveniles during legal proceedings.

For example, ensuring privacy in cases involving sensitive information, such as reproductive health issues for female juveniles, prevents unnecessary exposure. In instances where legal proceedings involve intimate details specific to each gender, the right to privacy becomes particularly crucial. This principle recognizes the unique challenges faced by female juveniles, ensuring that their reproductive health matters are treated with the utmost confidentiality to avoid any unnecessary intrusion or discomfort.

Similarly, for male juveniles, issues related to mental health or experiences that might be stigmatised can be handled with discretion. Upholding confidentiality contributes to a respectful and considerate legal process, especially when dealing with issues that may carry societal stigmas or personal sensitivities for male juveniles.

Moreover, considering gender-diverse juveniles, who may already face heightened levels of scrutiny and potential discrimination, the right to privacy becomes paramount. Protecting their confidentiality in legal proceedings acknowledges the importance of affirming their gender identity without subjecting them to unnecessary exposure or risk. This commitment ensures that the legal process remains respectful, considerate, and tailored to the individual circumstances and sensitivities of each gender identity.

Considering everything Section 3 of the Juvenile Justice (Care and Protection of Children) Act adopts a robust gender-sensitive approach, translating principles into impactful interventions.

For instance, recognizing higher trauma prevalence among female juveniles, the Act mandates tailored trauma-informed care. Nondiscrimination, supported by research, ensures equal access to education and rectifies historical biases. The holistic consideration of backgrounds is substantiated by data, acknowledging the intersectionality of challenges for males, females, and gender-diverse juveniles. In essence, Section 3 of the act is not a mere collection of principles but a well-founded and empirically supported framework. Each provision is not only a response to theoretical considerations but a measured response to statistical realities within the juvenile justice system. This section actively contributes to a gender-sensitive framework, ensuring that protection needs are specifically addressed for both male and female juveniles, with tangible results backed by statistical evidence.

(B) Provisiosn Beyond Section 3

The gender-sensitive approach of the JJ Act isn't limited to Section 3; it encompasses diverse provisions addressing the unique needs of both male and female juveniles. This section delves into crucial aspects of the Act, examining how these provisions contribute to safeguarding and caring for juveniles of all genders.

Special Juvenile Police Units is a pivotal provision within the JJ Act that actively promotes gender-sensitive practices. The establishment of these units is mandated to handle cases involving female juvenile offenders, ensuring that investigations and legal proceedings are conducted with a heightened level of empathy and tailored sensitivity. For instance, when dealing with cases where a female juvenile is a victim of abuse, these specialised units are well-trained to address such situations delicately, taking into account the unique and gender-specific vulnerabilities faced by female juveniles. This provision underscores a proactive approach to handling cases involving female offenders, aligning with the broader objective of creating a juvenile justice system that is attuned to the specific needs and circumstances of different genders.

Moreover, The JJ Act in India signifies a paradigm shift from previous legislation, emphasising a child-centric and gender-sensitive approach in addressing the needs of children in conflict with the law or requiring care and protection. This legislative framework acknowledges the nuanced vulnerabilities of both male and female children within the juvenile justice system and underscores the imperative of tailored interventions to cater to their distinct requirements. For instance:

a. Separation of Proceedings and Facilities:

A cornerstone of the Act is the stipulation for the separation of facilities for boys and girls in

various institutional settings, such as observation homes, special homes, and children's homes. This provision, rooted in the recognition of the diverse needs of each gender, ensures not only privacy but also a focused approach to rehabilitation. The Act mandates this separation explicitly to safeguard the well-being and individualised care for both male and female children.¹³

b. Representation in Juvenile Justice Boards:

Recognizing the importance of diverse perspectives, the Act mandates the inclusion of at least one woman member in each Juvenile Justice Board. This provision aligns with international best practices that emphasise the significance of gender diversity in decision-making bodies for more holistic and informed outcomes.¹⁴ The inclusion of women members is a strategic move to enhance the sensitivity of the Boards towards the specific concerns and experiences of female children within the justice system.

c. Special Attention to Vulnerable Groups:

The Act goes a step further by explicitly addressing the vulnerabilities of certain groups, particularly girls who may be more susceptible to various forms of abuse and exploitation. This recognition is grounded in research that underscores the unique challenges faced by girls, including gender-based violence and trafficking.²¹ By emphasising the need for special attention to these vulnerable groups, the Act aims to tailor interventions that address the specific needs of female children.¹⁵

d. Training for Gender Sensitivity:

Ensuring a gender-sensitive approach within the juvenile justice system necessitates training for professionals involved, including members of Juvenile Justice Boards. Research suggests that targeted training programs contribute significantly to the development of a gender-sensitive perspective among legal practitioners and decision-makers. The Act recognizes this by mandating training to equip professionals with the necessary skills to navigate the unique challenges faced by male and female children in conflict with the law.

e. Incorporating Expertise in Assessment:

During the assessment process, the Act encourages the involvement of professionals with

¹³ Bhattacharya, D. (2018). Juvenile justice system in India: A critical appraisal. **International Journal of Law and Legal Jurisprudence Studies**, 5(1), 121-132.

¹⁴ Tandon, A. (2019). Gender and juvenile justice: An international perspective. **Indian Journal of Criminology and Criminalistics**, 40(1), 1-14.

¹⁵ Sarkar, S. (2017). Human trafficking in the Indian subcontinent: A literature review. **International Journal of Criminal Justice Sciences**, 12(1), 88-102.

expertise in child psychology, child development, and gender sensitivity. This aligns with the interdisciplinary approach advocated by scholars in the field, emphasising the importance of holistic evaluations that consider the specific needs of each child. The Act, by incorporating such expertise, aims to ensure a nuanced understanding of a child's background, considering their gender, and subsequently inform decisions within the juvenile justice system.

f. Dignity and Privacy Protection:

Protecting the dignity and privacy of children throughout the judicial proceedings is fundamental to the Act's gender-sensitive approach. Research underscores the potential trauma associated with legal processes, highlighting the importance of safeguards for the psychological well-being of children. The Act addresses this concern by placing a premium on the protection of the dignity and privacy of both male and female children involved in the juvenile justice system.

g. Gender-Responsive Rehabilitation:

In extending its gender-sensitive approach, the Act recognizes that rehabilitation programs should be tailored to the specific needs and vulnerabilities of both genders. This aligns with international standards emphasising the importance of gender-responsive interventions for effective rehabilitation. By incorporating this perspective, the Act seeks to ensure that rehabilitation programs actively address the unique challenges faced by male and female children in conflict with the law, contributing to their overall well-being.

III. NEED FOR A NEW UNDERSTANDING TOWARDS THE CONCEPT OF GENDER

The absence of a comprehensive understanding of gender diversity within the JJ Act, in India has multifaceted implications, particularly concerning LGBTQIA+ children. Analysing these repercussions across legal, social, and mental health dimensions reveals significant gaps that require urgent attention and reform.

The failure to explicitly recognize and protect LGBTQIA+ children, particularly those identifying as non-binary, within the Indian juvenile justice system creates a legal blind spot. Without specific provisions tailored to their unique circumstances, LGBTQIA+ children may encounter systemic discrimination, harassment, and a lack of legal recourse.¹⁶ The legal advancements in Canada, where non-binary and transgender youth rights are integrated into the youth justice framework, emphasise the necessity for recognizing diverse gender identities. The

¹⁶ Canadian Bar Association, (2017). Gender identity and gender expression in Canada: A guide to the Canadian Human Rights Act

lack of similar legal reforms in India risks compromising the fundamental rights of LGBTQIA+ children, denying them equal protection under the law.

Furthermore, the social implications of overlooking the needs of LGBTQIA+ children are profound, contributing to issues of stigma, marginalisation, and societal exclusion. In the absence of legal protections, LGBTQIA+ children may be vulnerable to increased discrimination, both within and outside the juvenile justice system. This neglect perpetuates harmful stereotypes, hindering the overall acceptance and integration of LGBTQIA+ individuals into mainstream society. Australia's legal framework, recognizing diverse gender identities, fosters an environment supporting the rights and well-being of LGBTQIA+ youth within juvenile justice settings.¹⁷ Failing to address these social dimensions perpetuates a cycle of prejudice and impedes the development of a socially just and inclusive environment for LGBTQIA+ children in India.

Moreover, the mental health implications of not recognizing and safeguarding the rights of LGBTQIA+ children, especially those who are non-binary, are a critical aspect of this analysis. Research indicates that LGBTQIA+ youth, when faced with discrimination and societal hostility, are at a higher risk of mental health issues, including depression and anxiety. The absence of tailored protections within the juvenile justice system exacerbates these risks, potentially contributing to a cycle of mental health challenges and, in extreme cases, increased rates of suicide. The Netherlands, where mental health professionals collaborate with legal authorities to address the unique challenges faced by LGBTQIA+ youth, presents a model that emphasises the importance of an integrated approach. Failing to recognize and address these mental health implications perpetuates the vulnerability of LGBTQIA+ children in the Indian juvenile justice system.

(A) Global Best Practices and Potential Reforms

Examining global best practices reveals that nations like Canada and Australia have successfully implemented inclusive policies recognizing diverse gender identities within their juvenile justice systems. Canada has integrated non-binary and transgender youth rights into its youth justice framework, emphasising sensitivity and inclusivity. In Australia, the legal landscape acknowledges diverse gender identities, fostering an environment that respects the rights and well-being of LGBTQIA+ youth within juvenile justice settings.

For India to align with this global movement and ensure comprehensive protection for

¹⁷ Gusman-Vermeer, J. (2020). Mental health needs of LGBTQ youth in the juvenile justice system. *Psychiatric Times*, 37(3), 18-20

LGBTQIA+ children, several strategic steps can be considered. Firstly, the legal framework must explicitly recognize non-binary gender identities, ensuring that the rights and experiences of LGBTQIA+ children are understood and respected within the juvenile justice system. To facilitate this, training programs for legal professionals and juvenile justice personnel should incorporate modules on LGBTQIA+ inclusivity, taking inspiration from initiatives such as those implemented in the United Kingdom, where specialised training on LGBTQIA+ issues has been introduced.

Additionally, India can learn from countries like Sweden, where the legal framework explicitly addresses the needs of LGBTQIA+ children, offering tailored protections against discrimination and violence. Collaborative efforts involving LGBTQIA+ advocacy groups, legal experts, and policymakers can contribute to crafting and implementing policies that ensure the equitable treatment of LGBTQIA+ children within the juvenile justice system.

Recognizing the mental health implications of discrimination and societal hostility towards LGBTQIA+ children is crucial. Therefore, the integration of mental health support structures into the juvenile justice system is essential. Drawing inspiration from models like that of the Netherlands, where mental health professionals collaborate with legal authorities to address the unique challenges faced by LGBTQIA+ youth, India can ensure a more comprehensive approach to their well-being.

(B) Effects of Inaction

The implications of not incorporating a comprehensive understanding of gender diversity within the JJ Act, in India are profound and multifaceted. From a legal perspective, the absence of explicit provisions for LGBTQIA+ children raises concerns about equal protection under the law and the potential for human rights violations. The legal system, by not explicitly recognizing and safeguarding the rights of this population, may inadvertently contribute to systemic discrimination and harassment, undermining the foundational principles of justice and fairness. This legal gap not only denies LGBTQIA+ children the protections afforded to their peers but also perpetuates an environment where they may face heightened vulnerability to legal challenges and injustices.

On the social front, the failure to address the social dimensions of inclusivity perpetuates harmful stereotypes and prejudices, hindering the overall acceptance and integration of LGBTQIA+ individuals, especially children, into mainstream society. The absence of legal safeguards can lead to increased discrimination, marginalisation, and societal exclusion of LGBTQIA+ children. This not only impacts their immediate well-being but also sets the stage

for broader societal misconceptions and biases against this community. In turn, this could create a hostile social environment that further marginalised LGBTQIA+ children, limiting their opportunities for growth, education, and social integration.

Moreover, the implications extend to mental health challenges faced by LGBTQIA+ children. The failure to recognize and address the mental health implications of discrimination and societal hostility towards this population may exacerbate their vulnerability. Research indicates that LGBTQIA+ youth facing rejection and discrimination are at a higher risk of mental health issues, including depression and anxiety. In extreme cases, this could contribute¹⁸

to increased rates of suicide among LGBTQIA+ children. The absence of tailored protections and support structures within the juvenile justice system heightens these risks, potentially subjecting this vulnerable population to further harm.

In terms of human rights, the inaction on incorporating a comprehensive understanding of gender diversity within the juvenile justice system raises serious concerns. Denying specific protections and recognition to LGBTQIA+ children may violate their rights to equal treatment, dignity, and protection from discrimination. The international human rights framework increasingly recognizes the rights of LGBTQIA+ individuals, and India's failure to align its legal provisions with these evolving standards could be seen as a breach of its international human rights obligations.

To address these far-reaching implications, India must undertake comprehensive legal reforms that explicitly recognize and protect the rights of LGBTQIA+ children within the juvenile justice system. This includes incorporating non-binary gender identities into the legal framework, ensuring that the rights and experiences of LGBTQIA+ children are explicitly acknowledged and respected. Specialised training programs for legal professionals and those involved in the juvenile justice system are essential to foster awareness and sensitivity towards LGBTQIA+ issues. Collaborative efforts with mental health professionals should be prioritised to integrate robust support structures within the juvenile justice system, drawing inspiration from global models such as those in Canada, Australia, and the Netherlands. Only through proactive legal and systemic changes can India hope to mitigate the multifaceted challenges faced by LGBTQIA+ children within the juvenile justice system and work towards fostering a more just, inclusive, and supportive society.

¹⁸ Gusman-Vermeer, J. (2020). Mental health needs of LGBTQ youth in the juvenile justice system. *Psychiatric Times*, 37(3), 18-20

IV. CONCLUSION

In conclusion, the JJ Act marks a significant advancement in addressing the distinct needs of juvenile offenders in India, particularly through its commendable efforts to institute gender-sensitive justice. The legislation explicitly recognizes the diverse experiences of both male and female juveniles within the juvenile justice system. Nevertheless, an evident gap emerges in its approach, specifically the limited consideration afforded to non-binary youth. As societal perceptions of gender continue to evolve, a critical evaluation of how well the Act accommodates the needs and challenges faced by non-binary juveniles becomes imperative.

The discourse has illuminated the Act's limitations in fully addressing the nuanced issues confronting non-binary youth in the juvenile justice system. While the legislation lays the groundwork for gender-sensitive justice, it falls short in adequately addressing the experiences of LGBTQIA+ youth, particularly those identifying as non-binary. International examples, including legal frameworks in countries such as Canada, Australia, and Sweden, coupled with insights from LGBTQIA+ advocacy groups, underscore the importance of an inclusive approach.

The discussion has underscored the urgent need for legal reforms that explicitly recognize and protect the rights of LGBTQIA+ children within the juvenile justice system. Essential measures include the incorporation of non-binary gender identities into the legal framework, specialised training for legal professionals, and collaborations with mental health experts. The international landscape, with its evolving standards and best practices, serves as a guide for India to align its juvenile justice system with global inclusivity and human rights principles.

In essence, while acknowledging the progress made in gender-sensitive justice, it is evident that India must broaden the scope of the act. A more inclusive umbrella that encompasses LGBTQIA+ youth, especially non-binary individuals, is essential to further declining juvenile delinquency and providing adequate protection for children in need of legal safeguards. The Act, with its laudable intentions, can achieve a more holistic and equitable juvenile justice system by recognizing and addressing the diverse experiences of all young individuals, irrespective of their gender identity or sexual orientation. This discussion advocates for a forward-looking approach that not only aligns with global standards but also reflects a commitment to building a society where every child is treated with dignity, fairness, and understanding within the juvenile justice system.
