

Juvenile Offenders Accused of Heinous Crimes in Pakistan: Balancing Child Rights, Public Safety, and Criminal Responsibility

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Abstract

Cases in which children are accused of murder, sexual violence, terrorism, armed robbery, or other exceptionally serious offences expose the deepest tension within juvenile justice: the state must protect victims and the public while preserving the distinct legal status and developmental characteristics of childhood. Pakistan's Juvenile Justice System Act 2018 (JJSA) attempts to manage this tension through a special statutory framework that recognizes every person below eighteen as a child, classifies offences as minor, major, or heinous, and permits more restrictive bail treatment for a juvenile who is more than sixteen years old and accused of a heinous offence. This review critically examines whether that structure achieves a defensible balance between child rights, public safety, and criminal responsibility. It synthesizes the JJSA, Pakistani superior-court jurisprudence, recent institutional reports, contemporary scholarship, and selected comparative material from India and England and Wales. Particular attention is given to the definition of a heinous offence, the over-sixteen threshold, age determination, bail and statutory delay, fair-trial safeguards, victims' interests, sentencing, rehabilitation, and implementation. The review argues that offence gravity can legitimately justify heightened scrutiny and proportionate restrictions, but it cannot by itself extinguish child-specific safeguards. Recent Supreme Court jurisprudence has protected this principle, particularly in relation to age and prolonged detention. However, implementation evidence continues to reveal limited specialized courts and facilities, inconsistent age determination, inadequate legal representation, and weak rehabilitation infrastructure. Pakistan therefore requires a model of structured accountability in which serious offending is addressed firmly but through individualized, child-sensitive, evidence-based, and rehabilitative justice.

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1. Introduction

Juvenile justice is founded on the proposition that children who violate criminal law are responsible legal subjects but are not developmentally equivalent to adults. International child-justice standards accordingly require dignity, effective participation, proportionality, reintegration, prevention, and minimum resort to detention [1–4,35]. The distinction is most difficult to maintain when the alleged conduct is exceptionally serious. Homicide, grave sexual violence, terrorism, and other violent offences produce real harm, public fear, and legitimate demands for accountability. The difficult legal question is therefore not whether a child who commits a grave offence should be held accountable, but what form of accountability is compatible with childhood.

Pakistan's Juvenile Justice System Act 2018 represents a significant attempt to answer that question. Read with constitutional guarantees of liberty, fair trial, dignity, protective measures

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for children, and family protection, it defines a child as a person below eighteen, establishes a separate juvenile framework, classifies offences by seriousness, provides legal assistance, recognizes diversion and rehabilitation, regulates bail, and places duties on justice institutions [5,39]. Yet the Act also creates differentiated treatment for older juveniles accused of heinous offences. Section 6(4) permits refusal of bail where a juvenile of more than sixteen years is accused of a heinous offence and the Juvenile Court finds reasonable grounds of involvement [5].

This differentiation creates the central tension examined in this article. Childhood remains the governing legal status, but offence seriousness and age permit the state to impose greater restrictions. Pakistani courts have consequently had to determine the meaning of ‘more than sixteen years’, the scope of statutory-delay bail, the legal consequences of age-determination proceedings, and the relationship between the JJSA and ordinary bail law [6–14].

Existing Pakistani literature has often examined the JJSA as a whole, emphasizing implementation gaps, diversion, institutional weakness, and alignment with international standards [15–19]. This article makes a narrower contribution. It places the treatment of juveniles accused of heinous crimes at the centre of the analysis and examines the unresolved tension between the special legal status of childhood and the differentiated treatment of older juveniles. It combines recent jurisprudence with current implementation evidence and comparative approaches to ask whether Pakistan’s model protects the public without allowing the heinous-offence label to become a route back to adult-style punishment.

The article advances three related propositions. First, the statutory definition of ‘heinous offence’ must be interpreted strictly because classification changes the legal position of a child. Second, chronological age is a necessary legal threshold but an imperfect proxy for maturity and culpability. Third, the legitimacy of restrictive juvenile detention depends partly on the state’s ability to provide the specialized, rehabilitative institutions promised by the JJSA. Where children are detained in conditions that reproduce ordinary imprisonment without meaningful rehabilitation, the normative justification for a special juvenile regime is weakened.

2. Review Approach

This article adopts a structured doctrinal and narrative review rather than a systematic review or empirical case-count study. Searches were conducted up to 31 August 2026 using Pakistan Code and official Pakistani institutional websites; publicly accessible Supreme Court and High Court judgment repositories; Pakistan Case Law, Pak Legal Database and Pakistan Lawyer for case discovery and cross-checking; Google-indexed journal platforms; official United Nations material; the National Commission for Human Rights (NCHR); the National Commission on the Rights of Child (NCRC); the National Police Bureau; the Government of the United Kingdom and Sentencing Council; and publicly accessible Indian Supreme Court case repositories. Representative search expressions included combinations of ‘Juvenile Justice System Act 2018’, ‘heinous offence’, ‘section 6(3)’, ‘section 6(4)’, ‘section 6(5)’, ‘juvenile bail’, ‘age determination’, ‘statutory delay’, ‘juvenile rehabilitation Pakistan’, and the names/citations of leading cases.

Primary legal materials were prioritized. Pakistani decisions were included where they materially interpreted the JJSA in relation to age, bail, offence classification, delay, criminal responsibility, or juvenile procedure. Recent institutional reports and scholarship published

mainly from 2022–2026 were prioritized for implementation and policy analysis, while older foundational instruments and cases were retained where indispensable. Comparative material was selected purposively to illuminate specific design choices rather than to provide a comprehensive survey of foreign law.

3. The Legal Architecture of Juvenile Justice in Pakistan

The JJSA 2018 replaced the Juvenile Justice System Ordinance 2000 and seeks to provide a distinct criminal justice system and social reintegration framework for juvenile offenders [5]. Its structure is important because it does not make offence seriousness the sole determinant of treatment. A person who was below eighteen at the relevant time remains within a special statutory regime even where the accusation is grave.

The Act's protective architecture includes legal assistance, age determination, juvenile courts, juvenile justice committees, diversion, observation arrangements, rehabilitation centres, confidentiality protections, and special bail rules [5]. This reflects the broader international principle that a child-justice system must differ from the adult criminal process not merely in terminology but in procedure, institutional setting, and ultimate purpose [1–4].

Implementation, however, remains uneven. NCHR's 2025 CRC submission called for rules in several jurisdictions, operational juvenile courts and rehabilitation centres, effective age-determination mechanisms, diversion, specialized training, and alternative sentencing [20]. NCRC's State of Children in Pakistan 2025 reported that only thirteen juvenile courts had been notified nationwide and identified continuing gaps in specialized facilities and interaction with punitive statutes such as the Anti-Terrorism Act [21]. These deficiencies matter most in heinous-offence cases because such cases are the ones most likely to produce lengthy detention and pressure for punitive treatment.

4. Heinous Offence under the JJSA: Definition, Thresholds, and Interpretive Risk

Section 2(g) of the JJSA defines a heinous offence through two elements: the offence must be 'serious, gruesome, brutal, sensational in character or shocking to public morality' and must be punishable with death, imprisonment for life, or imprisonment for more than seven years [5]. The wording is unusual because it combines a qualitative description with a penalty threshold. The punishment limb can generally be determined from legislation; the descriptive limb contains open-textured terms capable of attracting moral and emotional judgments.

This dual structure should be treated as cumulative rather than allowing the punishment threshold alone to swallow the qualitative language. Otherwise, the words 'serious, gruesome, brutal, sensational' and 'shocking to public morality' would do little independent work. Conversely, public outrage cannot itself establish the category where the statutory punishment threshold is not met. A strict approach is justified because classification can alter a child's bail position and expose an older juvenile to more restrictive treatment.

Pakistani case law illustrates the importance of classification. In *Sahib Ullah v. State*, the Supreme Court observed that section 6(4) could not simply be invoked without examining whether the prosecution case actually fell within the statutory definition of heinous offence [8]. In *Manzoor Ahmad v. Muhammad Umar Farooq*, the Lahore High Court treated an offence punishable up to seven years as a 'major offence' and therefore subject to section 6(3)'s

bailable treatment, emphasizing that juvenile bail should not turn irrationally on procedural posture [10].

The interpretive risk is that ‘heinous’ becomes a rhetorical label rather than a statutory category. Courts should therefore identify the penal provision, its prescribed punishment, the factual character alleged, and the precise statutory basis for classification. This would improve transparency and appellate review. It would also protect victims by ensuring that serious cases are classified through law rather than intuition, while protecting children against category inflation.

Comparative experience reinforces the value of precision. India’s Juvenile Justice (Care and Protection of Children) Act 2015 defines heinous offences differently, by reference to a minimum punishment of seven years or more. In *Shilpa Mittal v. State (NCT of Delhi)*, the Indian Supreme Court refused to judicially expand the statutory definition to offences carrying a high maximum but no qualifying minimum sentence, emphasizing that treating a child as an adult is exceptional and that statutory gaps should not be filled by punitive interpretation [22]. Pakistan need not adopt India’s definition, but the case illustrates why legal consequences for children should follow clear legislative criteria.

5. The Over-Sixteen Threshold: Age, Maturity, and Culpability

Section 6(4) singles out a juvenile ‘more than sixteen years of age’ accused of a heinous offence [5]. The phrase creates a bright-line legal threshold inside the broader category of childhood. Sahib Ullah demonstrates its literal importance: the Supreme Court held that a child who was exactly sixteen on the date of the offence was not ‘more than sixteen’ and could not be treated as though the statutory exception automatically applied [8]. The Court also emphasized that the relevant legal position is tied to the date of the offence rather than a later arrest date.

A bright line promotes predictability, but it also creates an unavoidable normative question: why should a child one day over sixteen be exposed to a materially different bail framework from a child one day younger? Chronological age is administratively necessary, yet it is an imperfect proxy for maturity, impulse control, susceptibility to peer pressure, trauma, and understanding of consequences. The law therefore should not allow the age threshold to substitute for individualized judicial reasoning.

Pakistan’s approach is notably different from India’s. Under section 15 of India’s Juvenile Justice (Care and Protection of Children) Act 2015, a child aged sixteen to eighteen accused of a heinous offence may be subjected to a preliminary assessment concerning mental and physical capacity, ability to understand consequences, and circumstances of the alleged offence [23,33]. In *Barun Chandra Thakur v. Master Bholu*, the Indian Supreme Court stressed the complexity of that assessment and the importance of expert assistance and procedural safeguards [23]. Pakistan does not employ the same adult-trial transfer mechanism. That is a strength insofar as it avoids making developmental assessment a gateway to adult criminal status, but Pakistan could still learn from the insistence on individualized information when courts make restrictive decisions about older juveniles.

Age determination is consequently foundational. Saleem Khan established that police and courts bear statutory responsibilities concerning juvenility and that time consumed in the legally required age-determination process cannot simply be blamed on the juvenile for purposes of statutory bail [6]. More recently, *Kamran Mushtaq v. State* addressed the

evidentiary relationship between documentary records and medical assessment, illustrating the practical difficulty that arises where documents themselves require verification [14]. *Rafiq v. The State* provides a further recent example of a High Court treating verified juvenile age as material to bail analysis [38]. Current NCHR and NCRC reports continue to identify age determination as an implementation concern [20,21].

6. Bail, Heinous Offences, and Statutory Delay

Bail is the clearest doctrinal site at which child rights and public safety collide. Section 6(3) treats minor and major offences as bailable for juveniles, whereas section 6(4) permits non-release of a juvenile more than sixteen accused of a heinous offence where reasonable grounds of involvement exist [5]. Section 6(5), however, protects against prolonged detention when trial remains incomplete beyond the statutory period and delay is not attributable to the juvenile.

Saleem Khan v. State was an early Supreme Court interpretation of the 2018 Act. The Court held that the six-month statutory-delay protection applied and that delay generated by the court's determination of juvenility could not be attributed to the accused [6]. *Khawar Kayani v. State* subsequently confirmed the importance of section 6(5) in a heinous-offence context and treated the provision as a substantive statutory protection rather than a discretionary concession [7].

Mehran v. Ubaid Ullah, PLD 2024 SC 843, reinforced that approach. The Supreme Court rejected the idea that the heinous nature of the allegations could defeat statutory-delay bail and refused to characterize age-determination proceedings as culpable delay by the juvenile [9]. *Saifullah v. State*, 2025 PHC 12, demonstrates subsequent High Court application of the statutory-delay principle in a murder case where the juvenile had remained detained while trial had not commenced [13]. *Ubedullah v. State* similarly applied section 6(5) in a narcotics prosecution involving a juvenile whose NADRA record showed that he was approximately fourteen at arrest [12].

These cases establish an important hierarchy of reasoning. Offence seriousness matters, but it does not nullify express statutory protections. The more defensible interpretation is that section 6(4) and section 6(5) perform different functions: the former permits restrictive treatment in defined older-juvenile heinous cases; the latter prevents that restriction from becoming indefinite pre-trial incarceration.

Public safety nevertheless remains legitimate. Within the governing bail framework, a court may consider legally relevant circumstances bearing on release, while the JJSA supplies the child-specific rules applicable to juveniles [5,31]. The problem arises when the offence label itself is treated as proof of risk. Individualized reasons are essential because a categorical presumption converts pre-trial detention from risk management into anticipatory punishment.

JJSA Decision Framework for Juveniles Accused of Heinous Offences

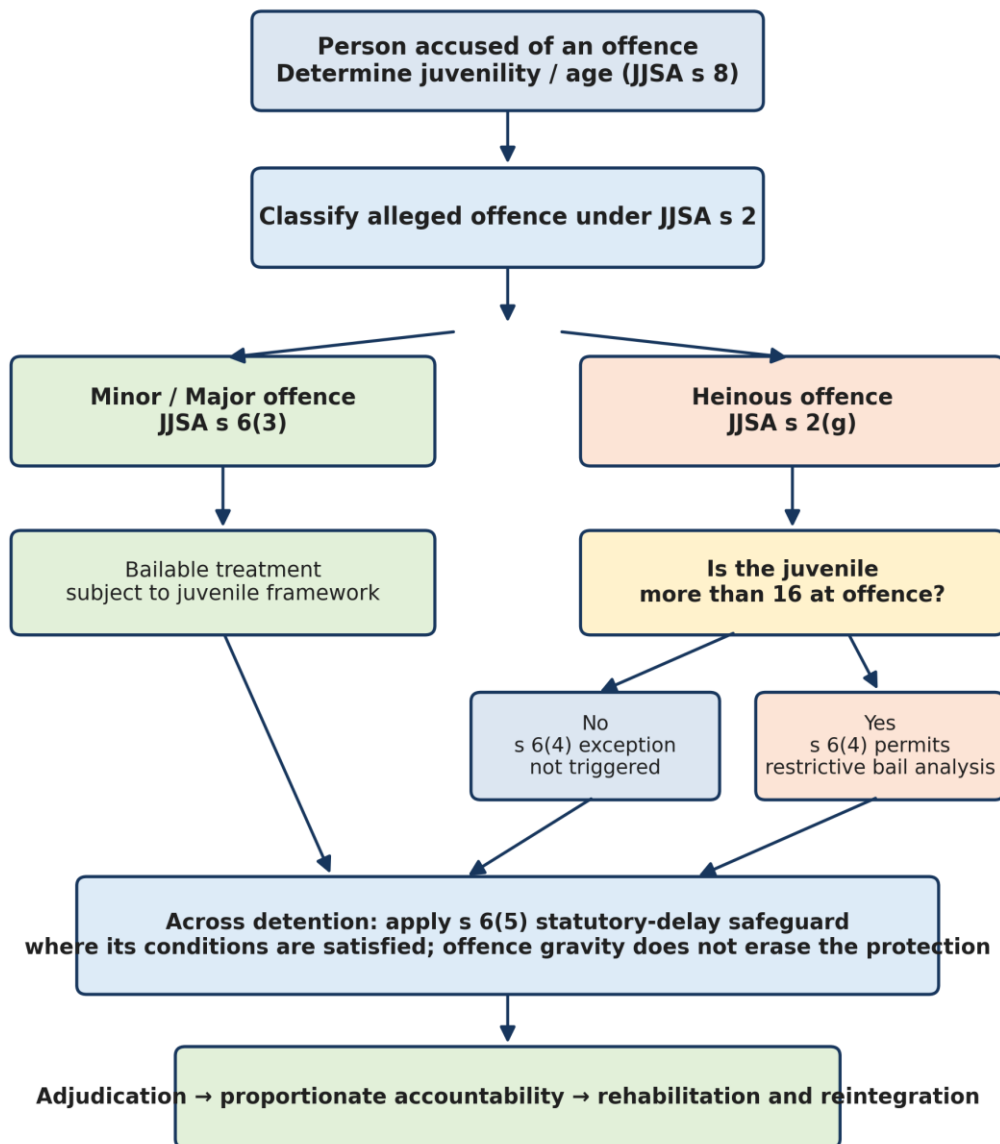


Figure 1. JJSA decision framework for juveniles accused of heinous offences.

7. Pre-Trial Detention, Legal Assistance, and Fair Trial

International standards require deprivation of liberty of children to be a last resort and for the shortest appropriate period [1–4]. This principle has particular force before conviction, when the presumption of innocence remains intact. Long detention can interrupt education, weaken family ties, expose children to institutional violence or harmful peer influence, and make later reintegration more difficult.

Pakistan's recent institutional evidence demonstrates the practical scale of the problem. NCHR reports that, during its Adiala Jail intervention, 79 of 82 juvenile prisoners were under trial and 29 lacked legal representation; pro bono intervention contributed to the release of 75 children [24]. NCHR's annual reporting also documents continuing monitoring, legal-aid, and institutional work concerning persons deprived of liberty [25]. These figures are intervention-

specific rather than national prevalence estimates, but they show how delay and representation gaps can shape juvenile detention.

Section 3 of the JJSA recognizes legal assistance at state expense [5]. In a heinous-offence case, effective representation must extend beyond formal appearance. Counsel should be capable of challenging age evidence, identifying the correct offence classification, litigating statutory delay, testing identification and forensic evidence, protecting confidentiality, and presenting individualized rehabilitative information. The seriousness of the charge increases the need for specialized defence; it does not justify reducing it.

8. Victims, Community Safety, and the Legitimacy of Juvenile Justice

A rights-based juvenile system cannot be credible if it discusses only the accused child. Heinous offences can cause death, permanent injury, sexual trauma, family devastation, and community fear. Victims have legitimate interests in safety, information, respectful participation, protection from intimidation, timely proceedings, and an outcome that acknowledges the seriousness of harm.

Yet victim protection should not be confused with maximal punishment. Delay can harm victims as well as accused children. Poor investigation, repeated adjournments, weak witness protection, and inadequate prosecution undermine confidence regardless of sentence severity. A system that keeps a juvenile in prolonged pre-trial custody while failing to progress the case serves neither side.

Public safety should similarly be defined in practical rather than symbolic terms. Evidence-informed supervision, family engagement, education, mental-health care, substance-use treatment where necessary, structured release planning, and targeted restrictions may address risk more effectively than undifferentiated confinement. Recent Pakistani studies on probation, rehabilitation, and family support underscore the relevance of reintegration structures to reoffending risk [26,27].

The balance therefore requires symmetrical seriousness: courts must take the victim's harm seriously while taking the child's legal status seriously. Neither interest should be treated as rhetorical. Judicial orders in heinous cases should explain why a particular restriction is necessary, what risk it addresses, and why less restrictive alternatives are inadequate.

9. Sentencing, Criminal Responsibility, and Proportionality

After conviction, proportionality requires attention to both offence gravity and the developmental status of childhood. International standards prohibit capital punishment for offences committed by persons below eighteen and emphasize reintegration and the possibility of return to society [1–4]. Domestic criminal responsibility must also be read with the relevant provisions of the Pakistan Penal Code [32]. A sentence imposed on a child should therefore acknowledge severe harm without assuming that present culpability fixes future identity.

Pakistan's age-determination weaknesses make sentencing safeguards especially important. NCRC's 2025 assessment discusses cases and concerns in which children were exposed to adult punitive frameworks because juvenility was not properly recognized [21]. Where age determines exposure to extreme punishment, procedural accuracy is a substantive rights issue rather than a technicality.

The law should also distinguish culpability from dangerousness. A serious offence may justify a substantial response, but a prediction that a child is permanently dangerous requires evidence. Development is dynamic. A juvenile sentence should therefore incorporate periodic assessment, educational and psychological intervention, and a realistic pathway to reintegration rather than merely reproducing an adult sentence in a juvenile institution.

10. Rehabilitation: A Right, a Public-Safety Strategy, and an Institutional Test

Rehabilitation is often described as the humane alternative to punishment, but in juvenile justice it also performs a public-safety function. Education, vocational training, psychological intervention, family work, and structured reintegration can address factors associated with offending and reduce the likelihood that detention itself becomes criminogenic [26,27]. The JJSA's commitment to rehabilitation is therefore central rather than ornamental [5].

This creates a difficult legitimacy question: does the state weaken its justification for restrictive juvenile detention when it fails to provide the specialized rehabilitative environment on which the juvenile system is premised? The answer should be at least partly yes. A statute that authorizes special restrictions while promising child-specific rehabilitation cannot be implemented coherently if children are simply placed in ordinary prison conditions with a juvenile label.

Recent evidence makes this concern concrete. NCHR has called for juvenile rehabilitation centres in each district and operational observation homes [20]. NCRC reported limited specialized facilities and only thirteen notified juvenile courts nationwide [21]. The continuing implementation gap means that a court deciding whether to detain an older juvenile for a heinous offence should be attentive not only to abstract statutory power but also to the actual conditions and rehabilitative capacity of the proposed placement.

11. Comparative Perspective: India and England and Wales

11.1 India: Seriousness plus individualized preliminary assessment

India provides a useful comparator because its 2015 legislation differentiates children aged sixteen to eighteen who are accused of heinous offences. Section 15 requires a preliminary assessment of mental and physical capacity, ability to understand consequences, and circumstances before the possibility of adult trial is considered [22,23,33]. The model has been criticized because developmental assessments can be uncertain and because adult transfer risks undermining the principle of universal childhood.

Nevertheless, two lessons are relevant for Pakistan. First, Shilpa Mittal demonstrates the value of strict statutory classification where severe consequences follow from the 'heinous' label [22]. Second, Barun Chandra Thakur demonstrates that maturity cannot responsibly be inferred from age and offence alone; where the law requires developmental judgment, expertise and reasoned assessment matter [23]. Pakistan should not import adult-transfer rules, but it can adopt the underlying discipline of individualized reasoning.

11.2 England and Wales: seriousness within a welfare-oriented sentencing framework

England and Wales retain severe custodial powers for serious youth offending, but the Sentencing Council's guideline requires courts to have regard to the prevention of offending and the welfare of the child. It states that although offence seriousness is the starting point, sentencing should be individualistic and focused on the child, with custody as a last resort [28].

This contemporary guidance sits within a long-standing statutory tradition of treating child welfare as a distinct consideration in youth justice [34].

Current youth-justice statistics also illustrate that serious offending does not require custody to become the default response to all children. In the year ending March 2025, around 72% of sentencing occasions involved community sentences and immediate custody remained a small minority of all child sentencing occasions [29]. These data cannot be transplanted to Pakistan, but they demonstrate a policy model in which community-based accountability remains central even within a system capable of imposing custody for grave cases.

11.3 Comparative lessons for Pakistan

Pakistan's advantage is that the JJSA does not create a broad mechanism for trying sixteen- and seventeen-year-olds as adults merely because of offence classification. Its weakness is that section 6(4) relies heavily on chronological age and the heinous-offence category without expressly requiring a structured developmental assessment. A useful reform would therefore preserve universal juvenile status while requiring courts, when imposing restrictive measures on older juveniles, to consider verified age, maturity-related information where available, circumstances of offending, specific risk, family and social context, and realistic alternatives to detention.

Comparative Approaches to Serious Juvenile Offending

Pakistan	India	England & Wales
JJSA 2018	JJ Act 2015	Youth sentencing framework
Child status retained below 18	16–18 heinous cases may undergo preliminary assessment	Child-focused sentencing; welfare remains relevant
More-than-16 threshold matters to s 6(4) bail	Capacity, consequences and circumstances assessed	Seriousness is starting point; custody remains last resort
No broad adult-transfer mechanism in JJSA	Possible adult-trial pathway after statutory process	Custodial powers coexist with individualized youth principles
Lesson: preserve juvenile status + structured reasons	Lesson: maturity requires individualized assessment	Lesson: seriousness need not displace welfare/reintegration

Figure 3. Comparative approaches to serious juvenile offending.

12. Legal Synthesis of Leading Pakistani Authorities

Legal issue	JJSA provision	Leading authority	Judicial position	Critical significance
Age determination and delay	ss 6(5), 8	Saleem Khan, PLD 2020 SC 356 [6]	Age-determination process required by law is not juvenile-caused delay.	Procedural age inquiry cannot be used to defeat statutory bail.
Statutory delay in heinous cases	s 6(5)	Khawar Kayani, PLD 2022 SC 551 [7]	Six-month statutory protection applies notwithstanding heinous allegation where conditions are met.	Prevents s 6(4) from becoming indefinite detention.
Exactly sixteen vs more than sixteen	ss 6(3), 6(4)	Sahib Ullah, 2022 SCMR 1806 [8]	Exactly sixteen is not ‘more than sixteen’; date of offence is material.	Strict construction of an age threshold affecting liberty.
Delay and age proceedings	s 6(5)	Mehran, PLD 2024 SC 843 [9]	Heinous nature does not override statutory-delay right; age inquiry not blameworthy delay.	Reaffirms integrated reading of juvenile protections.
Pre-arrest/post-arrest distinction	s 6(3)	Manzoor Ahmad, PLD 2024 Lahore 702 [10]	Major offence treated as bailable; irrational procedural distinctions rejected.	Best interests and substance over procedural form.
Young juvenile / mens rea	ss 5, 7, 23	Muhammad Latif alias Kala, 2025 PCrLJ 1279 [11]	Further inquiry required where very young child and maturity/mens rea insufficiently investigated.	Links juvenile procedure to developmental criminal responsibility.
Statutory delay in narcotics case	s 6(5)	Ubedullah, 2024 SHC 720 [12]	Juvenile status and prolonged detention materially supported bail.	Shows cross-offence application of delay protection.
Statutory delay in murder case	s 6(5)	Saifullah, 2025 PHC 12 [13]	Bail granted where trial had not commenced	Recent High Court application of

			and delay was not attributable to juvenile.	Supreme Court principle.
Proof of juvenility	s 8	Kamran Mushtaq, 2025 MLD 367 [14]	Documentary claims may require verification; medical evidence considered where records disputed.	Highlights need for uniform evidentiary protocol.
Juvenile age and bail	ss 6, 8	Rafiq, 2024 PHC 404 [38]	Verified juvenile age was treated as material in post-arrest bail analysis.	Reinforces the need to determine age early and reliably.

13. Contemporary Implementation Challenges

The implementation problem is no longer adequately described as a simple absence of law. Pakistan has an elaborate statutory framework and growing institutional activity. NCHR has undertaken jail monitoring, legal-aid interventions, training, and cooperation with the National Police Bureau [24,25]. The National Police Bureau's Juvenile Justice and Child Protection Unit is intended to improve policy, data, coordination, and police practice [30].

The challenge is uneven institutionalization. NCRC's 2025 assessment identifies limited juvenile courts and continuing facility gaps [21]. NCHR's 2025 CRC submission calls for rules, rehabilitation centres, observation homes, diversion, age-determination mechanisms, and trained justice personnel [20]. The UN Committee on the Rights of the Child's 2026 concluding observations provide an additional current international benchmark for assessing Pakistan's child-rights implementation [40].

Recent scholarship largely confirms this pattern. Khan's 2023 policy analysis identifies implementation and capacity weaknesses [15]. Ali, Khan and Rajper examine structural and operational shortfalls against UNCRC standards [17]. Sethi's 2025 review argues that newer forms of digital offending expose additional gaps in the existing framework [18]. Idrees, Hussain and Arfat's 2026 review similarly concludes that the Act's rehabilitative promise is constrained by institutional weakness and inconsistent enforcement [19]. Recent work on juveniles in drug trafficking also illustrates the need to preserve child-specific protections when special criminal statutes are engaged [37]. The convergence of case law, official reporting, and scholarship suggests that the central policy challenge is now implementation quality rather than legislative absence.

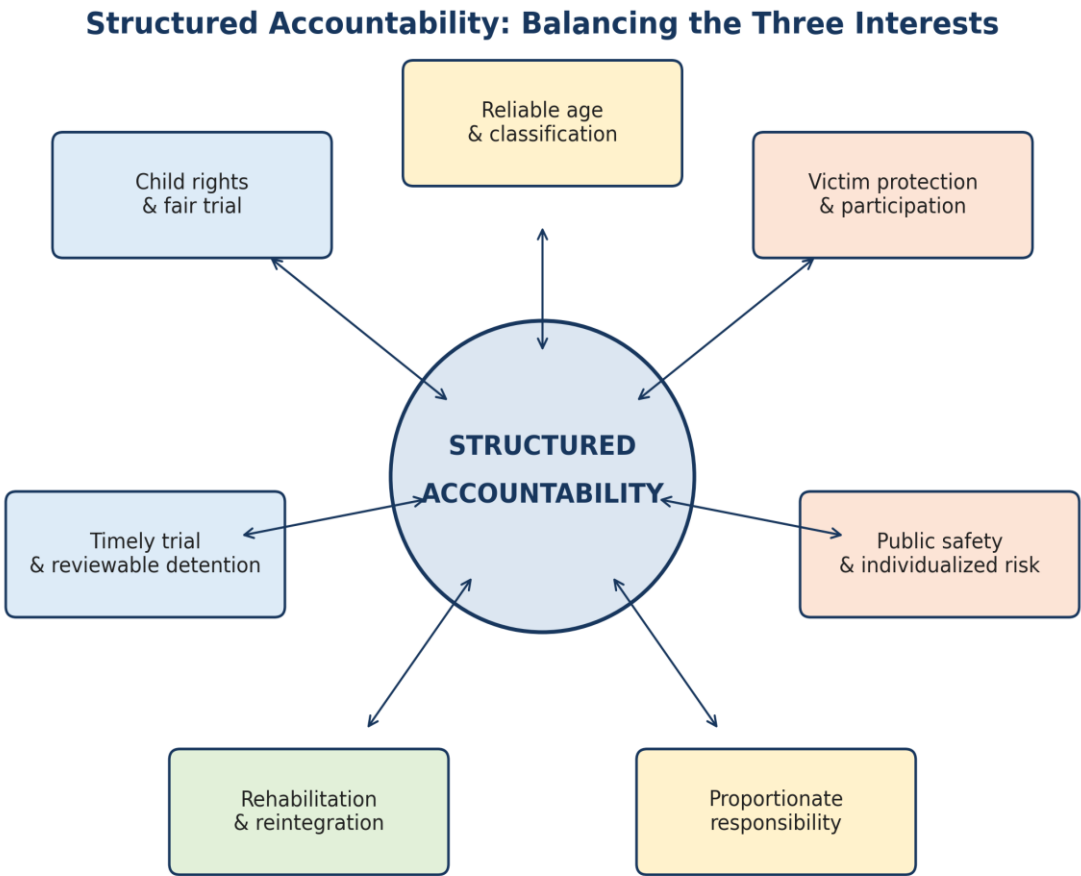
14. Critical Discussion: Toward Structured Accountability

The strongest interpretation of the JJSA is neither child exceptionalism nor punitive exceptionalism. Child exceptionalism would treat childhood as a reason to minimize the gravity of serious harm. Punitive exceptionalism would treat the heinous-offence label as permission to suspend the logic of juvenile justice. Both are inadequate.

Structured accountability offers a better model. The seriousness of the offence should influence the intensity of judicial scrutiny, the assessment of concrete risk, and the proportionality of the eventual disposition. But restrictions should remain individualized, reviewable, and compatible with the child’s legal status. This is consistent with the Supreme Court’s insistence that statutory-delay protections continue to operate even in grave cases [6,7,9].

The over-sixteen distinction should likewise be treated as a gateway to heightened scrutiny, not a presumption of adult maturity. Sahib Ullah shows why statutory language must be applied precisely [8]. Comparative experience and contemporary child-law scholarship suggest that where maturity matters, decision-makers should rely on individualized information rather than age stereotypes [23,28,36].

Finally, rehabilitation infrastructure should be understood as part of the legal bargain underlying restrictive juvenile justice. If the state detains a child on the premise that juvenile custody is distinct from adult punishment, it assumes a corresponding obligation to make that distinction real. Education, psychological support, family contact, vocational preparation, and reintegration planning are therefore not optional welfare additions; they help justify the legitimacy and public-safety rationale of the juvenile system itself.



Offence gravity may heighten scrutiny, but it does not extinguish juvenile status.

Figure 2. Structured accountability model.

15. Recommendations

Adopt a uniform judicial checklist for classifying an alleged offence as ‘heinous’, requiring identification of both the statutory punishment threshold and the qualitative limb of section 2(g).

Preserve the ‘more than sixteen’ threshold strictly, but require individualized reasons concerning risk, circumstances, and available alternatives whenever section 6(4) is used to restrict liberty.

Standardize age determination nationally through a hierarchy of verified civil and educational records, with multidisciplinary medical assessment used only where reliable documents are unavailable or genuinely disputed.

Apply sections 6(4) and 6(5) as complementary provisions and ensure that statutory-delay bail is not defeated merely by the gravity of the allegation.

Prioritize detained juvenile cases through dedicated case-management timelines and regular judicial review of continued detention.

Create sustainable, state-funded specialized juvenile defence services rather than relying principally on ad hoc pro bono intervention.

Expand notified juvenile courts, juvenile justice committees, observation homes, and rehabilitation centres across districts, with independent monitoring of actual conditions.

Require individualized rehabilitation plans for detained and convicted juveniles, including education, psychological assessment, family engagement, vocational preparation, and release planning.

Strengthen victim participation, information, protection, and support while preserving confidentiality and fair-trial rights of the juvenile.

Develop specialized protocols for juveniles charged under terrorism, narcotics, cybercrime, and other special statutes so that the JJSA’s child-specific protections are not displaced by default.

Publish anonymized national and provincial juvenile-justice data on age, offence classification, bail, detention duration, case disposal, diversion, rehabilitation, and reoffending.

Commission periodic independent evaluations of whether juvenile detention facilities actually deliver the rehabilitative conditions used to justify separate juvenile custody.

16. Conclusion

Juveniles accused of heinous crimes present the hardest cases for a rights-based justice system because the interests on both sides are substantial. Pakistan must respond effectively to grave violence, protect victims, and maintain public safety. It must also recognize that a person below eighteen remains a child whose criminal responsibility is mediated by development, vulnerability, and capacity for change.

The JJSA 2018 attempts to hold these principles together. Its over-sixteen and heinous-offence provisions allow greater restriction, but its special bail rules, age protections, legal assistance, and rehabilitative structure prevent offence seriousness from becoming the only legal value.

Supreme Court decisions from Saleem Khan through Khawar Kayani, Sahib Ullah, and Mehran have been important in preserving that integrated reading [6–9].

The remaining weakness is implementation. Specialized courts and facilities remain limited, age determination is inconsistent, legal representation is uneven, and rehabilitation infrastructure is incomplete [20,21,24,25]. These are not peripheral administrative defects. They directly affect whether restrictive treatment of a child can be justified as juvenile justice rather than ordinary punishment under another name.

A defensible future model is therefore structured accountability: precise offence classification, reliable age determination, individualized and reviewable restrictions, timely adjudication, meaningful victim protection, proportionate responsibility, and genuine rehabilitation. The special character of juvenile justice is most important not in easy cases, but precisely when the allegation is so serious that abandoning it appears politically attractive.

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