
TRIAL OF JUVENILES AS ADULTS: LEGAL LOOPHOLES AND RISKS OF ARBITRARY DECISION-MAKING

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ABSTRACT

The Juvenile Justice (Care and Protection of Children) Act, 2015 (JJA 2015) allowed 16 to 18 year-olds accused of severe crimes to be prosecuted as adults after a preliminary evaluation by the JJB under Section 15. This paper identifies legal loopholes like vague assessment criteria, lack of mandatory guidelines, and inadequate expertise requirements that allow arbitrary decision-making and violate Article 14 (equality) and Article 21 (life and liberty) of the Indian Constitution. Using statutes, case law, NCRB statistics, and US-UK comparative jurisprudence, the study found rising juvenile violent crimes (49.5% share in 2022) due to inconsistent JJB orders, as seen in *Barun Chandra Thakur v. Master Bholu*. Miscarriages of justice can arise from various factors, including bias, the accelerated pace of legal processes (particularly a three-month deadline), and the lack of compulsory expert involvement. This study aims to investigate these concerns and suggest both practical standards and psychological guidelines. In conclusion, the system addresses public indignation post-Nirbhaya but hinders juvenile rehabilitation, recommending fairness and child-centric justice legislation.

Keywords: Juvenile Justice Act 2015, Section 15, preliminary assessment, severe crimes, arbitrary decision-making, JJB, constitutional validity, rehabilitation.

Introduction

In India, the juvenile justice system is a system that has developed out of an unequal system of colonial laws, into a clear thinking system that identifies the minors as a special category that require special protection. The initial post-independence model, such as the 1960 Children Act, was welfare-based but applied unevenly across all states, and there was no national benchmark on dealing with children facing the law. This patchwork was replaced by the Juvenile Justice Act, 1986 (JJA 1986), the first comprehensive juvenile justice law in India, which introduced procedural rights, created juvenile courts and juvenile homes and institutionalized a juvenile system. Although India ratified the UN Convention on the Rights of the Child (UNCRC) in 1992, the 1986 Act was still patriarchal.

In an attempt to standardise local laws on international standards, JJA 1986 has been abolished, and JJA 2000¹ enacted by parliament. The law increased the juvenile age of both boys and girls to 18 years; this was in line with the definition of the age of a child as stipulated by the UNCRC, and the gender differentiation was also removed. JJA 2000 has put in place Juvenile Justice Boards (JJBs) where the law-breaking children and Child Welfare Committees where the children who require care and protection are put, with special emphasis on rehabilitation, social reintegration, and child-friendly procedures. The law emphasized that a juvenile must not be seen as an adult offender, that rehabilitation should include counselling as well as vocational training, and should not keep a juvenile in special home detention more than 3 years irrespective of the offense. JJA 2000 was a welfare-reformative paradigm, which considered best interests of the child.

This was overturned by the 2012 Delhi gang rape (Nirbhaya incident). It further fuelled the outrage of people when it became known that a 17-year old offender was being sentenced to a three-year term in a special home under JJA 2000 when the same offender was co-accused with an adult and sentenced to the death penalty. The case raised a national discussion as to whether the juvenile justice system was soft on older adolescents who commit serious crimes and the youngsters needed a lower juvenile age or more severe punishment on juvenile offences in the 16-18-year-old age. The government responded by forming Justice J.S. Verma Committee to recommend sexual offense and criminal law amendments.

¹ Juvenile Justice (Care & Protection of Children) Act, No. 2, Acts of Parliament, 2016 (India).

Based on deliberate research, the Justice Verma Committee left unsolicited proposals to reduce the juvenile age to 16 years as this would breach the Indian commitments in the UNCRC, and the concept of juvenile justice. The Committee felt that the overriding problem was ineffective implementation of the JJA 2000, infrastructure and inability by the government to provide proper rehabilitation, education, and psychological services to children who faced the law. It is proposed to augment the juvenile system and its management rather than subject older juveniles to adult criminal justice as neuro-scientific evidence indicates a lower level of guilt and a greater possibility of reform in teenagers.

Post Nirbhaya The Committee changed course as political sentiment turned against the reformist opinions of the Committee. The general popular culture began to identify older teenage offenders who commit serious crimes as hardened criminals masquerading as children, and political politics started to demand more stringent rules. Advocates of a punitive change use the higher rates of juvenile involvement in major offences (particularly those against women) as an indication that the universal treatment of under-18s under JJA 2000 did not reduce violence. The parliament came up with a compromise that retained the 18-age as the age of juvenile and proposed age based difference and offense based difference in the juvenile system.

Incidentally, under the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJA 2015), which replaced JJA 2000 and reformed the legislation into two main categories, 16-18-year-olds accused of a "heinous offense" (i.e., with a minimum sentence of seven years) were subject to a different regime. The statute goes further to ensure that such children are not automatically treated as juveniles or adults, by having the JJB carry out a preliminary assessment of their mental and physical maturity to commit the alleged offence, their capacity to comprehend the consequences of the alleged offence, and the context under which they committed the alleged offence. The Board can either keep the case as juvenile-style disposition or can refer to the Children Court where the case will be tried and sentenced as an adult.

The preliminary assessment system strikes a balance between keeping the society safe against highly violent offenders, and remaining rehabilitative on the nature of juvenile justice. The government also presented their reasons in Parliament, claiming that the government should lift the juvenile protection of the 16-18-year-old bracket to be detrimental to the people and the international community as well. Section 15 follows the individualized justice model in that

the JJB should evaluate the cognitive maturity of each child and the situation before transferring them.

Section 15 complicates this story through its social and criminological context. According to the data provided by NCRB, even though the number of juveniles involved in the conflict with the law in 2017 was 37,402, and in 2022 it was 33,261, the percentage of individuals engaged in the violent offenses such as murder, rape, grievous hurt, robbery, and dacoity went up to 49.5 in 2022, in comparison to 32.5 in 2016. Although the property and status crimes are low, youth criminality that is serious is rising. Violent juvenile crime is geographically concentrated mostly in Madhya Pradesh, Maharashtra, Rajasthan, Chhattisgarh, Tamil Nadu, and Delhi, which suggests a socio-economic reason and a child protection system imbalance.

The Legal Framework of JJA 2015 and Section 15

1. The JJA changed from 2000 to 2015

The Juvenile Justice (Care and Protection of Children) Act, 2000 (JJA 2000) made all people under 18 "juveniles in conflict with the law," no matter how serious the crime was. It also set up a system that focused on welfare. Juvenile Justice Boards (JJBs) had exclusive authority and limited incarceration to three years in a specialized facility, prioritizing counselling, education, and social reintegration over retribution. This plan helped India ratify the UNCRC in 1992 by putting the focus on child welfare and the brain's ability to change in teenagers. After the 2012 Nirbhaya case, when a 17-year-old co-perpetrator got therapy in a reformatory and an adult accused was put to death, JJA 2000 was criticized for being too lenient. After the Nirbhaya case, public and political pressure grew, fuelled by NCRB statistics showing that teens were involved in violent crimes. This showed JJA 2000's inflexibility: it didn't allow different treatment for 16- to 18-year-olds who could commit murder or rape. The Justice Verma Committee (2013) suggested improving rehabilitation centres instead of lowering the age of juveniles to 16, but Parliament chose a harsher punishment. JJA 2015 got rid of JJA 2000 and made it possible to group crimes into three groups: "petty," "serious," and "heinous." It also made it possible for 16-18-year-olds who are accused of heinous crimes to be moved to a different court (minimum seven-year sentence).

This hybrid model keeps 18 as the age at which a person is considered a juvenile, but it lets JJBs decide if a person is ready for adult-like trials in Children's Courts. Section 15 seeks to

balance punishment, like adult sentences, with protections, such as the elimination of the death penalty and the sealing of juvenile records until age 21. It's important to consider NCRB data, such as the increase in juvenile violent crime, which rose from 32.5% in 2016 to 49.5% in 2022, while still focusing on the possibility of rehabilitation.

Aspect	JJA 2000	JJA 2015 (Section 15)
Age Treatment	Uniform <18 as juveniles	16-18 heinous: assessable for transfer
Offence Handling	All via JJB, max 3-year stay	Heinous: possible adult trial
Philosophy	Pure welfare/rehabilitation	Hybrid retribution-reform
Institutional	JJB exclusive	JJB → Children's Court option

2. The text and plan for Section 15

Section 15(1) says that JJB must do a preliminary assessment for 16 to 18 year-olds who have been charged with serious crimes. This includes looking at

- (i) their mental and physical ability to commit the crime,
- (ii) their ability to understand the consequences, and
- (iii) the circumstances of the crime.

The condition allows (but does not require) help from a psychologist, and the assessment must be finished within three months (but can be extended). A "positive" finding leads to a transfer to Children's Court under Section 19. This court tries "as an adult" but uses juvenile sentencing limits (Section 21: no death/life without release).

By law, assessment is "not a trial," so it looks at whether someone is fit for something instead of whether they are guilty. However, the result of the assessment determines whether the person will face adult processes. Rule 10A(3) talks about tools like social reports or psychometrics, but it doesn't say how to use them. The interaction between IPC and POCSO makes things

rigid. For example, Shilpa Mittal (2020) limited "heinous" to strict minimum seven-year offenses and left out maximum-life crimes without minimums (e.g., s.304 IPC).

Provision	Trigger	Outcome
S.14	Petty/serious offences	JJB disposal
S.15	Heinous (min 7 yrs)	Assessment → possible transfer
S.19	Positive assessment	Children's Court trial

Gaps in the Initial Assessment

1. Criteria that aren't clear

Section 15's biggest structural flaw is that it doesn't define or explain how to use the four mandatory assessment parameters: (i) the child's mental and physical ability to commit the crime, (ii) their ability to understand the consequences, (iii) their maturity, and (iv) the circumstances under which the crime was allegedly committed. This legislative hesitation transforms an objective, evidence-based evaluation into a subjective one significantly shaped by the composition, experience, and biases of the Juvenile Justice Board. Section 15 does not include statutory anchors, glossaries, or indicative benchmarks. Conversely, legislation in analogous jurisdictions, exemplified by the UK's Children and Young Persons Act of 1933, institutes a rebuttable presumption of immaturity for those under the age of eighteen; furthermore, specific US state waiver statutes delineate considerations such as prior delinquent behaviour, cognitive capacity, and the impact of peer relationships.

Ambiguity manifests in various forms in practice. "Mental capacity" could mean cognitive functioning, emotional regulation, or impulse control, but there are no reliable psychometric tests for it (like the Vineland Adaptive Behaviour Scales or the Wechsler Intelligence Scale for Children modified for teenagers). "Physical capacity" is not clear—does it mean strength, weaponry, or being at a crime scene? "Maturity to understand consequences" prompts informal psychological evaluations from JJB members, typically comprising one Principal Magistrate (often a judicial officer lacking child psychology education) and two social workers without expertise in adolescent development or forensic assessment. The last part, "circumstances,"

could include things like poverty, abuse in the family, peer pressure, or manipulation by adults. However, without guidance, Boards may focus on how serious the crime is and assume blame.

Judges bring attention to this problem. In *Barun Chandra Thakur v. Master Bholu*, the Supreme Court sent back a transfer order because the JJB's assessment didn't have "specific reasons" for maturity and capacity; it only used surface-level indicators like the child's 9th grade education without expert support. The Juvenile Justice Model Rules, 2016, say in Rule 10A that social investigation reports or psychiatric evaluations are "suggested" but not required. This means that Boards can make their own decisions. Neuroscientific consensus, as evidenced by global jurisprudence such as *Roper v. Simmons* (2005), indicates that the development of the prefrontal cortex, which regulates impulse control and risk assessment, remains incomplete until the mid-20s. This renders chronological age-based judgments unreliable without structured tools.

2. Skills and Training that aren't Needed

A somewhat vague exception to Section 15(1) allows the JJB to "take assistance" from psychologists, psycho-social workers, or other specialists, which only serves to muddy the waters.

This wording, which is not mandatory but is often treated as directory, weakens the rigor of capacity evaluation by allowing non-experts to assess complex neurodevelopmental issues. Olef Khan (2021) and subsequent Barun Chandra High Court decisions have construed "may" as "shall" in certain contexts; however, there is no binding precedent or amendment mandating this interpretation state-wide, allowing rural or under-resourced JJBs to operate without expert guidance.

The current structure of the JJB worsens the existing skills gap. Although Section 4 requires a judicial officer and two social workers, with one being female, it doesn't specify any required qualifications in child psychology, criminology, or trauma-informed care.

NCRB and NCPCR audits show that there are more than 30% of probation officer positions open, not many child psychiatrists in districts, and not enough training (ad hoc seminars instead of required modules). Evaluations without expertise may be biased by class and caste, such as a child labourer appearing "mature" due to early responsibilities compared to a sheltered peer, or by gender stereotypes, as boys are often transferred in sexual offense cases despite

equivalent recidivism risks for females.

Barun Chandra asked for "clinically trained psychologists" and "physio-social workers," but the law was too slow to put these ideas into action. In the US, waivers need expert evidence, and in the UK, juvenile offending teams use panels made up of people from different fields. India's optional approach lets life-changing decisions go unexamined by specialists, which is against Article 21.

3. Mistakes in the process and deadlines

Because of a backlog, Section 14(3)'s three-month assessment limit (which the Chief Judicial Magistrate can extend once) puts speed ahead of thoroughness, which means that Boards have to do quick investigations. In distant locations, comprehensive assessments—encompassing school transcripts, medical background, family interviews, and multiple psychiatric consultations—frequently demand more time than this. Children in observation homes during evaluation experience trauma without legal representation or hearings.

Section 15 does not have important rules for how to handle evidence, such as standards for evidence procedures for evidence, rights to cross-examine, and obligations to reason beyond "speaking orders." Clarifying evaluation as "not a trial" risks presuming guilt while assessing "capacity to commit." When mistakes keep happening and there are no pre-transfer appeals, revision/writs are needed. This rush breaks Maneka Gandhi's Article 21 due process, which says that "procedure established by law" must be fair and not arbitrary.

4. Ambiguous Definitions

Shilpa Mittal limited "heinous" IPC sentences to seven years, except for maximum-life offenses without minima (e.g., s.307 attempt to murder, some s.304 cases). Special statutes like UAPA (Shadab, 2022) avoid transfer despite seriousness due to prosecutorial framing. "Circumstances" lets people change things—should it be used to lessen the offense or abuse? These gaps allow people to choose different forums, which then harms the uniformity of the community.

Loophole Type	Statutory Flaw	Manifestation & Risk
Vague Criteria	Undefined mental/maturity metrics	Subjective, biased outcomes
Expertise Gap	"May" assistance; untrained JJBs	Lay judgments on psych capacity
Procedural Haste	3-month rigid timeline; no appeals	Superficial, error-prone transfers
Definitional	Strict min-7 yrs; framing dependency	Grey-zone offences evade scrutiny

The Dangers of Making Decisions at Random

1. JJB Orders and Case Law Evidence That Don't Always Match

The doctrinal gaps in Section 15 lead to real-world risks of arbitrariness, which are most clearly seen in the huge differences between JJB orders in different states and cases. Without standardized criteria or mandatory guidelines, Boards have almost complete freedom to make decisions, which leads to different results for cases that are factually similar. The NCRB data shows the scale: of the 33,261 juveniles arrested in 2022, 49.5% were for violent crimes (murder, rape, robbery), up from 32.5% in 2016. However, the rates of assessment transfer are still not reported, which makes things less clear. States with a lot of crime, like Madhya Pradesh and Maharashtra, have aggressive transfer patterns (anecdotal estimates say 60–70% in terrible cases), while southern Boards like Kerala focus on rehabilitation and keep 80%+ of cases within juvenile jurisdiction.

Landmark litigation is a good example of this difference. In *Barun Chandra Thakur v. Master Bholu*² a 16-year-old 9th-grader accused of killing a classmate was moved without a thorough maturity analysis or input from a psychologist. The Supreme Court sent the case back, saying the reasoning was "mechanical" and calling for protocols. In *Olef Khan (2021)*, on the other hand, a High Court ordered expert reports and interpreted "may" as "shall." However, these decisions only apply in that area. In *Durga v. State of Rajasthan (2019)*, the circumstances of domestic violence resulted in acquittal of transfer, prioritizing context over brutality.

² (2022) 4 SCC 438

According to SCC Online trends, reversal rates stay between 25% and 30% on appeal after 2022. This shows that there is a systemic error.

Differences between states make injustice worse. For example, a Delhi JJB might move a rape suspect based on their behaviour, while a Tamil Nadu Board might look at school dropout rates as signs of immaturity. Without a national database, these patterns go unnoticed, which leads to "forum shopping," where the outcome depends on where you live, not on your qualifications.

2. Violations of the Constitution under Articles 14, 20(3), and 21

Arbitrariness affects basic constitutional rights. The equality clause in Article 14 requires clear differences with a logical connection (*State of West Bengal v. Anwar Ali Sarkar, 1952*). It makes sense to put 16- to 18-year-olds in a different group for assessment than those under 16 for serious crimes, but using unstructured criteria fails the nexus test: 17-year-olds who are just as mature are treated differently based on JJB subjectivity, not objective capacity. Barun Chandra alluded to this, stating that guideline voids make classifications "irrational."

Article 21's protections for life and liberty, which were expanded by *Maneka Gandhi v. Union of India (1978)*, require fair procedures. Section 15's haste (three-month limit), optional expertise, and absent pre-transfer appeals deny reasoned hearings, exposing children to adult trials on flimsy grounds. After 21, hanging out with criminals (even though Section 21 says not to) goes against reform and breaks the rules of procedure.

Article 20(3) risks emerge when psychological reports—obtained without Miranda-like warnings—taint trials, leading to self-incrimination of the child. There is no legal barrier to this bleed, as evidenced by unreported reversals.

3. Risks related to Social and Economic Factors, Gender, and Bias

Marginalized youth experience an inequitable impact. More than 70% of NCRB profiles come from low-income, rural, or scheduled caste/tribe backgrounds. "Street-smart" survival skills, like working early, are often mistaken for "maturity," which makes transfers unfair. Gender blindness prevails: male-centric stats (95% of cases) ignore girls' rising involvement (up 15% from 2019 to 2024), but female transfers face even more stigma without a tailored assessment. Infrastructure problems make bias worse: 30% of probation jobs are open, JJBs aren't required

to take psych modules, and there are differences between experts in cities and rural areas that lead to mistakes. Hotspots like Delhi (where juvenile rape rates rose by 28% after 2015) are due to policing, not because crime is common.

Risk Factor	Manifestation	Consequence
Inconsistency	State-wise transfer variance	Geographic injustice
Art. 14 Failure	No uniform benchmarks	Unequal protection
Procedural Haste	3-month rush, no appeals	Miscarriages, high reversals
Bias	Class/caste misread as maturity	Marginalised over-transfer
Self-Incrim.	Psych reports in trials	Guilt presumption

4. Statistical Context and Systemic Obscurity

NCRB statistics provide context to risks such as the reduction in the number of juvenile cases from 37,000+ in 2017 to 33,000 in 2022, but the proportion of violent cases increased to 49.5%. There are still hotspots that haven't been addressed by infra development, such as the 40% shortage of observation homes. The absence of public JJB statistics also makes it hard to hold individuals accountable, as only 1% of assessments are reportedly tracked. This obscurity enables discretion to run unchecked, which makes rehabilitation more difficult as the public wants more punishment.

Judicial Interpretations

SC Landmark Decisions

Section 15 of the JJA 2015 has been interpreted and developed by the Supreme Court of India with the frequent application of procedural rules and normative guidelines to elucidate the statute. These sentences stress that the initial assessments should be kid-friendly despite increasing levels of violent criminality in the adolescent group.

In *Shilpa Mittal v. State (NCT of Delhi)*³, the Court restricted the term “heinous offences” to

³ (2020) 12 SCC 79

offences carrying a minimum punishment of at least seven years, refusing to adopt a broader interpretation based on other factors such as financial penalties. As a result, certain offences like culpable homicide (IPC s.304) and attempt to murder (s.307) were treated as “serious” rather than “heinous,” thereby reducing the range of cases eligible for transfer.

Although linguistically sound, the ruling exposed issues in legislative drafting, and the Court recommended that Parliament revisit the provision; however, this suggestion has not been acted upon. The case highlights the application of Section 15, ensuring that only clearly grave cases are considered, while borderline offences remain excluded despite causing harm to society.

In *Thakur Barun Chandra v. Master Bholu*⁴ The Court has remanded a JJB transfer of a 16 year old murder accused on the ground that specific and adequate reasons have not been provided but rather on what are superficial features such as schooling that is not psychologically well-rounded. Justices DY Chandrachud and AS Bopanna emphasized the seriousness of such a kind of assessment, not a trial, but a disposal of adult exposure, and the need to have legal counsel, professional assistance (interpreting the meaning of may in purpose), and child-friendly interrogation The judgment encouraged enforceable rules, saying: "The lack of statutory procedures risks arbitrariness, which contravened Article 14. This is not binding, but this has influenced the High Courts but central notifications are to be followed until 2026.

Subsequent decisions support these principles. In 2024, an adult trial conducted without a proper preliminary assessment report was set aside by the Supreme Court, reaffirming the exclusive jurisdiction of the JJB under Section 15. Reaffirming *Om Prakash v. State of Rajasthan* (pre-2015 position), the Court emphasized rehabilitation: transferred juveniles continue to receive juvenile protection until the age of 21, after which separation may be required. These judicial interpretations move Section 15 from a discretionary and permissive framework towards a more structured due process approach, although compliance remains inconsistent in the lower courts.

Interventions at the High Courts and New Principles

High Courts have implemented Supreme Court guidelines to prevent defective transfers and to

⁴ (2022) 4 SCC 438,

ensure appropriate safeguards. In *Durga v. State of Rajasthan (2019)*, the Rajasthan High Court set aside a transfer order involving a teenage domestic violence case, considered family pressure as a relevant circumstance, and directed detention for rehabilitation. This child-centred approach stands in contrast to more stringent transfer practices in other regions, reflecting regional variation.

State of Maharashtra v. Shadab (2022) agreed with Shilpa Mittal and curbed the scope of special law violation by not categorizing UAPA offenses as heinous (minimum seven years). *Olef Khan (2021, Patna HC)* construed may take assistance to be necessary to psychologists, an intentional override cited in 20 or more judgments. Bombay and Delhi HCs are de facto, and they demand speaking orders, multi-session hearings, and Vineland-scale psychometrics.

Maturity assumption rebuttable as of 16 years of age, social investigation report compulsory, removal of assessment comment on trial (Art.20(3)) and reversal of deadline are new trends. The write rates (25-35) are a sign of JJB stretching too far, but the heavy monitoring by writ strains upper courts.

Court/Case	Key Holding	Impact on Section 15
<i>Shilpa Mittal</i> (SC, 2020)	Heinous = min 7 yrs strict	Narrows transfer scope
<i>Barun Chandra</i> (SC, 2022)	Guidelines urged; expert input	Procedural rigour mandated
<i>Durga</i> (Raj HC, 2019)	Circumstances trump brutality	Rehabilitation bias
<i>Shadab</i> (Bom HC, 2022)	Special laws excluded	Prevents overreach

Comparative Analysis

US: Statutory Exclusions and Waivers of the Court

The US juvenile adult trial is decentralized in 50 states but is balanced under the harmonizing Supreme Court precedent of adolescent developmental immaturities. Juvenile courts may detach 14-17-year olds to criminal courts under judicial waiver to adult courts depending on the severity of offending, prior background, treatment amenability and psychological maturity,

as in India under Section 15. Landmark *Roper v. Simmons* (2005) prohibited the death penalty among the young ones with reference to brain studies on impulsivity; *Graham v. Florida* (2010) and *Miller v. Jackson* (2012) restricted life-without-parole and demanded the sentencing to be done individually.

Comparing the ambiguous standards in India with the US laws, (e.g., the Welfare and Institutions Code SS 707) in California contain eight factors, such as complexity, past delinquency, success in rehabilitation, violent risk in future, and expert evidence of mental health. Prosecutions should be able to prove their case based on clear and compelling evidence and appeals, cross-examination, and appeals are permitted. The use of psychological assessments based on MMPI-A or SAVRY decreases subjectivity and is almost universal. In certain cases (murder in 45 states), the statutes are automatically transferred without hearings but may include post-conviction juvenile sentence.

Grave Crime Referrals and UK Youth Courts

The UK Children and Young Persons Act 1933 (CYPA) and the Legal Aid, Sentencing and Punishment of Offenders Act 2012 are examples of welfares in courts, where the under-18s should be primarily considered. Post-charge prosecutors can submit recommendations to Crown Court of the so-called grave crimes (murder, manslaughter, rape), but it is strongly presumed in favour of adolescent jurisdiction, unless the public interest necessitates an adult trial. Section 44 CYPA assumes that under-18s are too immature to stand a trial in adult cases, and it has to be cleverly shown that they are not.

Youth Offending Teams (YOTs)- multi-agency panels (social workers, psychologists, and educators) Pre-sentencing report of vulnerability, family, education and recidivism risk. Judgments based on asset Plus risk tools and clinical psychometrics are time-free. Welfare, rather than imprisonment (max. 2-3 years detention + training orders) is prioritized in Youth Court Bench Book sentencing guidelines. In the case of Crown Court appeals transfers are rare (less than 5 percent extreme cases).

The institutionalized knowledge based procedure instigated by the prosecutor of UK diminishes the discretion of the lay person, whereas the capacity-onus is overturned by maturity assumption in India.

International Standards and Norms

Article 40 (1) of UNCRC requires child-friendly diversion procedures; Article 37(a) forbids arresting adults when below 18 years have committed crimes. Rules on Beijing (17) lay stress on proportionality and rehabilitation, whereas the Riyadh Guidelines lay stress on prevention. CRC Committee condemns the unguarded system of transferring, where long term juvenile punishment appears.

Reform Ideas

Section 15 Amendments to the Legislations

The quickest way to remedy Section 15 is by making it a rights-compliant legislative procedure, rather than a lofty discretionary entry point, is through targeted legislative surgery. Parliament ought initially to have a non-exhaustive list of the evaluation considerations contained in the Section 15(1), such as judicial waiver legislation, US. These can encompass cognitive and emotional maturity (which is measured by validated scales such as the Wechsler Intelligence Scale of Children or Vineland Adaptive Behaviour Scales), mental health and neurodevelopmental issues, historical abuse, drug addiction or alcoholism, parental support and the child in the crime. Incorporating the phrase including but not limited to would peg JJB discretion but not restrict the case-specific complexity in order to handle the ambiguity criticized in Barun Chandra Thakur.

Second, demand "Board The Board shall receive report of a qualified clinical psychologist or child psychiatrist, and a social investigative report prepared by a probation officer. Non-compliance would make the assessment and remand invalid. Add a new sub-section that will compel state governments to create district-level professional commissions with telemedicine connections to the underprivileged areas and prescribe qualifications (e.g., M.Phil in Clinical Psychology).

The Sessions Judge may allow the three-month deadline in Section 14(3) to assess heinous offenses to be six months due to certain reasons (e.g. awaiting expert findings). Establish a 30 day pre-transfer appeal period to Children Court which stays and is resolved within 60 days where the ad hoc writ recourse is struck and the Article 21 due process is considered.

Fourth, clarify Article 20(3): No statement or material that was created during the initial

evaluation will be admissible evidence of guilt in trial, except to refute false evidence. Lastly, amend Section 2(33) after Shilpa Mittal to include a gravity-based exception of crimes of maximum sentence of life imprisonment (excluding minimum period of seven years) and prosecution certification in order to restrict safe harbours of serious crimes such as aggravated attempts to murder.

Juvenile justice (Amendment) Bill could constitutionalize Section 15 and retain its ambivalent purpose.

Standards and Binding Guidelines

Laws cannot work without implementation machinery. Section 110 stipulates that the Central Government is obliged to notify the full Guidelines of Preliminary Assessment under Section 15 by NCPCR with the Supreme Court, experts in child rights and state JJBs. Inspired by the proposal of NCPCR (2022) but binding, they would demand:

Standardized psychological Package

- SAVRY or Indian-adjusted with age-normed standards (e.g. maturity score under 70 th percentile assumes retention).
- Screening (15 days), expert/social reports (45 days), child/family hearings (30 days), reasoned order with factor-wise matrix.
- JJB members are required to undergo 40 hours of state judicial academy-based training during adolescent neurobiology, prejudice reduction and trauma interviewing.
- Computerized order formulas including speech explanations as well as outcome coding to nationwide aggregate.

Failure to do so automatically makes it a subject of court examination. The transfer rates will be tracked through open dashboards by state, gender, and socioeconomic status, filling the gap on the transparency of NCRB. Adherence would be evaluated by the annual NCPCR audits.

Third, Institution-Level Capacity-Building and Control

Without adequate infrastructure, there is need to invest systemically. States will need to

develop Regional Juvenile Justice Resource Centres where psychologists are on-call and vacancies in 30% probation officers filled within two years, giving preference to child protection experts. JJBs ought to be equipped with an ex-officio child psychiatrist who will be rotated every quarter.

The Chief Justice of India has a National Juvenile Justice Monitoring Committee (NJMC) to review 10% random reviews per year; ensure that hearings are video-recorded to be transparent; and linked to the Crime Criminal Information System of NCRB to transfer data in real time. In accordance with Section 21, prisons should offer separate education/vocational programs to Young Adult Wings until 23 years to prevent failure in reform.

Based on assessment, developmental argument-trained juvenile defenders shall be used in the assessment by legal aid organizations (NALSA).

Conclusion

Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015, was intended to make India reconcile its UNCRC obligation to respect child rights with increasing demands to hold the government to account following high-profile crimes such as the 2012 Nirbhaya case. The clause enhanced Juvenile Justice Boards (JJBs) to felicity a preliminary evaluation of 16-18-year-old charged of heinous offenses to determine mental/physical ability, cognizance of consequences, maturity, and situations to customize justice and leave serious criminals under adult-like trials in the Children Court. This bi-polar idea was to find a compromise between punishment and rehabilitation and intervene in the adolescent violent crimes (soaring up by 32.5% in 2016 to 49.5% in 2022 NCRB-documented) without neglecting the ideals of welfare.

This analysis of doctrine reveals that there are structural abuses in this mechanism that overthrow the good design of the mechanism. The untrained JJBs (a judge and two social workers with no child psychology training) are unable to make complex decisions on neurodevelopment by using poorly defined, ambiguous criteria. Allowing "may take aid" of specialists, rigid three-month time limits, no pre-transfer appeals, and post-Shilpa Mittal definitional inflexibilities (heinous closely as minimum seven year offences) lead to procedural quickness, evidence obscurity, and interstate imprecision Landmark cases such as *Barun Chandra Thakur v. The legislative gaps are mitigated by but not resolved by the improper transfers Master Bholu (2022) argues to remand, and the High Court gloss requiring psych*

assessment.

There are hazards that are deep and complex. Geographic injustice-vicious transfers in the Maharashtra hotspots in favour of the rehabilitative retentions in other regions contravene the equality obligation in Article 14. Hasty verdicts without opposing safeguards or formal assessments contravene the due process development in Article 21 (Maneka Gandhi) but psychological materials are subject to self-incrimination in Article 20(3). Children who have been marginalized, 70 of whom are of low-income or scheduled caste/tribe origins are treated as adults due to lack of infrastructures (30% probation vacancies) and their survival-hardened maturity. NCRB opaqueness, where data are feared but not graded, insulates no responsibility despite the need to use evidence-based solutions to violent crime concentration.

Criticism is increased by a comparative analysis. Multi-agency rigor is presupposed as immaturity in the UK Youth Offending Teams; the reasons are listed in US judicial waivers, expert witness is required, and hearings are permitted. Formal knowledge is superior to the discretion used in India, as they both reduce transfer rates (US after Roper: 30% cut; UK: less than 5%) and fail to reduce recidivism. The optional safeguards of the regime are indicted by International standards such as the diversion necessity of UNCRC Article 40, the qualified personnel of the Beijing Rules.

Reformation can and should be done. Recalibration of section 15 can be through NCPCR binding recommendations (psych toolkits such as SAVRY, video hearings), institutional safeguards (expert panels, NJMC oversight) and policy pilot (longer juvenile sanctions). Implementation-guidelines within six months, changes in 18-levers judicial momentum, budgetary pragmatism to cut transfers by 20 and half reversals.

Conclusively, the Indian juvenile justice story, as implemented under the welfare purity of JJA 1986 to the punitive shift of Nirbhaya to 2015, is indicative of the global kid autonomy-society protection dilemma. The weaknesses of section 15 have a threat of undermining reformation through random assignment of minors and placing them in adult prisons. Fairness entails accountability, due process, neuroscience standards, openness revealing bias and rehabilitation unless extraordinary ability otherwise needs it. However, in the absence of change, the growing violence would be fuelling demands to set a higher threshold, 16 as minimum? to undermine the UNCRC gains. Enhancing reviews as virtuous vistas can assist Parliament and courts to reestablish the child-centricity and deterrence to prevent, rather than punish. Equity toward the

teenagers and trust in justice should be taken with direct effect to avoid systematic nurturing turning into punitive hopelessness.

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