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# **ADULT CRIMES, JUVENILE MINDS: A CRITICAL LOOK AT TRYING YOUNG PEOPLE AS ADULTS FOR CRIMES UNDER THE JUVENILE JUSTICE LAW OF 2015**

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## **ABSTRACT**

India's system for dealing with young offenders has always been changing, but nothing really tested it like the Delhi gang rape case in December 2012. In that case, one of the people involved, a juvenile, got a three-year sentence, which was the longest possible under the old rules. This made it clear that the system, which focused mostly on welfare, just couldn't handle extremely serious crimes in a way that felt right. So, in response, the government introduced a new law, the Juvenile Justice Act of 2015. This was a big shift because, for the first time, Indian law recognized that a young person's age alone isn't enough to decide how responsible they are for a crime. The new law allowed the Juvenile Justice Board to assess teenagers between 16 and 18 who were accused of very serious offenses. Based on this assessment, they could potentially be sent to a Children's Court to be tried as adults.

This paper takes a detailed look at that change in law and the issues it has created. Using ideas from child development psychology, like how experts Steinberg and Cauffman talk about a young person's ability to understand court, their guilt, and how likely they are to be rehabilitated, along with theories about fair processes, crime data from 2021-2022, and major court cases since 2015, the paper points out four main problems with the current system. First, the Supreme Court has interpreted "heinous offenses" very narrowly, saying it only applies to crimes with a minimum sentence of seven years or more. This creates a gap, leaving many other serious crimes committed by juveniles outside the possibility of being transferred to adult court. Second, there's no standard way to conduct the psychological assessments across the country's Juvenile Justice Boards, making the process feel random and inconsistent. Third, the law doesn't consider how much young people are exposed to digital technology and how that might influence their involvement in crime, which feels outdated in an age where teenagers often encounter online violence, as seen in cases like the 2019 Nagpur double murder. Fourth, there are practical problems within the Juvenile Justice Boards, like not enough trained experts in forensic psychology and

inadequate facilities for rehabilitating young people, which means the law's good intentions don't always translate into real-world action.

The paper also looks at these issues in India by comparing them to juvenile justice systems in other countries like the UK, US, Germany, Japan, and Indonesia. What's clear across these places is a common trend: countries are moving away from simply using age as the main factor and are increasingly relying on psychological assessments to understand a young person's capacity. The most effective systems manage to combine holding young people accountable early on with strong rehabilitation programs. India's experience with the pressure to be tougher, which shaped the 2015 Act, offers similar cautionary tales to how the American system ended up locking up too many young offenders. On the other hand, Germany's mandatory psychological evaluation before sentencing and Japan's approach of considering how digital behavior fits into a case provide good examples for India to consider for reforms.

Given all this, the paper suggests seven specific ways to improve things: we should change the definition of "heinous offenses" to include any crime with a maximum sentence of seven years or more. We also need to create a national standard for assessing young people, covering their thinking ability, intentions, emotional control, and how mature they are digitally. Digital behavior analysis should be part of the assessment process for transfers. The Juvenile Justice Boards and Children's Courts need better resources and more capacity. For young people tried as adults, sentencing should focus more on rehabilitation. The law should re-emphasize that transferring a young person to adult court should always be a last resort, following international children's rights guidelines. Finally, the Law Commission should look into whether the minimum age for criminal responsibility, as set by the new *Bharatiya Nyaya Sanhita, 2023*, needs to be updated, especially considering what modern brain science tells us.

The paper concludes that while the 2015 Act was a necessary step, it's not a complete solution. To have a juvenile justice system that works well both legally and socially, we need to balance the reality of how young people develop, the rights of victims, and the state's responsibility to help offenders change. Instead of choosing between punishing young people and focusing solely on their welfare, the goal should be to create a system that is individualized, based on evidence, and can achieve all three of these goals at the same time.

**INTRODUCTION:**

Every legal act has a special and significant place for children. The most vulnerable and promising members of society, as well as the wards and future generations, are also represented. For a considerable period, the law has acknowledged this dual relationship by offering unique rights to minors and placing juvenile offenders under an independent legal system that is founded on reform rather than retaliation. This benevolent view encounters a severe ethical and legal quandary when the offences being investigated are not minor mischief, but rather highly motivated, aggressive, or sexually provocative crimes that would result in the harshest penalties under adult criminal law.

The development of India's juvenile justice system, particularly the enactment of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereafter, the 2015 Act or JJ Act), was significantly shaped by a series of public and legislative deliberations. These discussions were largely prompted by the December 2012 Delhi gang rape case, commonly referred to as the Nirbhaya case. In that instance, one of the six accused individuals was identified as a juvenile, aged seventeen years and six months. Under the provisions of the prior Juvenile Justice Act of 2000, this juvenile, who investigators considered the most violent among the perpetrators, was adjudicated by the Juvenile Justice Board. The subsequent sentence of three years in a reform home elicited substantial public outcry, widely regarded as disproportionate to the gravity of the offence.

Consequently, the Indian juvenile legal framework underwent substantial amendment in 2015. This legislative revision introduced a mechanism enabling the Juvenile Justice Board (JJB) to initially assess individuals aged 16 to 18 accused of heinous offences. Following an evaluation of their mental and physical capacity, these cases may subsequently be transferred to a Children's Court for trial as adults. This reform signifies a notable theoretical departure within the legal framework, transitioning from a strictly age-based model to one that considers criminal culpability. However, this transition has been characterised by its incompleteness, ongoing disputes, and uneven implementation, as numerous subsequent cases and academic analyses have demonstrated.

This paper's main question is deceptively straightforward but legally complicated: should a child ever be prosecuted as an adult? An effective remedial strategy must integrate constitutional rights, insights from developmental psychology, and international human rights

norms. Concurrently, it should address the legitimate demands of victims and society, thereby striving to achieve both accountability and deterrence.

## **LITERATURE REVIEW:**

The current investigation is informed by a vast and expanding body of scholarship. The main sources used in this work are outlined below, each of which advances a different aspect of the discussion.

### **1. Juvenile Justice and John Rawls' Justice Perspective on Serious Crime Committed by Minors" (2023) 2(2) European Journal of Law and Political Science, edited by Amiruddin Hanafi.<sup>1</sup>**

Although the system prioritises the welfare of minors by capping punishments at half the maximum for adults, the study contends that this strategy may not meet victims' needs for justice. Using Rawls' "veil of ignorance" and "original position" frameworks, the author argues that legal certainty and procedural clarity are necessary for truly fair justice, rather than just treating offenders leniently. The theoretical contribution of this paper, which demonstrates the necessity for even rehabilitative systems to be structured and predictable to align with Rawls' norm of pure procedural justice, is directly relevant to the current study. Moreover, the critique concerning acquittals and unduly lenient sanctions in serious juvenile offence cases resonates significantly within the Indian context. The theoretical contribution of this paper, which demonstrates the necessity for even rehabilitative systems to be structured and predictable to align with Rawls' norm of pure procedural justice, is directly relevant to the current study. Moreover, the critique concerning acquittals and unduly lenient sanctions in serious juvenile offence cases resonates significantly within the Indian context.

### **2. 'A Systemic Study of the Use of Minors' Testimonial Evidence in Criminal Proceedings' (2025) 1(1) Law, Economics and Society 189, edited by Zelin Wang.<sup>2</sup>**

Wang's article investigates the acceptability and credibility of testimonial evidence provided by minors in criminal proceedings, specifically examining the Chinese legal system.

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<sup>1</sup> Juvenile Justice and John Rawls' Justice Perspective on Serious Crime Committed by Minors, edited by Amiruddin Hanafi- <https://eu-opensci.org/index.php/politics/article/view/8081>

<sup>2</sup> A Systemic Study of the Use of Minors' Testimonial Evidence in Criminal Proceedings, edited by Zelin Wang- <https://j.ideasspread.org/les/article/view/1821>

While spoken evidence is highly valued in closed spaces such as sexual assaults, the author shows that minors' verbal evidence can also be vulnerable to suggestion and contamination, as well as influenced by psychological sequelae of trauma. The paper suggests a comprehensive institutional framework that emphasises procedural reliability, evidence collection efficiency for children, and the "one-stop" approach. The importance of this paper lies in its exploration of how the evidentiary challenges associated with cases involving minor victims and witnesses make it more challenging to prosecute severe crimes resulting from juvenile offences. The tension between the right to confrontation and the protection of children can also influence the approach to trial when juveniles are relocated to adult courts.

**3. 'Juvenile Criminality and Criminal Justice System in India' (2025) 23(10) *Lex Localis* — *Journal of Local Self-Government* 257, edited by Abdul Rouf Naik and Dr Sankar D<sup>3</sup>**

Based on NCRB data, researchers at VIT University, Chennai, have compiled a comprehensive report that provides an explanation of the trends in juvenile offender crime across India. The paper traces the historical development of India's juvenile justice system, beginning with the Children Act of 1960 and extending to the Juvenile Justice (Care and Protection) Act, 2015. Concurrently, it explores the constitutional foundations that permit differing approaches to the treatment of minors. Drawing on data from the 2021 NCRB Crime in India report, the authors highlight that, notwithstanding various legislative interventions, rates of juvenile crime persist at elevated levels, notably within metropolitan areas like Delhi. The analysis further encompasses the specifics of the Nirbhaya case, a pivotal event that precipitated the 2015 amendment, and presents a critical evaluation of the ongoing discussion regarding rehabilitative versus punitive measures within the system.

**4. 'Early Maturity and Heinous Crimes: Rethinking the Juvenile Age of Criminal Responsibility in the Digital Era' (2025) 11(12s) *International Journal of Environmental Sciences* 1481, edited by Deepanshi Dahiya Chandarana and Dr Bhoma Ram<sup>4</sup>**

The central idea of the study is most effectively communicated through this paper. The cognitive and emotional development of modern adolescents has been expedited by rapid

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<sup>3</sup> Juvenile Criminality and Criminal Justice System in India, edited by Abdul Rouf Naik and Dr Sankar D-  
<https://lex-localis.org/index.php/LexLocalis/article/view/800489>

<sup>4</sup> Early Maturity and Heinous Crimes: Rethinking the Juvenile Age of Criminal Responsibility in the Digital, edited by Deepanshi Dahiya Chandarana and Dr Bhoma Ram-  
<https://theaspd.com/index.php/ijes/article/view/2847>

digital exposure, changing family structures and other socio-psychological factors, which the authors contend have rendered age-based criminal responsibility inadequate. The authors argue that children as young as 13 or 14 possess the cognitive ability to plan and carry out violent crimes with complete knowledge of their consequences, drawing on cognitive neuroscience, particularly Steinberg's research on adolescent decision-making. Through case studies of the Nirbhaya case, the Ryan International School murder case and the Nagpur double murder clerical case, as well as through comparisons with UK, US, German and Japanese juvenile justice models, it has been suggested that the minimum age of criminal liability should be lowered, digital behaviour analysis must be mandatory, and JJB standards should become more rigorous.

**5. 'A Developmental Perspective on Serious Juvenile Crime: When Should Juveniles Be Treated as Adults?' (1999) 63(2) Federal Probation 52, edited by Laurence Steinberg and Elizabeth Cauffman<sup>5</sup>**

The maturity-based approach to juvenile culpability is grounded in empirical and theoretical evidence, as presented in the seminal article by developmental psychologists Steinberg and Cauffman of the MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice. In transfer decisions, the authors identify three significant developmental aspects: adjudicative competence (the ability to engage in meaningful proceedings outside court), culpability (degree of blameworthiness), and amenability to rehabilitation. Their research indicates that individuals under 13 should not be tried as adults due to their limited adjudicative competence, while those above 16 are largely equivalent to adults in legally relevant capacities. According to the authors, individuals aged 13 to 16 should be given individualised assessments and bright-line age differences should not be emphasised. The JJB assessment mechanism under Section 15 of the 2015 report is directly linked to this framework.

**6. Juvenile Should be Treated and Tried as Adults in Rape Cases (2022) 5(6) International Journal of Law Management & Humanities 1830, edited by Rachna Jain<sup>6</sup>**

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<sup>5</sup> A Developmental Perspective on Serious Juvenile Crime edited by Laurence Steinberg and Elizabeth Cauffman - [https://www.researchgate.net/publication/292687070\\_A\\_developmental\\_perspective\\_on\\_serious\\_juvenile\\_crime\\_When\\_should\\_juveniles\\_be\\_treated\\_as\\_adults](https://www.researchgate.net/publication/292687070_A_developmental_perspective_on_serious_juvenile_crime_When_should_juveniles_be_treated_as_adults)

<sup>6</sup> Juvenile Should be Treated and Tried as Adults in Rape Cases, edited by Rachna Jain - <https://ijlmh.com/paper/juvenile-should-be-treated-and-tried-as-adults-in-rape-cases/#>

Jain argues for applying an adult trial framework to juvenile perpetrators of sexual violence, asserting that such offences demand full accountability irrespective of the offender's age. The analysis further examines the legislative framework introduced by the 2015 document. It includes an assessment of the Juvenile Justice Board (JJB) system under Section 4 and evaluates the merits and drawbacks of trying juvenile offenders in adult courts. While acknowledging the inherent risks of transferring young offenders to adult correctional facilities and the potential for increased recidivism, the author contends that existing juvenile protection mechanisms prove insufficient for offences of severe gravity, specifically citing rape and murder. The paper presents comparative data on juvenile and adult crime rates, which elucidates the observed increase in juvenile participation in violent criminal activities.

### **7. 'Juvenile Delinquents: Should they be Tried and Treated as Adults upon Committing Heinous Crimes?' (SSRN, 2022), edited by Lokeshwari Devi Parvataneni<sup>7</sup>**

Drawing extensively from Steinberg and Cauffman's research as well as the discussions surrounding the Juvenile Justice Bill, 2014, Parvataneni's paper delves deeply into the issue of age classification from both legal and developmental viewpoints. The study makes the case that an offender's level of mental maturity, rather than their age, is the true indicator of criminal responsibility. It criticises the adult-child dichotomy as not being sufficiently sensitive to individual differences while endorsing the transfer mechanism of the 2015 Act. The study's examination of the US Supreme Court's *Roper v. Simmons* (2005) ruling, which forbade the death penalty for minors, and its dissents provides a nuanced perspective on how several ideas of guilt can coexist within a single constitutional structure. The study indicates that rather than being dictated by a set age barrier, the reaction to juvenile horrific crime must be tailored, case-by-case.

## **EVOLUTION OF JUVENILE JUSTICE LAW IN INDIA:**

### **A. COLONIAL ANTECEDENTS**

The historical development of juvenile justice law in India reveals its colonial antecedents, with the issue of juvenile delinquency garnering attention even prior to the nation's independence. During the British colonial era, the necessity for a distinct jurisprudential

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<sup>7</sup> Juvenile Delinquents: Should they be Tried and Treated as Adults upon Committing Heinous Crimes, edited by Lokeshwari Devi Parvataneni-[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=5040623](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5040623)

framework for child offenders, divergent from that applied to adults, became apparent. Early interventions included Lord Cornwallis's initiative to establish 'Ragged Schools' for juvenile misbehaviour. Reflecting this evolving understanding, Sections 82 and 83 of the Indian Penal Code, 1860, (superseded by Bhartiya Nyaya Sanhita [BNS] sections 20 and 21) introduced fundamental protections for these offenders. These provisions stipulated that children under the age of seven were entirely exempt from criminal liability, and those between the ages of seven and twelve were presumed incapable of forming mens rea unless evidence to the contrary was presented.

Subsequently, the Apprentices Act of 1850 prohibited the traditional practice of apprenticing young offenders, mandating their confinement instead. Further legislative efforts, notably the Reformatory Schools Act of 1897 and the Children Act of 1960, facilitated the establishment of reformatories and observation homes. These institutions were intended to formalize a distinct approach to the treatment of juvenile offenders within an institutional setting.

## **B. POST-INDEPENDENT DEVELOPMENT: THE JJ ACTS OF 1986, 2000 AND 2015**

The Juvenile Justice Act of 1986 represented the initial consolidated legislative framework in post-independence India specifically designed to address juvenile offenders. Under this Act, a "juvenile" was defined as a male individual who had not reached sixteen years of age or a female individual who had not reached eighteen years of age. The Act mandated the establishment of Juvenile Welfare Boards and observation homes, thereby prioritising reformative approaches over punitive actions.

The ratification of the United Nations Convention on the Rights of Children (UNCRC) by India in 1992 necessitated a comprehensive revision of the existing framework. Consequently, the Juvenile Justice (Care and Protection of Children) Act, 2000, aligning with Article 1 of the UNCRC, established a purely rehabilitative model and uniformly raised the age of juvenility to eighteen years for both sexes. Furthermore, the 2000 Act categorised individuals into "children in conflict with the law" (referring to offenders) and "children in need of care and protection" (referring to victims). It concurrently established Juvenile Justice Boards and Child Welfare Committees, which served as the dual institutional pillars of this revised system.

Nevertheless, the efficacy of the 2000 Act drew significant scrutiny following the Nirbhaya case in December 2012. In this incident, one of the accused, whose actions were medically assessed as exhibiting extraordinary brutality, was convicted under the Act's provisions and subsequently received a three-year sentence in a reformatory institution. The perceived inadequacy of this judicial response ignited a nationwide debate, ultimately leading to the enactment of the Juvenile Justice (Care and Protection of Children) Act, 2015. This legislation was passed by the Lok Sabha on May 7, 2015, and by the Rajya Sabha on December 22, 2015, subsequently coming into force on January 15, 2016.

### **C. The JJ ACT 2015: A PARADIGM SHIFT**

The Juvenile Justice (Care and Protection of Children) Act of 2015 represents a significant departure from the predominantly rehabilitative framework that previously characterised Indian juvenile justice. While largely retaining the foundational structure of the 2000 Act, the 2015 enactment introduced several substantive modifications. Principally, it established a tripartite classification of offences: "heinous crimes," carrying a penalty exceeding seven years' imprisonment; "serious crimes," punishable by three to seven years; and "petty crimes," with a maximum penalty of three years. A second, and perhaps the most contentious, provision introduced a mechanism whereby juveniles aged 16 to 18, accused of serious offences, could potentially be tried as adults. This determination is contingent upon a preliminary assessment conducted by the Juvenile Justice Board (JJB), as stipulated under Section 15 of the Act. Furthermore, the Act reformed adoption procedures, establishing Special Adoption Agencies and aligning Indian legislative frameworks with the principles of the Hague Convention on Inter-Country Adoption.

Consequently, the 2015 Act signifies a notable jurisprudential shift, primarily by acknowledging the necessity of a capacity-sensitive evaluation for determining criminal culpability in severe cases, thereby moving beyond sole reliance on chronological age. This study, therefore, seeks to investigate whether this conceptual recognition has translated into efficient and reliable practical implementation.

### **LEGAL PROVISIONS:**

#### **A. 2015 Act on Juvenile Justice (Care and Protection of Children)**

The 2015 Act establishes a specific definitional framework pertinent to juvenile justice.

Section 2(12) defines a “child” as an individual who has not reached eighteen years of age. Correspondingly, Section 2(13) characterises a “child in conflict with the law” as a person under eighteen years at the time of an alleged or proven offence. Furthermore, Section 2(33) categorises “heinous offences” as those for which the Indian Penal Code (45 of 1860) or any other prevailing law prescribes a minimum imprisonment period of seven years or more.<sup>8</sup>

The mechanism for transferring cases, particularly concerning serious offences, is primarily articulated in Section 15 of the Act. This provision mandates that the Juvenile Justice Board (JJB) assess a child's suitability for adult trial. Such an evaluation necessitates considering the child's mental and physical capacity to commit the alleged offence, their comprehension of its consequences, and the specific circumstances surrounding its commission. Should the JJB determine that a transfer is warranted, Section 18(3) empowers it to issue an order for the child to be tried as an adult.

A significant judicial interpretation emerged from the Supreme Court of India's decision in *Shilpa Mittal v. State of NCT of Delhi*<sup>9</sup>. The Court clarified that heinous offences under the Act exclusively refer to crimes with a statutorily mandated minimum sentence of seven years or more. Consequently, offences lacking such a minimum sentence, irrespective of their maximum potential punishment exceeding seven years, are excluded from this classification. This ruling has demonstrably narrowed the scope of Section 15.

Following a transfer by the JJB, the Children's Court—designated as a Sessions Court for this purpose—is authorised by Section 19 of the Act to determine whether the juvenile should be tried as an adult or if the case should revert to the JJB for resolution under the Act's provisions. It is pertinent to note, however, that Article 37(a) of the UN Convention on the Rights of the Child (UNCRC) stipulates that a child found guilty after being tried as an adult cannot be subjected to capital punishment or life imprisonment without the possibility of parole.<sup>10</sup>

## **B. Constitutional Framework**

Pursuant to Article 15(3) of the Constitution, the State is empowered to enact specific

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<sup>8</sup> Juvenile Justice (Care and Protection of Children) Act 2015

<sup>9</sup> *Shilpa Mittal v State of NCT of Delhi* (2020) 2 SCC 787

<sup>10</sup> United Nations Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) Article 37(a)

provisions pertaining to the welfare of women and children. The Supreme Court has, in its interpretation of Article 21 concerning the right to life and personal liberty, integrated the principles of speedy trial and due judicial procedure. Consistent with Article 39(e) and (f) of the Directive Principles of State Policy, the State is mandated to secure opportunities for the healthy development of children and to protect them from abuse.<sup>11</sup>

These constitutional provisions collectively seek to reconcile the rehabilitative imperatives with the accountability considerations inherent in juvenile justice. Consequently, the transfer mechanism stipulated by the Act may be understood as a constitutionally permissible means for the State to exercise its police power in safeguarding public safety, concurrently affording juveniles distinct protections not inherent within the adult criminal justice framework.

### **C. Bharatiya Nyaya Sanhita, 2023 Minimum Age of Criminal Responsibility**

The Bharatiya Nyaya Sanhita (BNS), 2023, which supersedes the Indian Penal Code, maintains a framework for minimum criminal responsibility. Specifically, Section 20 of the BNS confers absolute immunity from criminal prosecution upon individuals below the age of seven years. Conversely, Section 21 extends conditional immunity to children aged between seven and twelve years, contingent upon their demonstrated lack of sufficient maturity of understanding. Beyond this age threshold, for individuals older than twelve years, there is a legal presumption of requisite mental competence, rendering them liable for prosecution.<sup>12</sup>

## **CURRENT POSITION IN INDIA:**

### **A. Statistical Overview**

The National Crime Records Bureau's (NCRB) annual Crime in India reports serve as a primary source for comprehensive data on juvenile delinquency across India. The 2022 edition of this report documented a total of 31,170 juvenile offences nationwide. Delhi emerged as a jurisdiction with a disproportionately high incidence of juvenile legal involvement; out of 2,955 minors encountering legal issues across all Union Territories, 2,340 originated from Delhi. Furthermore, a substantial number of adolescents, specifically 78,443, were arrested

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<sup>11</sup> Constitution of India, 1949

<sup>12</sup> Bharatiya Nyaya Sanhita, 2023

throughout India during 2022. Among this population, 88.3% of the juveniles were convicted, with 704 individuals subsequently receiving custodial sentences.<sup>13</sup>

## **B. Judicial Trends Post-2015**

The 2017 Ryan International School murder case stands as an early instance in which the Juvenile Justice Board (JJB) executed a Section 15 preliminary assessment, subsequently deciding that the 16-year-old accused should undergo trial as an adult under Section 18(3) of the Act for the premeditated killing of a seven-year-old classmate. This particular case served to highlight both the potential and the inherent challenges associated with the 2015 Act's transfer mechanism. Notably, the psychological assessment procedure encountered significant disputes, experienced delays, and was ultimately contested due to the absence of a standardised methodology.

During the COVID-19 pandemic, child rights experts observed a substantial elevation in juvenile crime. Anurag Kundu, Chairman of the Delhi Commission for Protection of Child Rights, affirmed a notable increase in criminal activity against children during this period, partially attributing it to the disruptions in school operations caused by the crisis and an amplified exposure to digital media.

Furthermore, post-2015 jurisprudence demonstrates considerable judicial variability in interpreting the categories of offences eligible for transfer. The restrictive definition of "heinous offences" established in the Shilpa Mittal ruling has inadvertently generated an interpretive gap for crimes carrying a maximum penalty of seven years or more, yet lacking a defined minimum sentence. This category encompasses several significant offences, thereby necessitating legislative clarification to resolve this ambiguity.

## **COMPARATIVE ANALYSIS:**

### **A. United Kingdom**

The Crime and Disorder Act 1998 establishes the minimum age of criminal responsibility (MACR) in the United Kingdom as ten years, a threshold considerably lower than that observed in many other European nations. This legal stance was notably underscored

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<sup>13</sup> National Crime Records Bureau, Crime in India 2022(Ministry of Home Affairs, Government of India 2023)

by the landmark case of *R v. Thompson and Venables*<sup>14</sup>. In this particular case, two ten-year-old individuals were convicted of the kidnapping and murder of two-year-old James Bulger. The outcome of this case provided a critical precedent, affirming that criminal responsibility is determined by an individual's demonstrated moral agency, rather than being solely contingent upon their chronological age.

Within the United Kingdom's structured sentencing framework, juveniles accused of serious offences may be tried in the Crown Court. This framework incorporates dispositions such as detention at Her Majesty's Pleasure, a sentence explicitly designed to facilitate rehabilitation. Concurrently, recent modifications within the UK legal system suggest a gradual move toward restorative justice principles for non-violent offences, while robust accountability for serious crimes is maintained. This approach, therefore, illustrates that rehabilitative programming can coexist with the early establishment of criminal responsibility.

## **B. United States**

The Minimum Age of Criminal Responsibility (MACRs) within the United States' federal and state juvenile justice systems demonstrates considerable variability across jurisdictions, typically ranging from six to twelve years. Federal and state statutes permit the transfer of juvenile cases to adult criminal courts for certain grave offences, including homicide, rape, and armed assault. In *Roper v. Simmons*,<sup>15</sup> the US Supreme Court ruled that the execution of juvenile offenders constituted a violation of the Eighth Amendment's prohibition against cruel and unusual punishment. Later rulings, *Graham v. Florida*,<sup>16</sup> and *Miller v. Alabama*,<sup>17</sup> acknowledged the principle of diminished responsibility, informed by developmental neuroscience, and thereby significantly restricted the application of mandatory life sentences without parole for minors.

The experience of the United States suggests that a punitive approach to juvenile justice, often influenced more by public and media sentiment than by rigorous scientific assessment, tends to lead to the over-incarceration of young offenders. This disproportionate impact is particularly pronounced among individuals from marginalised communities and does not demonstrably enhance public safety or contribute effectively to rehabilitation outcomes.

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<sup>14</sup> *R v. Thompson and Venables* [1993] UKHL 1

<sup>15</sup> *Roper v. Simmons*, 543 US 551 (2005)

<sup>16</sup> *Graham v. Florida*, 560 US 48 (2010)

<sup>17</sup> *Miller v. Alabama*, 567 US 460 (2012)

Consequently, in developing its own evaluation procedures, India would benefit from critically considering these insights.

### **C. Germany**

In Germany, the minimum age of criminal responsibility is set at 14 years. This framework adopts a developmentally informed and progressive approach to juvenile culpability, fundamentally rooted in the "educational theory of punishment" (Erziehungsgedanke). Furthermore, the German Youth Courts Act (Jugendgerichtsgesetz) provides provisions for individuals aged 18 to 21 to be tried under juvenile law, contingent upon an assessment that their emotional, moral, or cognitive development aligns with that typically observed in minors.

In Germany, a comprehensive psychological evaluation is mandated prior to sentencing, with a preference for non-custodial interventions such as community service, social training programs, and therapeutic mentoring over traditional imprisonment. This model concurrently presents a structured approach that India could adapt for integrating scientific assessment into its transfer decision processes, thereby upholding a clear dedication to rehabilitation

### **D. Japan**

The Japanese Juvenile Law, notably amended in 2000 and 2015, stipulates the minimum age of criminal responsibility (MACR) at 14 years. Under this framework, serious juvenile offences are either adjudicated by Family Courts or, in certain circumstances, transferred to the Public Prosecutor's Office for potential adult prosecution. A distinctive feature of the Japanese judicial approach, when compared to other jurisdictions, is its comprehensive consideration of social context, family dynamics, online behaviour, and peer influence in the adjudicative process. Furthermore, India's framework for assessing juvenile criminal responsibility demonstrates a notable influence from Japan, particularly concerning the emphasis placed on cyber delinquency and digital maturity.

### **E. Indonesia**

Indonesia's Juvenile Criminal Justice System Law<sup>18</sup>, the maximum punishment for a

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<sup>18</sup> Indonesia's Juvenile Criminal Justice System Law (Law No. 11 of 2012)

kid who commits murder is half that of an adult. Through diversion, a restorative justice approach is required for children under the age of twelve. Based on Rawls' theory of justice as fairness, Hanafi's analysis concludes that although these provisions are theoretically sufficient, their efficacy depends on the creation of legally certain and procedurally transparent mechanisms for restorative justice. This lesson is equally applicable to India's diversion framework under the 2015 Act.

## **F. Synthesis**

A number of convergent trends are revealed by the comparative survey: (i) capacity-sensitive models that incorporate psychological and behavioural assessment are replacing pure age-based thresholds; (ii) the impact of digital environments on juvenile cognition and criminal behaviour is increasingly acknowledged in legal decision-making; (iii) the most effective systems combine early-onset criminal accountability with robust rehabilitative programming; and (iv) over-criminalization motivated by public pressure rather than evidence produces iatrogenic outcomes that compromise public safety and justice.

## **PROBLEMS AND FINDINGS:**

### **A. Definitional Gaps: The "Heinous Offence" Lacuna**

According to the 2015 Act, "heinous offences" are those that carry a minimum sentence of seven years or longer. A range of serious offences, notably those for which no statutory minimum sentence is prescribed, have been excluded from the transfer mechanism as a direct consequence of the Supreme Court's judgment in *Shilpa Mittal v. State of NCT of Delhi*. This category encompasses provisions such as Section 354 of the Indian Penal Code (now Section 74 of the *Bharatiya Nyaya Sanhita*), which addresses sexual assault committed with the intent to outrage modesty. This definitional gap needs to be fixed immediately since it reflects a legislative failure to foresee the entire range of terrible behaviour.

### **B. Absence of Standardised Assessment Protocols**

The foundation of the transfer mechanism is Section 15's requirement of a "preliminary assessment" by the JJB; nevertheless, the Act offers no standardised process for such assessments. Psychologists and social experts will assist in conducting the assessment, but there is no national protocol that specifies the qualifications of assessors, the criteria to be

evaluated, the weight to be given to various factors, or how digital maturity and online behaviour are to be taken into account. The ensuing discrepancy between JJBs in various states has led to arbitrary and unpredictable results.

Any standardised assessment protocol should address four essential dimensions, according to Deepanshi Dahiya Chandarana and Dr Bhoma Ram: (i) cognitive comprehension of the nature and consequences of the offence; (ii) intentionality, including planning and premeditation; (iii) emotional regulation and impulse control; and (iv) influence of digital environments, peer dynamics, and social conditioning. One major flaw in the statutory text is the lack of such a process.

### **C. Failure to Account for Digital Maturity**

The 2015 Act was passed before social media, internet gaming, and smartphones were fully recognised as contributing factors to adolescent criminality. Cases like the 2019 Nagpur double murder, in which a 17-year-old was discovered to have studied undetectable murder techniques online, demonstrate the significant ways in which juvenile criminal capacity is altered by digital immersion. However, as part of the JJB's initial investigation, neither the Act nor any related regulations provide a framework for forensic digital behaviour assessment. This is a significant legal gap that highlights the shortcomings of a paradigm of responsibility that is only based on age.

### **D. Institutional weakness: JJBs and Children's Courts**

The quality of JJBs and Children's Courts is the only factor that determines how well the 2015 Act's transfer system works. In reality, case backlogs, inadequate facilities, a lack of skilled staff, and restricted access to forensic psychology specialists plague JJBs throughout India. The majority of juvenile justice processes do not use the "one-stop" approach of evidence collection, which Zelin Wang also suggested for testimonial evidence from minor victims. This leads to numerous, potentially contaminating interviews with vulnerable individuals.

### **E. Tension with International Norms**

Article 37(b) of the UNCRC, to which India is a signatory, states that a child's detention "must be used only as a measure of last resort and for the shortest suitable period of time." According to Article 40, children accused of crimes are entitled to treatment that upholds their

inherent dignity. Further guidance from the UN Committee on the Rights of the Child, specifically General Comment No. 10 (2007), recommends a minimum age of criminal responsibility of not less than 12 years. Additionally, this comment advises against the transfer of minors to adult judicial systems, reserving such transfers only for exceptional circumstances.

Although the 2015 Act's transfer mechanism is based on the justifiable goals of victim justice and public safety, it consistently conflicts with these international standards. Procedural protections, such as required legal representation, psychological testing, and the true retention of the rehabilitative option, are necessary to keep this tension in a productive equilibrium but are only partially provided by the current legislation.

#### **F. Recidivism and the Rehabilitative Deficit**

Juveniles tried and punished in adult courts typically show higher rates of recidivism than those handled through the juvenile justice system, according to research from the United States, where punitive methods to juvenile crime have been studied the most. The rehabilitative programming, vocational training, psychological counselling, digital detox, and community reintegration support—necessary to make the transfer mechanism fulfil its intended purpose of guaranteeing long-term public safety is not provided by India's current correctional infrastructure.

#### **RECOMMENDATIONS:**

Based on the foregoing analysis, this paper offers the following recommendations for legislative, institutional, and policy reform of India's juvenile justice framework:

##### **1. Amendment of the Definition of “Heinous Offences”**

The 2015 Act's Section 2(33) should be changed to include all crimes carrying a maximum sentence of seven years or more in the category of "heinous offences," regardless of whether a minimum term is stipulated. This will guarantee that the transfer mechanism functions across the entire spectrum of significant juvenile crimes and closes the gap found in Shilpa Mittal.

##### **2. Enactment of a National Juvenile Justice Assessment Protocol**

A National Juvenile Justice Assessment Protocol (NJJAP), which was developed through

a collaborative effort by the National Commission for Protection of Child Rights (NCPCR) alongside forensic psychologists, criminologists, child rights advocates, and Juvenile Justice Board practitioners, warrants formal implementation. To achieve this, a parliamentary mandate, either through statutory amendment or subordinate legislation, is deemed necessary. Standardized evaluation criteria that address cognitive ability, intentionality, emotional regulation, and digital influence should be prescribed by the NJJAP. It should also specify minimum qualifications for expert assessors, deadlines for assessment completion, and the weight to be given to assessment results in transfer proceedings.

### **3. Integration of Digital Behaviour Analysis**

The evaluation of the juvenile's digital behaviour prior to the commission of the offence, including social media activity, internet search history, online communications, and consumption of violent or sexually explicit content, should be specifically required in the JJB's preliminary assessment under Section 15. The results of this forensic digital examination should be a separate part of the Section 15 report, and it should be carried out by licensed cybercrime detectives working with child psychologists.

### **4. Strengthening the Institutional Framework**

The establishment of child-friendly interview facilities, the appointment of specialised forensic psychology specialists at each district JJB, the use of synchronised audio-video recording for all interviews with juvenile offenders and victims, and the development of a cadre of qualified JJB members with required certification in child psychology and juvenile criminology are just a few of the specific investments that the federal and state governments should make in JJB infrastructure.

### **5. Rehabilitation-Centred Correctional Reform**

The sentencing framework for juvenile offenders adjudicated in adult courts following conviction ought to incorporate a structured rehabilitative component. This applies irrespective of whether the individual is housed in a Child Special Development Institute or a dedicated juvenile wing within an adult correctional facility. Such a component should encompass vocational training, psychological therapy, the development of digital literacy skills, and comprehensive planning for community reintegration. Furthermore, regular judicial oversight

and evaluation of these rehabilitative interventions are crucial to ensure that the primary objective remains the offender's correction, rather than solely fulfilling retributive demands.

## **6. Alignment with International Standards**

In order to implement the UNCRC Committee's General Comment No. 10, India should affirm in legislative text that transfer to adult court is still a measure of last resort, to be used only in cases where the preliminary assessment clearly demonstrates that the juvenile's level of cognitive development, intentionality, and culpability is equivalent to that of an adult and where no available rehabilitative intervention is sufficient to address the risk posed by the offender.

## **7. Consideration of Lowering the MACR**

The current paper commends the Law Commission of India for conducting a thorough investigation into whether the MACR of 12 years under BNS Section 21 is still appropriate in light of current data on cognitive maturation in the digital era, even though it does not advocate immediately lowering the minimum age of criminal responsibility below the current threshold. If such a study suggests reducing the MACR to 10 years, as suggested by Deepanshi Dahiya Chandarana and Dr Bhoma Ram and in line with the UK model, it must be accompanied by strong procedural safeguards unique to children, such as the requirement for legal representation, the ban on detention with adult offenders, and the importance of rehabilitative disposals.

## **CONCLUSION:**

Scholars have frequently observed that a society's treatment of its youngest criminals serves as an indicator of its civilizational principles. The answer to this question has been changing in India, sometimes painfully, sometimes cautiously, from a purely protective, welfare-centered model to a more nuanced framework that recognizes that the most serious crimes, when committed with full cognitive awareness and premeditation, cannot be treated the same whether the perpetrator is seventeen or twenty-seven.

An essential, if inadequate, step in the direction of this more nuanced stance is the Juvenile Justice (Care and Protection of Children) Act, 2015. The Act has legally recognised that age is not and cannot be the only factor in determining criminal responsibility by

establishing the transfer mechanism under Section 15. However, the Act has not yet fulfilled its promise of a capacity-sensitive, rights-respecting, and socially effective juvenile justice system due to its shortcomings, which include definitional gaps, the lack of standardized assessment procedures, the failure to take digital maturity into account, and the institutional flaws of JJBs and Children's Courts.

The theoretical frameworks provided by Rawls and developmental psychology, as well as the comparative experiences of the United States, Germany, Japan, Indonesia, and the United Kingdom, all point toward a hybrid jurisprudence that combines early-onset criminal accountability with robust rehabilitative programming, scientifically based assessments of individual maturity, and procedural safeguards that respect the child's fundamental rights. The rehabilitative ideal is not abandoned by this hybrid approach; rather, it is contextualised within a framework of proportionate justice that takes victims' rights and young offenders' developmental realities seriously.

The reforms put forth in this paper, which include strengthening correctional rehabilitation, enacting a National Juvenile Justice Assessment Protocol, incorporating digital behaviour analysis, and changing the definition of heinous offences, are logical continuations of the path already started by the 2015 Act rather than drastic changes. These developments represent a crucial evolution in the Indian juvenile justice system, indicating a trajectory towards legislation that integrates principles of fairness, compassion, and contemporary relevance within the digital sphere. A core dilemma for the legal framework is to reconcile the imperative of protecting society from young individuals with the equally critical responsibility of protecting young individuals themselves. Both objectives necessitate equivalent diligence and seriousness. Consequently, juvenile justice presents a domain characterised by intricate complexities and substantial opportunities for systemic advancement.

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