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Juvenile Criminal Responsibility In India: A Critical Analysis Of The Juvenile Justice (Care And Protection Of Children) Act, 2015

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Abstract

Juvenile criminal responsibility represents one of the most complex areas of criminal justice because it requires the legal system to balance accountability for serious offences with the developmental vulnerability, rehabilitation and reintegration of children. India substantially revised its juvenile justice framework through the Juvenile Justice (Care and Protection of Children) Act, 2015. While retaining eighteen years as the general age of childhood, the Act introduced a distinctive mechanism for children aged sixteen to eighteen who are alleged to have committed heinous offences. The Juvenile Justice Board may conduct a preliminary assessment of the child's mental and physical capacity to commit the offence, ability to understand its consequences and the circumstances in which the alleged offence occurred. Depending upon the assessment and subsequent proceedings, the matter may be transferred to the Children's Court. This paper critically examines this framework from the perspectives of criminal responsibility, child rights, constitutional principles, rehabilitation and procedural fairness using a doctrinal and analytical methodology, the study examines the Juvenile Justice Act, 2015, relevant judicial decisions, the parliamentary debate surrounding the reform and international child-rights principles. It argues that the 2015 Act represents an important shift from a predominantly rehabilitative model toward a differentiated system combining rehabilitation with enhanced accountability for certain older children. However, the preliminary-assessment mechanism raises difficult questions regarding developmental maturity, consistency, expertise and procedural safeguards. The paper concludes that effective juvenile justice requires individualized assessment without undermining the fundamental principle that children possess distinctive developmental and rehabilitative needs.

Keywords: Juvenile justice, juvenile criminal responsibility, heinous offences, Juvenile Justice Board, child rights, rehabilitation, preliminary assessment, Juvenile Justice Act 2015.

1. Introduction

The treatment of children who come into conflict with criminal law presents a fundamental challenge for every criminal justice system. Criminal law ordinarily rests upon concepts such as responsibility, intention, punishment and deterrence. Juvenile justice, however, recognizes that children differ from adults in psychological development, emotional maturity, decision-making capacity and susceptibility to social influences. Consequently, juvenile justice systems have traditionally placed greater emphasis on rehabilitation and reintegration than on retribution.

India's approach to juvenile justice underwent an important transformation with the enactment of the Juvenile Justice (Care and Protection of Children) Act, 2015. The legislation replaced

the Juvenile Justice (Care and Protection of Children) Act, 2000 and introduced significant changes in the treatment of children in conflict with law.

The reform emerged against an intense public debate concerning serious offences committed by adolescents, particularly following the December 2012 Delhi gang-rape case, in which one of the offenders was below eighteen years of age. The incident contributed to demands for reconsideration of the legal treatment of older juveniles accused of exceptionally serious crimes.

The central issue, however, extends beyond any individual case. It concerns the appropriate basis upon which criminal responsibility should be attributed to adolescents. Should chronological age alone determine whether an offender receives juvenile treatment? Should the nature of the offence influence the legal process? Can the maturity and capacity of a sixteen- or seventeen-year-old be assessed reliably enough to justify substantially different treatment?

The Juvenile Justice Act, 2015 attempted to answer these questions through a differentiated model of juvenile responsibility.

2. Objectives of the Study

The present study aims to examine the concept of juvenile criminal responsibility under Indian law; analyse the principal provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015; critically examine the treatment of children aged sixteen to eighteen accused of heinous offences; evaluate the preliminary-assessment mechanism provided under Section 15; analyse the relationship between accountability, rehabilitation and child rights; examine constitutional and international concerns surrounding the legislation; and identify areas requiring further legal and institutional reform.

3. Research Methodology

The study adopts a **doctrinal, descriptive and analytical legal research methodology**. Primary sources include the Juvenile Justice (Care and Protection of Children) Act, 2015, relevant provisions of the Constitution of India, earlier juvenile justice legislation and judgments of the Supreme Court.

The study also examines the parliamentary and legislative materials associated with the 2015 reform. Secondary sources include books, journal articles, committee reports and scholarly discussions concerning juvenile criminal responsibility, child psychology and juvenile justice.

The analysis is primarily restricted to developments available up to 2016 so that the paper evaluates the legislation in its original historical and legal context.

4. Evolution of Juvenile Justice in India

Indian juvenile justice law has gradually evolved from a punishment-oriented approach toward a welfare and rehabilitation framework.

The Juvenile Justice Act, 1986 represented an important attempt to establish a uniform juvenile justice system. It was subsequently replaced by the Juvenile Justice (Care and Protection of Children) Act, 2000, partly to align domestic law more closely with international child-rights principles.

Under the 2000 Act, a juvenile or child was generally understood as a person below eighteen years of age. Children accused of offences were processed through the juvenile justice system irrespective of the seriousness of the alleged offence.

The model reflected the principle that children possess a greater capacity for reform and should therefore ordinarily be rehabilitated rather than subjected to the punitive criminal justice process applicable to adults.

The 2015 legislation retained eighteen as the general dividing line between childhood and adulthood but introduced a significant qualification for certain children between sixteen and eighteen years accused of heinous offences. Parliamentary materials described this as a major departure from the earlier framework.

5. Meaning of a Child in Conflict with Law

The Juvenile Justice Act, 2015 distinguishes between a **"child in conflict with law"** and a **"child in need of care and protection."**

A child in conflict with law is a person alleged or found to have committed an offence who had not completed eighteen years of age on the date of commission of the offence.

This definition is important because juvenile status is determined with reference to the age of the individual when the alleged offence occurred rather than merely the age at which proceedings take place.

The legislation also classifies offences into different categories, including petty, serious and heinous offences. In its original framework, a heinous offence was one for which the minimum punishment under the Indian Penal Code or another law was imprisonment for seven years or more.

This classification determines the procedure through which a child may be dealt with and becomes particularly important for children aged sixteen to eighteen.

6. The Major Innovation of the 2015 Act

The most controversial feature of the Act is its treatment of children aged **sixteen to eighteen years who are alleged to have committed heinous offences**.

The legislation does not automatically declare every such child an adult. Instead, Section 15 requires the Juvenile Justice Board to conduct a preliminary assessment.

The Board is required to consider:

1. the child's mental capacity to commit the alleged offence;
2. the child's physical capacity to commit it;
3. the child's ability to understand the consequences of the alleged offence; and
4. the circumstances in which the alleged offence was committed.

The Board may obtain assistance from experienced psychologists, psycho-social workers or other experts.

Importantly, the statute expressly clarifies that the preliminary assessment **is not a trial**. Its purpose is to assess the child's capacity and understanding rather than determine guilt.

This distinction is crucial. The assessment is supposed to determine the appropriate legal forum and mode of treatment rather than establish whether the accused actually committed the offence.

7. Juvenile Justice Board and Preliminary Assessment

The Juvenile Justice Board occupies a central position under the Act. It is intended to provide a specialized institutional environment for dealing with children in conflict with law.

In ordinary cases, the Board conducts the relevant inquiry and determines appropriate rehabilitative or corrective measures. In the special category involving an alleged heinous offence by a child aged sixteen or above, however, the Board must undertake the Section 15 assessment.

This mechanism attempts to introduce **individualized responsibility** into juvenile justice. Two children of the same chronological age may possess different levels of psychological development, understanding and vulnerability. The law therefore seeks to avoid an entirely mechanical approach based solely on age.

Nevertheless, this creates a difficult practical problem. Mental maturity is not a simple measurable characteristic. Adolescents may understand that an act is legally or morally wrong while still possessing limited impulse control, heightened susceptibility to peer influence or incomplete appreciation of long-term consequences.

Consequently, the quality of psychological and social assessment becomes critical to the fairness of the system.

8. Role of the Children's Court

Following the preliminary assessment and the procedure prescribed by the Act, a matter may reach the Children's Court.

The statutory scheme does not make adult treatment an automatic consequence merely because a child is accused of a heinous offence. The institutional process is intended to determine whether the circumstances justify departure from ordinary juvenile treatment.

This is significant because the Act attempts to create a middle position between two competing approaches.

The first approach argues that all persons below eighteen should be treated exclusively through a rehabilitative juvenile system. The second argues that older adolescents committing exceptionally serious offences should face consequences more closely resembling those applicable to adults.

The 2015 Act attempts to combine these positions through case-specific assessment.

9. Rehabilitation versus Punishment

The most important theoretical question raised by the Act is whether the differentiated treatment of sixteen-to-eighteen-year-olds undermines the rehabilitative philosophy of juvenile justice.

The traditional justification for a separate juvenile justice system is that children are still developing. Their personalities are not fully formed, and their behaviour may be substantially

affected by family conditions, poverty, abuse, neglect, peer pressure, lack of education and social environment.

Rehabilitation therefore seeks to address the causes of offending behaviour and facilitate reintegration into society.

Punishment, particularly where modeled on adult criminal responsibility, emphasizes accountability, deterrence and proportionality to the seriousness of the offence.

The 2015 Act does not entirely abandon rehabilitation. Instead, it introduces a more differentiated conception of responsibility. The critical issue is whether that differentiation can be implemented without treating developmental immaturity as irrelevant merely because the alleged offence is serious.

10. Constitutional Concerns

The Act also raises significant constitutional questions.

10.1 Article 14 – Equality

Article 14 guarantees equality before law and equal protection of laws.

The special treatment of children aged sixteen to eighteen accused of heinous offences creates a classification within the broader category of persons below eighteen. The constitutional question concerns whether this classification has a rational basis and sufficiently relates to the legislative objective.

During scrutiny of the Bill, the Parliamentary Standing Committee expressed concerns about the proposed differentiation and its implications for equality. Parliamentary analysis recorded the Committee's view that the adult-trial mechanism raised constitutional and child-rights concerns.

10.2 Article 21 – Life and Personal Liberty

Article 21 requires that deprivation of life or personal liberty occur according to a legally valid, fair and reasonable procedure.

Because the preliminary assessment can substantially affect the manner in which a child is processed, procedural fairness becomes essential. The child must receive meaningful legal assistance, and the assessment should be based upon reliable information rather than assumptions drawn solely from the alleged crime.

10.3 Article 15(3)

Article 15(3) permits the State to make special provisions for children. Juvenile justice legislation historically represents one such protective framework.

This reinforces the principle that children's developmental differences can legitimately justify treatment different from adults.

11. Judicial Background to the 2015 Reform

Before enactment of the 2015 legislation, the Supreme Court had considered challenges to the eighteen-year threshold under the Juvenile Justice Act, 2000.

In **Salil Bali v. Union of India (2013)**, the Court rejected a challenge seeking reconsideration of the age limit under the earlier juvenile justice framework.

Similarly, in Subramanian Swamy v. Raju (2014**)**, the Supreme Court declined to reinterpret the 2000 Act so that certain juveniles could be treated differently based upon the seriousness of the offence. The Court recognized that the legislative determination of who should be treated as a juvenile was fundamentally a matter for Parliament.

These decisions are important because they demonstrate that the major change introduced in 2015 resulted from **legislative reform rather than judicial redefinition** of the earlier statute.

12. International Child-Rights Perspective

India is a party to the **United Nations Convention on the Rights of the Child (CRC)**, which defines a child generally as a person below eighteen years of age unless majority is attained earlier under applicable law.

International juvenile justice principles emphasize dignity, rehabilitation, reintegration and treatment appropriate to the child's age.

The introduction of possible adult-type proceedings for certain sixteen-to-eighteen-year-olds therefore generated debate about compatibility with the spirit of the CRC.

Critics argue that differentiating among children based substantially upon the alleged offence risks weakening the principle that all persons below eighteen possess developmental characteristics deserving special protection.

Supporters of the 2015 framework, however, argue that the Act continues to recognize individuals below eighteen as children and requires an individualized assessment rather than automatically transferring every older child accused of a serious offence into the adult criminal system.

13. Arguments Supporting the 2015 Framework

Supporters of the reform emphasize accountability and the interests of victims.

Serious offences such as murder and rape can produce severe and irreversible harm. It is therefore argued that chronological age should not always prevent the justice system from examining whether an older adolescent possessed sufficient capacity to understand and deliberately commit an exceptionally grave offence.

A second argument concerns individualized justice. The Section 15 mechanism does not automatically treat all sixteen-to-eighteen-year-olds alike. Instead, it requires assessment of capacity, understanding and circumstances.

Third, the framework seeks to recognize that adolescents of identical chronological age may differ substantially in maturity and cognitive development.

Finally, proponents contend that public confidence in juvenile justice may be undermined if the law appears incapable of responding proportionately to exceptionally serious offending.

14. Criticism of the 2015 Framework

The legislation has also attracted substantial criticism.

First, psychological maturity is difficult to measure precisely. The determination of whether a sixteen- or seventeen-year-old possessed sufficient mental capacity may vary according to the evaluator, methodology and available information.

Second, there is a risk that the seriousness of the alleged offence may influence perceptions of the child's maturity. If a decision-maker reasons that an exceptionally serious offence itself demonstrates adult-like capacity, the preliminary assessment may become circular.

Third, unequal availability of trained psychologists and psycho-social professionals can produce inconsistent assessments across different districts.

Fourth, critics question whether deterrence provides a sufficiently strong justification for harsher treatment of adolescents, particularly when juvenile offending may arise from impulsivity, peer influence, abuse, deprivation or dysfunctional social environments.

Fifth, exposure to more punitive criminal processes may interfere with rehabilitation and increase stigmatization.

These concerns do not necessarily eliminate the need for accountability. Rather, they demonstrate why the assessment mechanism requires strong safeguards and professional expertise.

15. Legislative Debate and Juvenile Crime

One justification advanced during the reform process concerned perceived increases in serious crimes involving juveniles.

Contemporary parliamentary analysis showed that children aged sixteen to eighteen constituted a substantial proportion of children apprehended for offences. However, the same data also indicated that crimes committed by children remained a relatively small proportion of overall recorded crime.

This distinction is important. Absolute increases in recorded cases do not by themselves establish that juvenile crime constitutes a disproportionately expanding threat. Population changes, reporting practices, policing and offence registration can also influence crime statistics.

Criminal justice legislation should therefore be based on careful empirical evidence rather than isolated cases or public reaction to particularly disturbing offences.

16. Critical Analysis

The Juvenile Justice Act, 2015 represents a significant philosophical change in Indian juvenile justice.

Under the earlier model, the age of eighteen largely functioned as a uniform boundary. The 2015 framework preserves that boundary formally but creates differentiated consequences for certain older children based on the nature of the alleged offence and individualized assessment.

The strength of the model lies in its attempt to recognize variation in adolescent capacity. It avoids automatically treating every sixteen-to-eighteen-year-old accused of a heinous offence as an adult.

Its weakness lies in the difficulty of reliably measuring the factors upon which this distinction depends.

“Capacity,” “understanding” and “circumstances” are complex concepts. Their assessment requires knowledge of developmental psychology, family circumstances, education, trauma,

social environment and cognitive development. A short or poorly resourced assessment may fail to capture these dimensions.

The success of the legislation therefore depends less upon the wording of Section 15 alone and more upon the quality of the institutions implementing it.

17. Research Gap

A significant research gap emerging from the 2015 legislation concerns the **reliability and consistency of preliminary assessments under Section 15**.

Future empirical research should examine whether Juvenile Justice Boards across different states use consistent criteria when assessing mental and physical capacity, understanding of consequences and surrounding circumstances.

Research is also required to examine whether adequate psychologists and psycho-social professionals are available; whether socioeconomic background affects transfer decisions; how effectively children receive legal representation; and whether different forms of intervention affect rehabilitation and recidivism.

Another important gap concerns the long-term effects of exposing older adolescents to more punitive procedures. Since the legislation became operational only in 2016, its enactment created substantial scope for longitudinal research into rehabilitation, reintegration and repeat offending.

18. Findings

The analysis produces several principal findings.

The 2015 Act does not reduce the general age of childhood from eighteen to sixteen. Rather, it creates a special process for certain children aged sixteen to eighteen alleged to have committed heinous offences.

The preliminary assessment is intended to be an individualized inquiry and is expressly distinguished from a criminal trial.

The legislation represents a movement away from an exclusively age-based rehabilitative model toward a hybrid approach incorporating both rehabilitation and differentiated accountability.

At the same time, effective implementation depends heavily upon trained Juvenile Justice Board members, psychologists, psycho-social workers, legal representatives and appropriate child-care institutions.

Finally, the seriousness of an alleged offence should not itself become a substitute for genuine assessment of the child's developmental capacity and circumstances.

19. Suggestions

Several measures can strengthen implementation of the legislation.

First, standardized scientific and procedural guidelines should govern preliminary assessments so that similar cases do not receive radically different treatment merely because they arise in different jurisdictions.

Second, psychological assessment should be undertaken with assistance from appropriately trained child-development professionals.

Third, every child should receive effective legal representation throughout the proceedings.

Fourth, social investigation reports should examine family background, education, economic conditions, exposure to violence, peer relationships, substance abuse, psychological condition and other circumstances relevant to offending behaviour.

Fifth, rehabilitation should remain central even where greater accountability is considered appropriate. Education, vocational training, psychological counselling, family intervention and structured reintegration programmes should accompany institutional responses.

Finally, implementation should be periodically evaluated through reliable empirical data rather than assessed merely through the number of serious offences reported in the media.

20. Conclusion

The Juvenile Justice (Care and Protection of Children) Act, 2015 marked a major development in Indian juvenile criminal responsibility. While continuing to recognize eighteen years as the general boundary of childhood, it created a special legal mechanism for children aged sixteen to eighteen accused of heinous offences.

The preliminary-assessment framework attempts to reconcile two legitimate concerns: society's interest in accountability for grave offences and the principle that children possess distinctive developmental characteristics and a substantial capacity for rehabilitation.

The central challenge lies in implementing this balance fairly. Chronological age alone cannot reveal the full developmental capacity of an adolescent, but psychological maturity is equally difficult to measure with precision. A system relying upon individualized assessment must therefore ensure professional expertise, procedural safeguards and consistency.

The Act should consequently be understood neither as a complete abandonment of rehabilitative juvenile justice nor as a simple extension of adult criminal law to sixteen-year-olds. It creates a hybrid framework whose legitimacy and effectiveness depend upon how carefully the preliminary-assessment process protects the developmental status and procedural rights of the child.

Ultimately, juvenile justice must recognize that accountability and rehabilitation are not necessarily opposing objectives. A child can be held responsible for harmful conduct while the justice system simultaneously addresses the developmental, familial and social factors contributing to that conduct. The long-term objective of juvenile justice should remain not merely punishment for past behaviour, but prevention of future offending and successful reintegration of the child into society.

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