

Critical Analysis of Criminal Liability of Juvenile Offenders in Heinous Offences Under Indian Law

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Abstract - *The issue of criminal liability of juveniles involved in heinous offences remains one of the most debated areas in Indian criminal law. The juvenile justice (Care and Protection) act, 2015 introduced a significant shift by permitting children between sixteen and eighteen years, in certain cases, to be tried as adults after a preliminary assessment under section 15. This paper critically examines whether this framework strikes a fair balance between accountability, rehabilitation and constitutional protections.*

*The study analyses the statutory framework governing heinous offences, the definitional challenges highlighted in *Shilpa Mittal v. State of NCT Delhi*, and the constitutional concerns arising under Articles 14 and 21. It further evaluates whether preliminary assessment mechanism can reliably determine maturity and culpability, particularly in light of neurobiological and psychological research on adolescent brain development, trauma and impulsivity.*

The paper argues that while serious juvenile offending raises legitimate concerns of public safety, excessive reliance on punitive approaches may weaken the reformatory foundation of juvenile justice. It concludes that a balanced framework based on scientific assessment, restorative principles and strengthened institutional safeguards is necessary to ensure both accountability and protection of children in conflict with law.

Keywords: Juvenile Justice; Heinous Offences, Criminal Liability, Preliminary Assessment, Juvenile Justice Board; Children's Court; Rehabilitation; Adolescent Psychology, Restorative Justice.

INTRODUCTION: THE CONFLICT BETWEEN REFORM AND PUNISHMENT

¹ The Juvenile Justice Care And Protection Act, 2000 (Act 56 of 2000).

The Indian juvenile law has long struggled to balance two competing concerns: reforming children in conflict with the law and ensuring accountability where serious offences are involved. The juvenile justice (care and protection of children) Act, 2015 (JJ Act, 2015) introduced a paradigm shift by permitting, for the first time, children aged 16-18 years to be tried as adults for "heinous offences"- a departure from the purely rehabilitative model of the juvenile justice act, 2000¹. This analysis examines the statutory architecture, judicial interpretation, definitional controversies, the Nirbhaya Rape case, the Pune Porsche case as a contemporary flashpoint, and the structural gaps that persists as of April, 2026.

EVOLUTION OF JUVENILE JUSTICE LAW IN INDIA

The Children's Act, 1960: Beginning of a Separate Juvenile Framework

India's journey in deciding the age of juveniles in conflict with law has not been very consistent. The Children Act, 1960 ('1960 Act') was the first central legislation after independence that aimed at create a system, separate from the regular criminal justice system under the Code of Criminal Procedure, 1973, for the treatment of juvenile delinquents. This law defined a "child" to be a boy who below the age of sixteen years and a girl who has not attained the age of eighteen years.²

However, there was a problem, each state was allowed to frame its own laws on the subject as the 1960 Act applied only to the Union Territories.³

² The Children's Act 1960, (Act 60 of 1960), s.20 (E).

³ Id. s.1 (2).

This resulted in similar cases of juvenile delinquency were treated differently across courts of each state, thereby leading confusion and a lack of uniformity in judicial practice.⁴

The juvenile justice act, 1986: towards uniformity

Because of these inconsistencies, the Supreme Court pointed out that there was a clear need for a parliamentary legislation on the subject of juvenile justice.⁵ A uniform central law would not only remove differences between states but also make the system more effective in practice. This eventually led to the enactment of the Juvenile Justice Act, 1986, which became the first comprehensive legislation, on the subject with almost nationwide application, except the state of Jammu and Kashmir. (Now to whole of the India) Interestingly, even after this reform the age criteria for juveniles remained the same as under the 1960 Act.

Impact of The UN Convention on The Rights of the Child And 2000 Act.

In 1992 India signed the United Nation Convention on the Rights Of The Child, 1989(CRC). Being a signatory, India sought to fulfill its international obligation by enacting the Juvenile Justice (care and protection of children act), 2000. Importantly, this led to the age of juvenile irrespective of gender, being fixed at eighteen years.⁶

The Nirbhaya Incident and the Shift Towards 2015 Act

The horrific gang rape and murder of a young physiotherapy intern in Delhi in December, 2012 widely known as the Nirbhaya case, brought the issue of juvenile justice back into sharp public focus. Accused were six men, one of whom was a seventeen year old juvenile, this triggered the debate on the age limit of juveniles. Under the existing law, the maximum punishment that could be awarded to juveniles was three years of detention in a remand home, irrespective of the gravity of the offence. This led to tremendous public anger and led to demand a

change in the juvenile justice laws, including lowering the age of juveniles, and imposing harsher punishment for juveniles committing grave offences like rape and murder.

In response, the government set up The Committee on Amendments to Criminal Laws, headed by Justice J.S.Verma, to examine the deficiencies in the existing criminal law regime governing sexual assault against women. The Committee clearly rejected the idea of reducing the age of juveniles to sixteen. Instead, it stressed that there was a pressing need to reform and restructure the existing juvenile justice and welfare system and called for stricter implementation of the 2000 Act. It also pointed out that repeat offences by juveniles had actually decreased, suggesting that harsher measures were not the solution.

Despite this, the government chose to respond to public sentiment and introduced the Juvenile Justice (Care and Protection of Children) Act, 2015. This law brought a major shift. It classified offences into petty, serious, and heinous categories. Most importantly, it allowed juveniles aged between sixteen and eighteen, accused of heinous crimes, to be tried as adults under the regular criminal justice system.

The 2015 Act legitimise the transfer of juveniles above the age of sixteen to adult courts, if the Juvenile Justice Board ('Board') concludes that the level of maturity of the juvenile indicates that he committed the heinous offence as an adult and not as a child. Such a system, which establishes a link between the gravity of the offence committed and the maturity of the child, risks shifting focus away from child's rehabilitation and towards the severity of the offence. The transfer mechanism envisaged by the 2015 Act is contrary to principles of constitutional law and international principles governing juvenile policy. However, a child committing a "heinous crime" would require more intensive scrutiny, and ought not be treated similarly to children committing less serious crimes.

Therefore, a balanced or middle-path approach is needed, where juveniles involved in heinous offences

⁴ Sheela Barse v. Union of India, (1986) 3 SCC 596 : AIR 1986 SC 1773.

⁵ Childline India, Child Protection and Juvenile Justice System,14.

⁶ The Juvenile Justice (Care and protection of children) Act,2000

are treated differently, but still remain within the juvenile justice system. Such an approach would preserve the reformatory and rehabilitative spirit of the Juvenile Justice (Care and Protection of Children) Act, 2000 while also addressing the weaknesses that existed in its implementation. International models and practices can also provide useful guidance for developing a more effective system in India.

At the same time, relying only on rehabilitation may not always be sufficient in cases involving serious crimes. For this reason, the principles of restorative justice should also become an important part of India's juvenile justice policy. A system that combines rehabilitation with restorative justice would not only focus on reforming the juvenile offender but would also recognise the harm caused to victims and society. Such a balanced framework could provide a more practical and humane way of dealing with juveniles above sixteen years of age who commit heinous offences.

STATUTORY FRAMEWORK UNDER THE JUVENILE JUSTICE ACT, 2015

Definition Of "Heinous Offences"- Section 2 (33)

Section 2(33) of the Juvenile Justice (Care and Protection of Children) Act, 2015 defines heinous offences" as offences for which the minimum punishment prescribed under the Indian Penal Code/ Bharatiya Nyaya Sanhita or any other law is imprisonment for a term of seven years or more.⁷

This definition serves as the threshold provision, as only those offences that fall within its ambit give rise to the possibility of conducting an adult trial in respect of children belonging to the 16–18 years age group.

Illustratively, such offences include murder punishable under Section 302 IPC / Section 103(1) BNS (prescribing a minimum punishment of imprisonment for life), rape under Section 376 IPC/Section 64 BNS, gang rape under Section 376D IPC / Section 70(1) BNS, and acid attacks under Section 326A IPC / Section 124(1) BNS.

⁷ The Juvenile Justice (Care and Protection of children) Act, 2015 (Act 2 of 2016) s. 2 (33).

Preliminary Assessment by the Juvenile Justice Board under Section 15

Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 provides the procedure through which the Juvenile Justice Board (JJB) decides whether a child between the ages of 16 and 18, who is alleged to have committed a heinous offence, should be subjected to trial as an adult. The provision requires the Board to conduct a preliminary assessment regarding:

1. The mental and physical capability of the child to commit the alleged offence;
2. The child's capacity to comprehend the consequences arising from the commission of the offence; and
3. The surrounding circumstances under which the offence was allegedly committed.

Such an assessment is evaluative in nature and does not amount to a formal trial. For the purpose of conducting the assessment, the Board may seek assistance from qualified psychologists or psycho-social experts. Furthermore, the assessment is required to be completed within the time frame prescribed under Section 14 of the Act.⁸

Inquiry Procedure Under Section 14

Under Section 14 of the JJ Act, 2015, the JJB follows differentiated procedures based on offence classification:

1. Petty offences: Summary procedure
2. Serious offences: Summons case procedure under CrPC
3. Heinous offences by children under 16: Treated as serious offences
4. Heinous offences by children aged 16–18: Preliminary assessment under Section 15, with potential transfer to the Children's Court.

Powers of Children Court Under Section 18

If, upon conducting a preliminary assessment, the Juvenile Justice Board concludes that the child possesses sufficient mental and physical maturity and ought to face trial as an adult, the matter is transferred to the Children's Court (a designated Sessions Court)

⁸ The Juvenile Justice (Care and Protection of children) Act,2015 (Act 2 of 2016) s. 14.

in accordance with Section 18. The Children's Court thereafter proceeds in line with the procedures prescribed under the Code of Criminal Procedure, while ensuring the observance of safeguards specifically applicable to children. In such proceedings, the punishment of death cannot be imposed and is instead substituted with imprisonment for life.

THE DEFINITIONAL CRISIS IN HEINOUS OFFENCES

Shilpa Mittal v. State of NCT of Delhi (2020)

A. The Core Problem

The Supreme Court's decision in *Shilpa Mittal v. State of NCT of Delhi* exposed a critical legislative gap in Section 2(33). The case involved a juvenile charged under Section 304 A IPC/ 104 of BNS (causing death by negligence), which prescribes a maximum punishment of 10 years but no minimum sentence.

B. The Supreme Court's Holding

The Court observed that, under Section 2(33), an offence can be classified as heinous only if the law prescribes a minimum sentence of seven years or above. It declined to accept the contention that the term "minimum" should be diluted or disregarded, reasoning that such an interpretation would result in almost every offence, apart from minor offences, being treated as heinous and would consequently undermine the legislative framework based on graded categorization of offences.

Creation of the Fourth Category of Offences

Recognizing the absurdity of leaving offences like Section 304 IPC/ 105 BNS (which can carry up to 10 years) in a classificatory void, the Supreme Court created a fourth category of "serious offences" for cases where the maximum punishment exceeds 7 years but no minimum sentence is prescribed. Under this classification:

1. Such offences cannot trigger the Section 15 preliminary assessment
2. The child cannot be tried as an adult
3. The JJB retains jurisdiction and applies the serious offence procedure.

Legislative Vacuum and Unresolved Ambiguities

The *Shilpa Mittal* ruling has profound practical consequences:

1. Offences such as Section 304 Part II IPC (culpable homicide not amounting to murder), Section 308 IPC (attempt to commit culpable homicide), and various offences under special enactments where only the maximum punishment is prescribed, do not fall within the ambit of "heinous offences" notwithstanding the seriousness of such crimes.
2. The Court explicitly noted that this was a matter requiring legislative amendment and that the judiciary was filling a gap pending parliamentary action.
3. As of April 2026, no legislative amendment has been enacted to address this gap.

Can children aged 16-18 be treated like adults?
Scientific and psychological realities.

Adolescent Brain Development and The Prefrontal Cortex

A. Neurobiology of the Adolescent Brain: The Prefrontal Cortex Deficit

The most significant biological consideration acknowledged in both scientific studies and Indian jurisprudence is the developmental immaturity of the adolescent prefrontal cortex (PFC). The prefrontal cortex governs essential executive functions such as impulse regulation, evaluation of risks, moral judgment, planning, and the capacity to anticipate the long-term consequences of one's actions.

Neuroscientific research demonstrates that the PFC generally does not attain full maturity until around the age of 25. Consequently, adolescents, especially those between 16 and 18 years of age, function with a decision-making system that remains structurally as well as functionally underdeveloped.

This developmental limitation gives rise to several consequences that are legally significant:

1. Increased Sensitivity to Rewards: The adolescent brain demonstrates comparatively greater activity in the limbic system, especially the nucleus accumbens, which is responsible for reward-oriented behaviour, while the prefrontal cortex (PFC) responsible for self-regulation and

decision-making remains insufficiently developed. This neurological disparity results in a condition where the mechanisms driving reward-seeking behaviour are highly active, whereas the systems responsible for impulse control are still immature.

2. Emotional Responses Prevailing Over Rational Judgment: Adolescents tend to process emotionally intense circumstances through the amygdala, the emotional processing centre of the brain, rather than through the more rational and analytical PFC. Consequently, reactions to provocation, peer influence, or highly stimulating situations are more likely to be spontaneous and emotion-driven instead of carefully reasoned or premeditated.
3. Greater Vulnerability to Peer Influence: The neurobiological structure of the adolescent brain makes young individuals particularly responsive to social acceptance and peer approval. Such approval activates the same neural reward pathways associated with substance-related gratification, thereby making participation in group-based offending behaviour neurologically foreseeable rather than indicative of mature criminal intention.

Genetic and Physiological Factors

Studies suggest that genetic influences contribute to nearly half of the variation observed in antisocial behaviour. However, this should not be interpreted to mean that criminal behaviour is directly inherited in a fixed or inevitable manner. Instead, inherited characteristics such as diminished physiological arousal, aggressive temperament, and lower serotonin activity may produce a biological tendency that, when combined with environmental influences, can increase the likelihood of antisocial conduct.

Key biological risk factors include:

1. Low Physiological Arousal: Juveniles who consistently exhibit low resting heart rates and diminished responsiveness of the autonomic nervous system often experience a greater need for external stimulation. This tendency may lead them toward sensation-seeking and high-risk activities, including involvement in criminal behaviour.

2. Early Puberty and Hormonal Changes: The occurrence of early puberty, especially when associated with increased testosterone levels, has been linked to heightened aggression and impulsive conduct. Where biological development advances faster than cognitive development, particularly due to delayed maturation of the prefrontal cortex (PFC), the likelihood of violent behaviour rises considerably.
3. Prenatal and Perinatal Factors: Exposure during fetal development to maternal substance abuse, inadequate nutrition, or harmful toxins such as lead may result in long-term impairment to brain regions responsible for impulse regulation and emotional control.

PSYCHOLOGICAL FACTORS IN JUVENILE CRIME

A. Impulsivity and Low Self-Control

Impulsivity the tendency to act without forethought is the single strongest psychological predictor of juvenile delinquency. It is both a product of neurobiological immaturity (PFC underdevelopment) and a distinct psychological trait that varies across individuals. Juveniles with clinically elevated impulsivity are significantly more likely to engage in violent and property offences.

B. Trauma and Adverse Childhood Experiences (ACEs)

Psychological trauma including physical abuse, sexual abuse, neglect, domestic violence exposure, and parental substance abuse is overwhelmingly present in the histories of juvenile offenders. Trauma fundamentally alters brain development:

1. Chronic stress exposure elevates cortisol levels, which damages the hippocampus (memory and learning) and further impairs PFC development.
2. Trauma-induced hypervigilance causes the amygdala to remain in a state of heightened activation, leading to disproportionate aggressive responses to perceived threats a phenomenon that explains many juvenile violent offences.

C. Mental Health Disorders

The prevalence of diagnosable mental health conditions among juvenile offenders far exceeds that of the general adolescent population:

1. Attention Deficit Hyperactivity Disorder (ADHD): ADHD is marked by symptoms such as hyperactivity, lack of attention, and impulsive behaviour. It is considered one of the most frequently observed disorders among juvenile offenders. In particular, impulsivity affects a child's capacity to anticipate or understand the consequences of their actions.
2. Conduct Disorder (CD): Conduct Disorder refers to a continuing pattern of behaviour in which an individual disregards social rules and violates the rights of others. This disorder is widely recognized as a major indicator of severe delinquent behaviour among juveniles.
3. Post-Traumatic Stress Disorder (PTSD): Juveniles suffering from PTSD may display symptoms including sudden outbursts of anger, emotional detachment, and difficulties in ethical judgment or moral reasoning.

D. Social and Environmental Amplifiers

While not strictly "psychological" in origin, the following social factors interact with biological and psychological vulnerabilities to amplify delinquency risk:

1. Family Dysfunction: Broken homes, parental criminality, domestic violence, and neglect are consistently identified as primary delinquency drivers.
2. Peer Pressure: Given the neurobiological susceptibility to peer influence described above, association with delinquent peers is one of the strongest environmental predictors.
3. Digital and Media Exposure: Exposure to violent content through social media and digital platforms has been identified as a contributing factor in the increasing complexity and violence of juvenile offences.

JUDICIAL RECOGNITION OF JUVENILE CULPABILITY IN INDIAN COURTS

The Statutory Framework: Section 15 of the JJ Act, 2015

The Juvenile Justice (Care and Protection of Children) Act, 2015 expressly integrates psychological as well as biological evaluation within its adjudicatory mechanism. According to Section 15, where a child aged between 16 and 18 years is alleged to have committed a heinous offence, the Juvenile Justice Board (JJB) is required to undertake a preliminary assessment with the support of qualified psychologists or psycho-social experts. This assessment is intended to examine the following aspects:

1. The mental and physical capability of the child to commit the alleged offence.
2. The child's level of understanding regarding the consequences arising from the offence.
3. The surrounding circumstances under which the alleged offence was committed.

Further, Section 14 of the JJ Act prescribes different procedures depending upon the gravity of the offence. In cases involving heinous offences allegedly committed by children above the age of 16 years, conducting a preliminary assessment under Section 15 is compulsory before any decision can be taken regarding their trial as an adult.

KEY JUDICIAL PRECEDENTS

Sheela Barse v. Secretary, Children's Aid Society (1987) 3 SCC 50

The Supreme Court identified psychological trauma and family dysfunction as primary drivers of juvenile delinquency, mandating state-led rehabilitation. This early recognition of psychological causation laid the groundwork for the reformative philosophy that underpins the entire JJ Act framework.

Pratap Singh v. State of Jharkhand (2005) 3 SCC 551

The Hon'ble Supreme Court established that biological immaturity necessitates non-adult trials, even for serious offences. This precedent affirms that the biological fact of adolescence including incomplete brain development is a legally relevant consideration that constrains the State's power to impose adult criminal liability.

Subramanian Swamy v. Raju (2014) 8 SCC 682

This Constitution Bench ruling is the foundational precedent linking neurobiological science to juvenile

justice law. The Supreme Court acknowledged neurobiological evidence regarding prefrontal underdevelopment in adolescents. The Court held that 16-18 years-old committing heinous crimes can be tried as adults only if they possess the requisite maturity, upholding the validity of differential treatment based on the gravity of the offence. This ratio directly informed the enactment of Section 15 of the JJ Act, 2015, which requires a scientific assessment of the juvenile's mental capacity before any transfer to adult court.

Application: This case establishes that neurobiological immaturity is not merely a mitigating factor but a constitutional consideration - the State cannot treat an adolescent with an immature PFC identically to an adult without first conducting a scientific assessment. Any preliminary assessment under Section 15 that fails to consider neurobiological evidence is legally deficient.

Shilpa Mittal v. State of NCT of Delhi (AIR 2020 SC 405)

In this landmark ruling, the Supreme Court addressed the classification of offences under Section 2(33) of the JJ Act, 2015. The Court established that for an offence to qualify as "heinous," the statute must prescribe a minimum sentence of 7 years or more - not merely a maximum sentence exceeding 7 years.

The Court introduced a critical classification to address a legislative gap: offences with no minimum sentence but a maximum exceeding 7 years must be treated as "serious offences" under Section 2(54) until Parliament amends the statute. This ensures that juveniles accused of crimes like Section 304 IPC (culpable homicide not amounting to murder) are tried within the juvenile justice system rather than being transferred to adult courts.

Application: This ruling has direct implications for the psychological/biological assessment framework - if an offence is reclassified from "heinous" to "serious," the preliminary assessment under Section 15 becomes inapplicable, and the juvenile must be dealt with entirely within the reformatory framework. The classification determines whether the juvenile's neurobiological maturity is even a relevant inquiry.

Barun Thakur v. The State of Jharkhand (W.P.(S) No. 787 of 2018)

The High Court of Jharkhand emphasized the mandatory nature of expert psychological evaluation in preliminary assessments. The Court held that the three-month period for preliminary assessment under Rule 10(5) of the Model Rules is a window during which the Board "ought to have waited" for the full psychological report.

Crucially, the Court held that if a psychologist's report suggests further examination by a specialized institute, the Board cannot reject such a recommendation without "cogent reason". The Court reinforced that further assessment is mandatory once a professional recommendation is made.

Application: This is a critical procedural safeguard. If a psychologist conducting a Section 15 assessment identifies indicators of ADHD, conduct disorder, trauma-related impairment, or neurobiological immaturity and recommends specialized evaluation (e.g., neuropsychological testing, brain imaging referral), the JJB is legally bound to follow that recommendation.

Rejection without cogent reasons vitiates the preliminary assessment.

Shamima Farooqui v. State of Maharashtra (2017) 13 SCC 749

The Supreme Court mandated the use of psychological reports and trauma assessments in sentencing, recognizing that psychological factors must inform not just the determination of guilt but also the nature and extent of the response. These decisions show an uneasy judicial attempt to balance reformatory justice with accountability.

Critical evaluation of the preliminary assessment mechanism

Does section 15 mistake serious crime for adult maturity?

The Juvenile Justice (Care and Protection of Children) Act, 2015 empowers the Juvenile Justice Board to conduct a preliminary evaluation regarding the maturity of a child above sixteen years of age who is alleged to have committed a heinous offence. While

undertaking such assessment, the Board must examine the child's mental and physical capability to commit the offence, the extent of his understanding of the consequences arising therefrom, and the surrounding circumstances under which the offence was allegedly committed⁹. Using these parameters, the Board is to accurately determine, within a period of three months¹⁰, whether the child committed the offence as a child or as an adult¹¹. The Board may obtain the assistance of experienced psychologists for such determination¹².

The framework envisaged under the 2015 Act implies that when a juvenile commits a heinous offence, it reflects a level of maturity comparable to that of an adult, thereby justifying the denial of the special protections ordinarily available to children under the juvenile justice system in India. However, this approach rests upon two flawed assumptions: firstly, that the seriousness of the offence committed by a child necessarily signifies the child's mental maturity; and secondly, that such maturity can be determined with precision and certainty.¹³ Moreover, the procedure contemplated under the 2015 Act runs contrary to the principle of presumption of innocence, which constitutes a fundamental tenet of a fair trial.

a. Problems In Assessing Maturity Scientifically

Under the 2015 Act, the Board's assessment links the gravity of the offence with the juvenile's level of maturity. However, studies in developmental psychology demonstrate that the seriousness of an offence is not a reliable indicator of a child's maturity, thereby suggesting that the Board's evaluation is based on an erroneous criterion. Findings in neuroscience

further establish that although a child above sixteen years of age may possess cognitive abilities comparable to those of an adult, such a child does not attain equivalent psychosocial maturity.¹⁴ The growth of cognitive capacities gradually enables children to engage in more complex, reflective, and hypothetical reasoning, thereby enhancing their ability to comprehend decisions and their consequences. As their mental faculties mature, children begin to distinguish between right and wrong more clearly. For instance, a six-year-old child may understand that killing is morally wrong, yet may still lack a complete understanding of what killing actually means or the reasons underlying its wrongfulness.¹⁵ However, mature judgment requires the application of both intellectual capacities and psychosocial competencies. Psychosocial abilities help a person regulate impulses by applying rational thinking to direct behaviour and by considering the possible long-term effects of their actions. Although juveniles above sixteen years of age may demonstrate the first ability, they generally lack the second. Studies have shown that while making decisions, children are often unable to anticipate consequences beyond the immediate or near future.¹⁶ and consequently focus more on immediate outcomes instead of considering future repercussions. Psychological studies further reveal that, compared to adults, children are more likely to make choices influenced by emotions such as fear or anger rather than by rational thinking and logical reasoning. The influence of emotions becomes even more pronounced when individuals are placed under stressful circumstances.¹⁷ Accordingly, because children's

⁹ The Juvenile Justice (Care and protection of children) Act, 2015, Sec. 15(1)

¹⁰ The Juvenile Justice (Care and protection of children) Act, 2015, Sec. 14 (3)

¹¹ Aditi Malhotra, Indian Cabinet Gives Nod to Changes in Juvenile Age for Serious Crimes, April 23, 2015, available at <http://blogs.wsj.com/indiarealtime/2015/04/23/indian-cabinet-gives-nod-to-change-in-juvenile-age-for-serious-crimes/>.

¹² The Juvenile Justice (Care and protection of children) Act, 2015, Sec. 15(1)

¹³ Shiladitya Rakshit, Missing the 'Justice' in the Juvenile Justice (Care and Protection of Children) Bill, 2014, 8(1) Law & Policy Brief 2 (2015).

¹⁴ Laurence Steinberg, Adolescent Development and Juvenile Justice, 16(3) The Annual Review of Clinical Psychology 55 (2008)

¹⁵ Human Rights Watch, The Difference between Youth and Adults, October, 2005, available at <https://www.hrw.org/reports/2005/us1005/6.htm> (Last visited on April 29, 2026).

¹⁶ Catherine C. Lewis, How Adolescents Approach Decisions: Changes over Grades Seven to Twelve and Policy Implications, 52 Child Development 538, 541-42 (1981).

¹⁷ Kim Taylor-Thompson, States of Mind/States of Development, 14 Stanford Law and Policy Review 155 (2003).

psychosocial maturity is still in the process of developing, they are generally unable to utilize their cognitive abilities in an effective manner and are more susceptible to emotional and social influences.

According to findings in neuroscience, the disparity in maturity between children and adults is linked to the developmental stage of the prefrontal cortex in children. The prefrontal cortex governs essential cognitive and behavioural functions, including decision-making, reasoning, planning, impulse regulation, judgment, and emotional control¹⁸. Accordingly, the prefrontal cortex serves as the central region responsible for reasoning and plays a crucial role in regulating an individual's inclination toward impulsive behaviour.¹⁹ During adolescence, the prefrontal cortex is still undergoing developmental changes²⁰. Scientific studies indicate that adolescents often rely on the amygdala while making decisions, primarily because the prefrontal cortex is not yet fully developed or functioning efficiently during that stage of growth²¹. The amygdala serves as the primary region responsible for impulsive and aggressive behavior.

Preliminary assessment and the Presumption of Innocence

In adults, the prefrontal cortex helps regulate emotions and impulses generated by the amygdala. However, during adolescence, the amygdala tends to exert greater influence than the prefrontal cortex, causing children to respond more on the basis of instinctive feelings or “gut reactions,” without adequately weighing them against logical and reasoned thinking²². As a direct result, adolescents even those as young as sixteen years old- tend to be more susceptible to peer pressure and influence compared to adults.²³ They are also less inclined to thoroughly assess the potential consequences of their actions beforehand and, as a result, may exaggerate the anticipated benefits without adequately considering the associated risks²⁴. Further, they lack the capacity to comprehend and evaluate the future implications arising from their present actions²⁵.

Scientific studies clearly demonstrate that “maturity,” particularly in terms of the ability to assess risks, is associated with brain development, which itself is dependent upon an individual's age. This suggests that children belonging to the same age group possess a comparable level of maturity, as the development of

¹⁸ Brittany Kintigh, Adolescent Development: Juveniles are Different than Adults, August, 2012, available at <http://docplayer.net/29573912-Adolescent-development-juveniles-are-different-than-adults.html> (Last visited on April 28, 2026).

¹⁹The New York Times, A Brain Too Young For Good Judgment, March 10, 2001, available at <http://www.nytimes.com/2001/03/10/opinion/a-brain-too-young-for-good-judgment.html> (Last visited on April 26, 2026).

²⁰ Laurence Steinberg, Should the Science of Adolescent Brain Development Inform Public Policy?, 28(3) *Issues in Science and Technology* (2012); See also Sara B. Johnson, Robert W. Blum & Jay N. Giedd, Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Adolescent Health Policy, 45(3) *J. Adolesc. Health* 216 (2009); Allan L. Reiss et al, Brain Development, Gender and IQ in Children: A Volumetric Imaging Study, 119 *Brain* 1786; Elizabeth R. Sowell et al, Mapping Continued Brain Growth and Gray Matter Density Reduction in Dorsal Frontal Cortex: Inverse Relationships During Post Adolescent Brain Maturation, 21 *Journal of Neuroscience* 8821 (2001).

²¹ Jan Glascher & Ralph Adolphs, Processing of the Arousal of Subliminal and Supraliminal Emotional Stimuli by the Human Amygdala, 23 *Journal of Neuroscience* 10274 (2003).

²² Gargi Talukder, Decision-Making is Still a Work in Progress for Teenagers, March 20, 2013, available at <http://brainconnection.brainhq.com/2013/03/20/decision-making-is-still-a-work-in-progress-for-teenagers/> (Last visited on April 25, 2026).

²³ Laurence Steinberg & Elizabeth Scott, Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty, 58(12) *American Psychologist* 1009 (2003); Margo Gardner & Laurence Steinberg, Peer Influence on Risk Taking, Risk Preference, and Risky Decision Making in Adolescence and Adulthood: An Experimental Study, 41(4) *Developmental Psychology* 625 (2005).

²⁴ D.S. Fareri, L.N. Martin & M.R. Delgado, Reward-Related Processing in the Human Brain: Developmental Considerations, 20 *Development and Psychopathology* 1191 (2008).

²⁵ Laurence Steinberg et al, Age Differences in Future Orientation and Delay Discounting, 80(1) *Child Development* 28 (2009).

the pre-frontal cortex is generally uniform at a specific age. Therefore, the involvement of a juvenile in a heinous offence cannot, by itself, be regarded as evidence of a higher or different degree of “maturity,” since such maturity remains age-dependent and substantially consistent. Instead, commission of such crimes by children is bound to occur in “circumstances of neglect, exploitation and abuse the child having been socialized in a way where his/her decision making goes awry, rather than in a context of premeditation and criminality”²⁶. Therefore, the preliminary assessment conducted by the Board under the 2015 Act is founded on an erroneous presumption that a juvenile accused of committing a heinous offence may possess the same level of maturity as an adult, while the underlying position remains unchanged.

It is further acknowledged that no scientifically precise method is available for assessing the maturity of an individual. Such an assessment, it is observed, goes beyond the reliable scope of scientific determination, as the outcomes are inherently susceptible to inaccuracies and arbitrariness²⁷. As conducting an individualized assessment of maturity to ascertain culpability in every case is scientifically impracticable, the law presumes that a person attains maturity after the age of eighteen years. Nevertheless, the 2015 Act authorizes the Board to undertake a separate and individualized evaluation of the maturity of adolescents falling within the age group of sixteen to eighteen years. Moreover, based upon such assessment, the Act further empowers the Board to refer the juvenile to the Children’s Court for being tried as an adult²⁸. Since the very basis of the transfer

process is defective, the mechanism of transfer is likely to result in a greater number of juveniles being incarcerated and tried as adults.

Moreover, the Board’s assessment of a juvenile’s mental and emotional maturity to commit the alleged offence constitutes the initial stage of the evaluation process, undertaken even before it is established whether the juvenile has actually committed the offence.

Constitutional concerns under Articles 14 and 21

Accordingly, the Board’s initial assessment is undertaken on the presupposition that the alleged offence has in fact been committed, thereby effectively amounting to a determination relating to punishment prior to any formal finding of guilt. Such an approach is inconsistent with the constitutional principle of presumption of innocence. Moreover, the subsequent trial of the juvenile also continues on this foundational assumption of culpability, which may adversely influence the impartiality of the adjudicating authority against the juvenile. Hence, the assessment conducted by the Board lacks procedural fairness, a requirement that forms an essential component of due process guaranteed under Article 21 of the Constitution.²⁹ The principle of presuming an accused person innocent until proven guilty is likewise enshrined in the CRC, and all public authorities are obligated to uphold this principle by avoiding any conduct that may influence or prejudice the result of the trial³⁰. It has been recognized as a fundamental principle under both the 2015 Act and the 2000 Act³¹. The 2015 Act, therefore, fails to fully satisfy this

²⁶ Centre for Child and the Law, National Law School of India University, Submission on Clauses 14, 17(3), and 19 of the Juvenile Justice (Care and Protection of Children) Bill, 2014, available at https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uac=t=8&ved=0ahUKEwjGxIDXgITQAhUBLY8KHZdlDGcQFggkMAE&url=https%3A%2F%2Fwww.nls.ac.in%2Fcccl%2Fjjdocuments%2FMWC DNLSIUNIMHANS.docx&usg=AFQjC NFdiRozNjspQXVSY9DRsUJgencWNg&sig2=L_xk6Y0AAGCs8WtMHetRcw (Last visited on March 30, 2026).

²⁷ Richard J. Bonnie & Elizabeth S. Scott, *The Teenage Brain: Adolescent Brain Research and the*

Law, 22(2) *Current Directions in Psychological Science* 161 (2013);

²⁸ *The Juvenile Justice (Care and protection of children) Act, 2015*, Sec.19

²⁹ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 : AIR 1978 SC 597

³⁰ *Committee on the Rights of the Child, Convention on the Rights of the Child, General Comment No. 10 Children’s Rights in Juvenile Justice*, 42, U.N. Doc. CRC/C/GC/10 (April 25, 2007).

³¹ *Juvenile Justice (Care and Protection of Children) Rules, 2007*, Rule 3(I).

essential requirement underlying juvenile justice law³².

CRITICAL EVALUATION OF TRIAL BEFORE THE CHILDREN'S COURT

Subjective discretion in transfer decisions

The Board, through its preliminary assessment, may conclude that the heinous offence was committed by the juvenile as an adult. On such determination, the juvenile is transferred to the jurisdiction of the Children's Court. The Children's Court is empowered under the 2015 Act to conclusively determine whether there is "need for trial" of the child as an adult³³. Notably, the parameters on the basis of which such discretion is to be exercised are absent. If the Children's Court concludes that trial as an adult is not required, it conducts an enquiry as a Board, and passes appropriate orders under Sec.18, including directing the juvenile to be sent home after suitable admonition, participation in group counseling or community service, and ordering vocational training and therapy. However, if the Children's Court opines that trial be conducted as an adult, the child would be prosecuted and punished as an adult, as per the provisions of the Criminal Procedure, Code, 1973³⁴, thus transferring the child out of the juvenile system.

After the Children's Court determines the suitable sentence, the juvenile is shifted to a place of safety, where he remains confined until attaining the age of twenty-one years³⁵. At this juncture, the Children's Court undertakes a second assessment to decide whether the offender should be released or shifted to an adult prison for serving the remaining part of the sentence. While conducting such an assessment, the Court examines whether the offender has shown signs

of reformation so as to become a "contributing member of society." However, the 2015 Act does not prescribe any specific standards or parameters for determining such capability, thereby leaving the matter to the discretion of the Children's Court. This process is inherently subjective and susceptible to arbitrariness, which may render it inconsistent with Article 14.

Moreover, such discretion may result in the unintended discrimination against children belonging to weaker socio-economic sections, who may not easily be regarded as contributing members of society.

Problems with trial of juveniles as adults

The Juvenile Justice Act of 2015 aims to achieve deterrence on the premise that trying certain juveniles as adults, along with removing them from the juvenile justice framework, would discourage other minors from engaging in criminal activities. This assumption was also reflected in the remarks made by the then Minister for Women and Child Development, Maneka Gandhi, in the Lower House. Nevertheless, a deeper analysis indicates that such an approach may not effectively deter juvenile offenders as anticipated. It is widely recognized that deterrence can operate successfully only when the concerned juvenile population possesses adequate knowledge and awareness of the relevant legal provisions³⁶. According to the records maintained by the National Crime Records Bureau, a total of 30,303 juveniles were apprehended in the year 2010, out of whom 6,339 were illiterate, while 11,086 had received education only up to the primary level. The significant proportion of juvenile offenders who were either uneducated or possessed only minimal education strengthens the contention that the newly proposed

³² The principle of presumption of innocence is also embodied in the United Nations Standard Minimum Rules for Administration of Juvenile Justice, G.A. Res. 40/33 (November 29, 1985), Rule 7 and United Nations Rules for the Protection of Juveniles Deprived of their Liberty, G.A. Res. 45/113 (December 14, 1999), Rule 17.

³³ The Juvenile Justice (Care and Protection of Children) Act, 2015, s.19(1).

³⁴ The Juvenile Justice (Care and Protection of Children) Act, 2015, s.19(1)(i); See also Amnesty International, Children must not be Treated as Adults

under new Juvenile Justice Law, July 31, 2014, available at <https://www.amnesty.org.in/show/news/children-must-not-be-treated-as-adults-under-new-juvenile-justice-law> (Last visited on April 21, 2026).

³⁵ The Juvenile Justice (Care and Protection of Children) Act, 2015, s.19(3).

³⁶ Richard E. Redding, Juvenile Transfer Laws: An Effective Deterrent to Delinquency, June, 2010, available at <https://www.ncjrs.gov/pdffiles1/ojdp/220595.pdf>.

framework may not effectively deter prospective offenders. Many such juveniles become involved in criminal activities mainly due to factors such as peer pressure and adverse socio-economic circumstances, and therefore are unlikely to be influenced by legal provisions of which they may have little or no awareness. Furthermore, the mechanism envisaged under the 2015 Act would, in practical terms, result in children being tried before adult courts by individuals who may not possess adequate training or expertise in handling matters involving children. It is also important to note at the outset that specialised Children's Courts³⁷ have either not been established or remain non-functional in most States and Union Territories across India³⁸. In situations where Children's Courts have not been established, the authority to adjudicate cases involving juvenile offenders above sixteen years of age is conferred upon the Sessions Courts, despite such courts ordinarily functioning as courts for adults³⁹. Trying a juvenile as an adult before a criminal court amounts to a violation of the juvenile's fundamental right to a fair trial⁴⁰.

International Law Concerns

International law, including the Convention on the Rights of the Child (CRC), recognizes and guarantees additional protections for juveniles who are facing trial, with a particular emphasis on ensuring that the child is able to fully understand the legal proceedings so as to effectively participate in the process. Furthermore, the Beijing Rules mandate that juvenile trials must be conducted in an environment that is child-friendly and free from any obstacles that may

restrict the child's ability to freely express his or her views. To achieve this objective, the Rules require the adoption of modified courtroom procedures and practices specifically designed for juveniles. Accordingly, juvenile justice systems are structured on a cooperative model, which is fundamentally different from the adversarial framework followed in adult criminal courts⁴¹. The functioning of adult courts is often insensitive to the specific needs of juveniles, and the complex legal framework of such courts is not appropriate for conducting trials involving children⁴². In fact, empirical data gathered from juveniles who were subjected to a similar adversarial justice system in the United States indicates that they perceive court proceedings as overly "formal and hurried," and that the roles of judges, prosecutors, and defence counsel remain unclear to most of them⁴³. The Report of the Parliamentary Standing Committee further observed that the procedures followed within the adult criminal justice system fail to cater to the distinct requirements of juveniles. Consequently, it considered the transfer of juveniles to adult courts as inconsistent with the right to life and personal liberty guaranteed under Article 21 of the Constitution. Therefore, even when juveniles are alleged to have committed heinous offences, they are not appropriately equipped to face trial within the adversarial environment of adult courts.

Taking this into consideration, the Juvenile Justice Act, 2000 does not envisage or assign any role to so-called 'Children's Courts'. In fact, the Juvenile Justice (Care and Protection of Children) Model Rules, 2007 explicitly incorporate several safeguards to ensure that

³⁷ In fact, Children's Courts were to be set up under Section 25 of the Commission for Protection of Child Rights Act, 2005. They are Sessions Courts, specifically designed to try offences against children, to ensure their speedy trial. Instead, under the 2015 Act, they have been vested with the jurisdiction to conduct the trial of children as adults.

³⁸ Center for Child and the Law et al, Report of the Judicial Colloquium on Children's Court, February 26, 2012, available at <http://www.nls.ac.in/ccl/justicetochildren/JudicialColloquiumReport.pdf>.

³⁹ The Juvenile Justice (Care and Protection of Children) Act, 2015, s.2 (20).

⁴⁰ Penal Reform International, When the Crime Overshadows the Child: International Standards and

National Practice in Reconciling Serious Crime and Childhood, 2014.

⁴¹ Laurence Steinberg & Elizabeth Cauffman, A Developmental Perspective on Serious Juvenile Crime: When Should Juveniles Be Treated as Adults?, 63 Fed. Probation 52 (1999).

⁴² Bree Langemo, Serious Consequences for Serious Juvenile Offenders: Do Juveniles Belong in Adult Court?, 30 Ohio N.U. L. Rev. 141 (2004); J. Thomas Grisso & Carolyn Pomicter, Interrogation of Juveniles: An Empirical Study of Procedures, Safeguards, and Rights Waiver, 1 Law and Human Behavior 4 (1977).

⁴³ Donna M. Bishop, Juvenile Offenders in the Adult Criminal Justice System, 27 Crime and Justice 81 (2000)

proceedings involving juveniles are not conducted in a setting akin to that of an adult criminal court. For example, the Rules mandate that the Juvenile Justice Board shall conduct its sittings either within an observation home or in close proximity to such homes, and it is clearly stipulated that under no circumstances shall the Board function from within regular court premise⁴⁴.

The Rules further provide that the venue of the sitting must not have the appearance of a courtroom, and it should not include features such as witness boxes or an elevated platform for the Board members⁴⁵.

Therefore, conducting adjudication in a court meant for adults, such as the Sessions Court, goes against the child-centric juvenile justice framework adopted in India.

Secondly, while the 2015 Act lays down specific eligibility criteria for Magistrates⁴⁶ and social workers⁴⁷ forming the Board thereby ensuring their competence and experience in handling matters relating to children no comparable qualifications have been prescribed for the judges of the Children's Court. As a result, the Children's Court, or even the Sessions Court, may lack adequate expertise in juvenile psychology and is therefore not fully equipped to make informed decisions concerning children. Furthermore, subjecting a juvenile, who has not yet been proven guilty, to the adult criminal justice system which is often characterized by procedural delays does not align with the principle of the "best interests" of the juvenile⁴⁸, as recognized under the CRC. Additionally, the 2015 Act does not prescribe any specific timelines for the disposal of juvenile cases before the Children's Courts, thereby diminishing the emphasis on expeditious adjudication. This is

inconsistent with the juvenile's right to have decisions taken without undue delay.

The transfer mechanism introduced under the 2015 Act is also inconsistent with the principle of non-discrimination enshrined in the CRC. The CRC requires State Parties to ensure equal treatment of all children in conflict with law, without any form of discrimination. Since the CRC does not permit differentiation among children based on the seriousness of the offence alleged, the practice of transferring children above sixteen years of age accused of heinous offences to adult courts is inherently discriminatory. The United Nations Child Rights Committee has also clearly affirmed that treating children as adults amounts to a breach of the CRC's non-discrimination guarantee. On this ground, the Committee has issued communications to more than fifty countries, directing that every person below eighteen years of age must be dealt with exclusively within the juvenile justice system⁴⁹. Similarly, transferring a juvenile to an adult forum such as the Sessions Court would also be contrary to the mandate of Article 14 of the Constitution, which ensures that equals are treated alike⁵⁰. Special provisions for juveniles are consistent with the mandate of Article 15(3), which authorizes the State to enact laws addressing the particular needs of children. Accordingly, the transfer mechanism provided under the 2015 Act is in conflict with both constitutional principles and international obligations.

RETHINKING THE ROLE OF JUVENILE JUSTICE BOARDS

The Board plays a significant role in the juvenile justice system in India and is entrusted with the

juveniles may be derived from Art. 3 of the Convention on Child Rights).

⁴⁹ Swagata Raha & Arlene Manoharan, Juvenile Justice Amendment: Adolescents are not Grown-ups, May 9, 2015, available at <http://blogs.economictimes.indiatimes.com/et-commentary/juvenile-justice-amendment-adolescents-are-not-grown-ups/> (Last visited on April 21, 2026).

⁵⁰ M. Nagaraj v. Union of India, (2006) 8 SCC 212; AIR 2007 SC 71; Joginder Nath v. Union of India, (1975) 3 SCC 459 : AIR 1975 SC 511.

⁴⁴ The Juvenile Justice (Care and Protection of Children) Rules, 2007, Rule 9(1).

⁴⁵ The Juvenile Justice (Care and Protection of Children) Rules, 2007, Rule 9(2).

⁴⁶ The Juvenile Justice (Care and Protection of Children) Act, 2015, s. 4(5).

⁴⁷ The Juvenile Justice (Care and Protection of Children) Act, 2015, s. 4(3).

⁴⁸ John W. Parry, Transfers to Adult Court and Other Related Criminal Incompetency Matters Involving Juveniles, 33 Mental and Physical Disability Law Reporter 2 (2009) (The principle of "best interests" of

responsibility of assessing the culpability of a juvenile offender. Under the 2015 Act, the Board is also empowered to conduct a preliminary inquiry to evaluate whether the juvenile possessed the required maturity to commit the alleged offence. Although the Board may seek assistance from experienced psychologists or psycho-social experts for this assessment, it has been previously argued that it is not feasible for the Board to reach an entirely objective determination regarding the offender's level of maturity.

➤ The Risk Principle as an Alternative Model

To eliminate subjective influences that may interfere with the functioning of the Board, an alternative approach is the adoption of the risk principle. This principle entails categorizing offenders into low, medium, and high-risk groups. The classification is based on structured risk assessment tools, such as the gravity of the offence committed by the juvenile and his prior criminal record, which are widely used for such evaluations.

Based on this classification, offenders falling in the higher risk category are provided with more intensive rehabilitation and treatment programmes. Importantly, the seriousness of the offence is not treated as an indicator of the juvenile's maturity; rather, it serves as a basis to assess the level of risk posed by the offender. The rehabilitation measures are then calibrated in proportion to the assessed risk level.

In cases where a juvenile accused of a heinous offence is brought before the Board, the first step is to determine whether the offence has indeed been committed. Such determination, unlike under the 2015 Act, is guided by the fundamental principle of presumption of innocence and is conducted through child-friendly adjudicatory procedures as envisaged under the 2000 Act and the applicable Rules.

Once the Board concludes that the offence has been committed, it should apply the risk principle to classify the offender into low, medium, or high-risk categories. Since the criteria used for assessment namely the seriousness of the offence and the juvenile's prior record are objective in nature, the process is free from arbitrariness.

Following such classification, the juvenile should be placed in appropriate safety institutions offering rehabilitation programmes suited to the assessed level

of risk. Accordingly, the incorporation of the risk principle in the Board's functioning effectively removes the subjectivity introduced by the 2015 Act. Furthermore, this approach is consistent with the mandate of the CRC, which requires that the treatment of offenders be proportionate to the nature of their offence.

Suggestions for strengthening the legal framework
Based on the intersection of neurobiological science and existing legal provisions

➤ Mandatory Neuropsychological Testing:

Section 15 assessments should mandatorily include standardized neuropsychological testing, not merely a psychologist's interview. The Barun Thakur precedent supports this - if a psychologist recommends specialized assessment, the Board must comply.

➤ "Rarest of Rare" Standard for Juvenile Transfer:
Drawing from the Bachan Singh v. State of Punjab framework in death penalty jurisprudence, transfer to adult court should be reserved for cases where the neurobiological and psychological evidence affirmatively demonstrates adult-level capacity not merely the absence of obvious impairment.

➤ Hybrid reformative – restorative Justice Model:
A sentencing framework that begins with reformative measures but allows for escalation to adult incarceration only if the juvenile demonstrably fails to respond to rehabilitation recognizing that neuroplasticity means most adolescent brains will respond to intervention.

➤ Statutory Recognition of Specific mental health Conditions:
ADHD, conduct disorder, and PTSD should be explicitly recognized in the Model Rules as factors that must be assessed and documented during preliminary assessment, with specific protocols for each.

➤ Specialized Training for JJB Members:
Board members must receive mandatory training in adolescent neurobiology to ensure they can meaningfully evaluate expert reports rather than treating them as formalities.

CONCLUSION

Balanced Model of Accountability and Rehabilitation

The policy framework introduced under the 2015 Act, as it presently operates, runs contrary to the settled principles of juvenile justice law. However, as has been widely argued, the appropriate response is not to revert to the 2000 Act and simply improve its enforcement. The ongoing discussions arising from the release of the juvenile involved in the Nirbhaya gang rape case demonstrate that the 2000 Act too is inadequate in ensuring meaningful rehabilitation of juvenile offenders, as it permits a maximum detention period of only three years. Consequently, a mere restoration of the 2000 Act model would likely prove insufficient not only for rehabilitating juveniles but also for addressing legitimate concerns relating to public safety. Moreover, the 2000 Act largely overlooks the interests of victims of such offences, thereby remaining predominantly offender-oriented. A rehabilitative framework that incorporates indeterminate sentencing along with restorative justice principles would better strike a balance between the welfare of juvenile offenders and the imperative of public safety. Additionally, by embracing a restorative approach, it would also advance the objective of deterrence that the 2015 Act intends to achieve.

The neurobiological evidence is unequivocal: the adolescent brain, particularly in the 16-18 age group that constitutes 79% of apprehended juveniles, operates with a structurally incomplete decision-making apparatus. The prefrontal cortex the seat of impulse control, consequence evaluation, and moral reasoning does not reach full maturity until approximately age 25. This biological reality, compounded by psychological factors such as trauma, ADHD, and conduct disorder, and amplified by social factors including family dysfunction and peer pressure, creates a fundamentally different culpability calculus for juvenile offenders.

Indian law, through the JJ Act, 2015 and the jurisprudence of *Subramanian Swamy v. Raju*, *Shilpa Mittal v. State of NCT of Delhi*, and *Barun Thakur v. State of Jharkhand*, has created a framework that is broadly consistent with this science. The challenge lies

in ensuring that preliminary assessments under Section 15 are conducted with genuine scientific rigour incorporating neuropsychological testing, trauma assessment, and mental health evaluation rather than as perfunctory procedural exercises. The mandatory nature of expert recommendations, as affirmed in *Barun Thakur*, provides the legal foundation for insisting on this rigour.

The protection framework under the POCSO Act, 2012 [5] [6] further reinforces that when an offence is committed by a child, they must be dealt with under the JJ Act, 2015 - ensuring that the neurobiological and psychological considerations outlined above are always part of the adjudicatory process.

Therefore, while continuing to prioritize rehabilitation, the principles of restorative justice should be incorporated as an essential second component, so as to establish a more holistic and comprehensive juvenile justice framework in India.

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