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TRIAL OF CHILDREN AGED 16–18 FOR HEINOUS OFFENCES: A CRITICAL ANALYSIS OF SECTION 15 OF THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015

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ABSTRACT

The Juvenile Justice (Care and Protection of Children) Act, 2015 marks a significant step forward in how India handles cases involving children who break the law. A key topic of discussion regarding this Act is how it treats young people aged sixteen to eighteen who are accused of serious crimes. Section 15 requires the Juvenile Justice Board to conduct an initial evaluation to assess the child's mental and physical ability to commit the crime, their understanding of what it means, and the situation surrounding the alleged act. This section allows for the chance that such a child could end up being tried as an adult in the Children's Court.

This paper takes a close look at Section 15 of the Juvenile Justice Act, 2015. It explores its goals, processes, constitutional effects, how well it fits with the idea of reforming juvenile justice, and the difficulties linked to initial assessments. The paper also reviews key court decisions related to juvenile justice and evaluates if treating some children as adults creates a fair balance among children's rights, rehabilitation, accountability, and community interests. It argues that when children commit serious crimes, there needs to be a strong legal response. However, this response must align with the ideas of rehabilitation, fairness, respect for dignity, and putting the child's best interests first. Ultimately, how effective Section 15 is will depend on well-trained Juvenile Justice Boards, psychological knowledge, child-friendly procedures, and meaningful rehabilitation efforts.

1. INTRODUCTION

Children are one of the most at-risk groups in society and need special legal protection due to their age, growing personalities, and limited maturity. The juvenile justice system recognizes that children who get into trouble with the law should not be treated the same way as adult

criminals. The goal of juvenile justice is not just to punish but also to offer care, protection, rehabilitation, education, and chances for kids to reintegrate into society.

In India, this idea is shown in the Juvenile Justice (Care and Protection of Children) Act, 2015. This law addresses both children in conflict with the law and those who need care and protection. Its main aim is to ensure proper care, protection, development, treatment, and social reintegration using a child-friendly approach that serves the best interests of children.

A major change brought by the 2015 Act was how it treats children aged sixteen to eighteen who are accused of serious crimes. Section 15 requires the Juvenile Justice Board to carry out a preliminary assessment of the child's mental and physical ability to commit the crime, their understanding of its consequences, and the situation in which the crime took place. The Board can seek help from qualified psychologists, social workers, or other experts.

This rule sparked debate because it allows for a child to potentially be tried as an adult. This brings up an important question: Should a child aged sixteen to eighteen who commits a serious crime go through the regular juvenile justice system, or does the nature of the crime warrant adult criminal proceedings?

This research paper looks into this issue and carefully examines whether Section 15 finds a fair balance between holding children accountable and focusing on reform in juvenile justice.

2. HISTORICAL BACKGROUND AND LEGAL FRAMEWORK

2.1 Development of Juvenile Justice in India -

The evolution of juvenile justice in India shows a slow shift from punishing young offenders to focusing on their welfare and rehabilitation. Before India gained independence, various regions had their own laws for dealing with young offenders, based on the belief that children needed special care instead of regular criminal penalties.

After independence, the Indian Constitution laid a stronger foundation for child welfare. Article 15(3) allows the government to create special provisions for children, while Articles 39(e) and 39(f) mandate protection against exploitation and ensure chances for healthy growth. Additionally, Article 21 has been interpreted by courts to help safeguard children's dignity and development.

The Juvenile Justice Act of 1986 was introduced to create a consistent system for juvenile

justice across the country. This act was later replaced by the Juvenile Justice (Care and Protection of Children) Act of 2000, which aligned with international standards regarding children's rights.

In 2015, the law was further updated to improve the system and created a separate approach for youth aged sixteen to eighteen who are accused of serious crimes.

2.2 Constitutional Framework -

The Constitution lays a crucial groundwork for the juvenile justice system in India.

Article 14 ensures that everyone is equal under the law, but this does not mean that everyone should be treated the same in every situation. Children can be treated differently due to their age and developmental needs.

Article 15(3) allows the State to create special rules for children, giving constitutional backing to laws focused on their needs.

Article 21 safeguards life and personal freedom, and it has been understood to include respect, fair processes, and kind treatment.

Articles 39(e) and 39(f) instruct the State to protect children from harm and guarantee that they have chances and resources to grow up healthily.

Therefore, the Constitution supports a justice system that acknowledges the unique position of children.

2.3 Juvenile Justice (Care and Protection of Children) Act, 2015 -

The Juvenile Justice Act of 2015 defines a child as anyone who is under eighteen years old. A child in conflict with the law is someone who is accused or found guilty of a crime and was still under eighteen at the time the crime happened.

This law creates Juvenile Justice Boards to handle cases involving children in conflict with the law. It also sets up Children's Courts for cases that are moved according to the rules outlined in the Act.

The Act is based on several important ideas, including the assumption of innocence, respect for dignity, involvement in decision-making, prioritizing what is best for the child, family responsibility, safety, taking positive actions, and using institutional care only when absolutely necessary.

2.4 Types of Offences -

The Act divides offences into three categories: petty, serious, and heinous offences.

A heinous offence is usually defined as one that carries a minimum punishment of seven years or more in prison.

This classification is especially significant for children aged sixteen to eighteen because Section 15 specifically applies when a child in this age group is accused of committing a heinous offence.

3. SECTION 15 AND THE PRELIMINARY ASSESSMENT

3.1 Understanding Preliminary Assessment -

Section 15 outlines that a preliminary assessment takes place when a child over the age of sixteen is accused of committing a serious crime. This assessment focuses on four main areas:

1. The child's mental ability to commit the alleged crime.
2. The child's physical ability to commit the alleged crime.
3. The child's understanding of the consequences of the alleged crime.
4. The situation in which the alleged crime occurred.

The Board can seek help from skilled psychologists, social workers, or other professionals. The Act clearly states that this preliminary assessment is not a trial.

This point is crucial because the Board does not decide if the child is guilty at this stage; its role is to determine whether the case needs to be handled under special rules meant for children in this age group.

3.2 Procedure before the Juvenile Justice Board -

When a child appears before the Juvenile Justice Board, the Board carries out an inquiry based on the law. This inquiry aims to be friendly for children and quick.

According to Section 14, the initial assessment for serious crimes should usually be finished within three months from when the child first appears before the Board.

This process is designed to avoid unnecessary delays while making sure that the child's situation is taken into account properly.

3.3 Role of Psychologists and Experts -

A key aspect of Section 15 is the chance to get help from psychologists, social workers, and other specialists.

This is crucial because figuring out if a sixteen- or seventeen-year-old can grasp the consequences of an alleged crime isn't just a legal matter. Factors like their psychological growth, family background, influence from friends, education, social surroundings, and

emotional maturity can all play a role.

However, this presents a challenge in putting it into practice since the quality of the evaluation relies on having skilled professionals available.

3.4 Preliminary Assessment is Not a Trial -

Section 15 clearly states that a preliminary assessment is not the same as a trial. Its goal is to evaluate someone's ability and understanding, not to decide if they are guilty.

This protection is crucial because a preliminary assessment should not turn into a hidden criminal trial. The Board must keep a clear difference between assessment and judgment.

4. TRIAL AS AN ADULT UNDER THE JUVENILE JUSTICE ACT

4.1 Role of the Juvenile Justice Board -

Once the Board finishes the initial assessment, it may determine that the case should stay in the juvenile justice system. In this case, the Board follows Section 18 and can issue reformatory orders.

The Act provides options like counseling, community service, probation, vocational training, education, and placement in a special home based on the specific details of the case.

4.2 Transfer the Case to the Children's Court -

If the Board decides after a first look that the child should be tried as an adult, they can send the case to the Children's Court. However, this transfer does not mean that the child will be treated exactly like an adult criminal. According to Section 19, the Children's Court must pay attention to the child's special needs and create a friendly environment while still making sure that the trial is fair.

The Children's Court will ultimately decide if it is necessary for the child to be tried as an adult or if the case should follow different rules set by the Board.

4.3 Place of safety and Rehabilitation -

Even if a child is treated as an adult, the law includes protections for their placement and rehabilitation.

Section 19 states that a child who breaks the law must stay in a safe place until they turn twenty-one, following the rules set by the law. The Act also considers providing reformatory services like education, skill training, counseling, behavior therapy, and mental health support.

This shows that the law still believes in helping young people change their ways, even in

serious situations.

5. JUDICIAL APPROACH TOWARDS JUVENILE JUSTICE

5.1 Dr. Subramanian Swamy v. Raju –

On December 16, 2012, a young woman was violently gang-raped and attacked in Delhi. One of the suspects was a minor who was under 18 years old when the crime occurred. His case went to the Juvenile Justice Board according to the Juvenile Justice Act of 2000, while the adult suspects faced trial in a regular criminal court. This situation sparked a major public outcry, with many demanding that the young offender be tried as an adult due to the seriousness of the crime.

Dr. Subramanian Swamy and others questioned whether the Juvenile Justice Act applied in this case and argued that the juvenile should be prosecuted under regular criminal law.

● Issues Before the Court -

The Supreme Court examined several key questions:

1. Is the Juvenile Justice Act of 2000 constitutionally valid?
2. Should everyone under 18 be considered a juvenile regardless of their crime?
3. Should juveniles aged 16 to 18 who commit serious crimes be treated as adults?
4. Does classifying all juveniles under 18 violate Article 14 of the Constitution?

●Petitioner's Arguments -

The petitioners claimed that child between 16 and 18 are mature enough to understand their actions' consequences. They argued that for serious crimes like rape or murder, these individuals should not be protected by juvenile laws. They also believed that treating these offenders differently from adults goes against equality and denies justice to victims.

●Respondent's Arguments –

The Union Government defended the Juvenile Justice Act by stating it fulfills India's obligations toward children both constitutionally and internationally. The government pointed out that children think and feel differently than adults and have more potential for change. They noted that international agreements define anyone under 18 as a child.

●Supreme Court's Judgment -

The Supreme Court rejected the challenge and confirmed that the Juvenile Justice Act, 2000 is constitutionally sound. The Court decided that anyone under 18 must be considered a juvenile no matter what crime they committed. It declined to make a special category for minors aged 16–18 accused of serious offenses.

The Court also stated that Parliament set the age limit of 18 after reviewing expert studies,

international guidelines, and principles aimed at child welfare. Thus, this limit cannot be seen as arbitrary or unconstitutional.

●Key Observations by the Court -

1. Focus on Rehabilitation: The Court highlighted that the purpose of the Juvenile Justice Act is to reform and help children rather than punish them.
2. Validity of Age Limit: The Court found setting age 18 as where juvenility begins reasonable and aligned with global standards such as those from the United Nations Convention on the Rights of the Child.
3. Offense Severity Irrelevant: The Court ruled that if someone is under 18, they should receive all benefits from juvenile justice laws regardless of how severe their crime is.
4. Public Opinion Can't Change Law: The Court stressed that legal principles shouldn't shift just because there's public anger about a specific case; laws should align with constitutional values and scientific knowledge about child development.

●Significance of this Case –

This ruling reinforced the idea behind juvenile justice focusing on rehabilitation and upheld the legitimacy of the Juvenile Justice Act, 2000. It emphasized child rights by affirming that all individuals below 18 are entitled to special protection and rehabilitation opportunities. Additionally, it clarified that how serious an offense is does not affect someone's status as a juvenile.

However, following this judgment, public discussions led Parliament to pass the Juvenile Justice (Care and Protection of Children) Act in 2015, which introduced preliminary assessments allowing certain juveniles aged between 16–18 to be tried as adults for serious crimes.

5.2 Salil Bali v. Union of India –

The gang rape incident in Delhi in December 2012 stunned the whole country. One of the suspects was under 18, so he was treated as a juvenile according to the Juvenile Justice Act of 2000. Many people felt that because the crime was so brutal, this young offender should face adult charges and punishment.

In this situation, Salil Bali and other petitioners went to the Supreme Court to question the legal validity of certain parts of the Juvenile Justice Act, 2000. They claimed that setting the age limit at 18 years was too lenient and argued that juveniles aged between 16 and 18 should not receive special treatment when they commit serious crimes.

●Issues Before the Supreme Court -

The Supreme Court looked into several key issues:

1. Was the Juvenile Justice Act, 2000 unconstitutional?
2. Was it arbitrary to set the age of juvenility at 18 years?
3. Should juveniles aged between 16 and 18 who are accused of serious crimes be tried as adults?
4. Did any parts of the Act violate Articles 14 and 21 of India's Constitution?
5. Should Parliament lower the age of juvenility from 18 to 16?

● Arguments of the Petitioners -

The petitioners argued that children between 16 and 18 years old are mature enough to understand their actions' consequences. They believed today's youth are more informed than ever before. Therefore, treating them with juvenile laws for severe crimes like murder or rape was unfair to victims and society.

They also pointed out that treating adult offenders differently from juvenile offenders for similar crimes violated equality principles.

● Arguments of the Government -

The Union Government defended the Juvenile Justice Act by stating that it was created to meet India's responsibilities under international agreements, especially the United Nations Convention on the Rights of the Child. The Government argued that children are still developing mentally and emotionally, needing special protection and opportunities for reform. It also mentioned that lowering the age for juveniles would go against international standards regarding child welfare.

● Judgment of the Supreme Court -

The Supreme Court rejected the petitions and confirmed that the Juvenile Justice Act, 2000 is constitutionally valid. The Court noted that Parliament intentionally set the age for juvenility at 18 after considering international obligations, expert opinions, and child development principles.

The judges stated it is not up to them to change this age just because public emotions are high due to a specific event.

● Important Observations of the Court –

1. Juvenile Justice is Welfare Legislation: The Court said that this Act aims to protect children and help them rehabilitate; thus, its rules should favor children's well-being.
2. Children Have Greater Capacity for Reform: The judges emphasized that since children are still growing mentally and emotionally, they have a better chance for reform compared to adults even if they commit serious crimes.

3. **Public Outrage Cannot Determine Law:** The Court highlighted that laws should not change based on public anger over one case; they must be based on constitutional principles and long-term social goals.
4. **International Obligations Must Be Respected:** The Court reminded everyone about India's commitments under UNCRC, which defines anyone under 18 as a child and promotes rehabilitation instead of punishment.
5. **Juvenile Crime Statistics:** The judges pointed out that juveniles only make up a small part of serious crimes overall; therefore, single incidents shouldn't lead to changing how we view juvenile justice entirely.

5.3 Shilpa Mittal v. State (NCT of Delhi) -

In the case of Shilpa Mittal v. State (NCT of Delhi), the Supreme Court looked at how offences are classified under the Juvenile Justice Act and what it means to define heinous offences by law.

This ruling is significant because it made it clear that legal classifications of offences need to be applied carefully and that an offence cannot just be labeled as heinous unless it meets the legal criteria.

The decision highlights how crucial it is to interpret laws accurately, especially when it involves children who could face serious outcomes from being classified in a certain way.

5.4 Pratap Singh v. State of Jharkhand -

In the case of Pratap Singh v. State of Jharkhand, the Supreme Court looked into issues related to deciding if someone is a juvenile and how juvenile justice laws apply. This judgment is significant for grasping the idea that the age of the accused when the crime was committed is key to figuring out whether juvenile justice laws are relevant.

6. CRITICAL ISSUES AND CHALLENGES

6.1 Conflict Between Rehabilitation and Punishment –

The main concern about Section 15 is that it brings a punishment-focused approach into a system that usually focuses on helping kids change for the better.

The juvenile justice system believes that young people can change more easily than adults. So, letting them be tried as adults might seem to go against this idea of helping them reform.

However, society also has a valid reason to deal with very serious crimes effectively. Section 15 tries to balance these different needs by looking at each case individually instead of

automatically trying all youths as adults.

6.2 Difficulty in Assessing Mental Maturity –

One of the biggest challenges is figuring out how mature a child is mentally and emotionally. You can't just look at age to decide maturity. Two kids who are the same age can show very different levels of mental growth. Factors like family situations, schooling, past experiences, friends, and their social surroundings can greatly influence how they act.

So, it's important that initial evaluations don't turn into a simple checklist based only on how serious the behavior is.

6.3 Lack of Trained Professionals –

The success of Section 15 relies heavily on having enough qualified psychologists and experts in psycho-social fields.

In various areas of India, Juvenile Justice Boards might struggle with a lack of trained professionals, proper facilities, and specialized assessment resources. When there is not enough expertise, the evaluations could turn out to be subjective and uneven.

6.4 Possibility of Subjective Decision-Making –

The words in Section 15, like "mental capacity" and "ability to understand the consequences," need to be understood carefully.

Different Boards might come to different decisions based on similar facts. This raises worries about how consistent and uniform the outcomes are.

So, it is important to have clear assessment rules and professional guidelines in place.

6.5 Social Pressure in Serious Offences –

Serious crime cases often draw a lot of public interest and media focus. This strong public demand for harsh punishments can affect how juvenile cases are viewed.

It's important that the juvenile justice system stays separate from outside pressure. Even when facing serious charges, a child still has the right to a fair evaluation that considers their age and needs.

6.6 Risk of Stigmatization –

Handling a child like an adult criminal can lead to lasting effects on their education, job prospects, family ties, and ability to fit back into society.

Even if a child has done something very serious, the justice system should think about how labeling them with a permanent criminal record could make it harder for them to turn their life around.

7. HUMAN RIGHTS PERSPECTIVE

Juvenile justice is strongly linked to human rights because children receive special protection under international law.

The United Nations Convention on the Rights of the Child (UNCRC) highlights the need for unique treatment for kids accused of breaking the law, focusing on their dignity, rehabilitation, and reintegration into society.

The Beijing Rules offer global guidance on how to handle juvenile justice, promoting fair treatment, specialized procedures, and taking into account each child's situation.

The Riyadh Guidelines aim to prevent youth crime and stress the importance of family support, education, and social development.

The Havana Rules deal with the care of young people who are in custody and highlight the need for humane treatment and rehabilitation.

Therefore, India's juvenile justice system should align with these international standards.

8. REFORMATIVE THEORY AND SECTION 15

The reformatory theory of punishment focuses on the belief that people who commit crimes can be changed and brought back into society. This idea is especially important in juvenile justice since children are still growing and developing emotionally, psychologically, and socially.

At first glance, Section 15 might seem to stray from this reformatory approach because it allows for the possibility of trying young offenders as adults. However, the Act still includes many protective measures aimed at reform.

The Children's Court must take into account the unique needs of each child, create a supportive environment, and offer rehabilitation. The Act also offers education, skill training, counseling, and other services designed to help with reform.

So, Section 15 shouldn't be seen as creating a strict punishment system. Instead, it should be viewed as a special process that happens after careful evaluation of each case.

9. COMPARATIVE PERSPECTIVE

9.1 United Kingdom –

The United Kingdom has created special methods for handling young offenders. Even though children can go through legal processes for serious crimes, the system still acknowledges their age and growth stages.

The focus on youth courts and tailored sentences shows that it is possible to balance responsibility with helping them change for the better.

9.2 United States –

The United States has a history of allowing young people who commit serious crimes to be moved to adult criminal courts in specific situations. However, how this is done can differ from state to state.

The experience in America shows that sending children to adult courts can lead to significant outcomes, so it's important to think carefully about their development.

9.3 Australia –

Australia uses a mix of welfare-focused and justice-focused methods based on the specific area. Special juvenile courts and rehabilitation programs are very important in this process.

India can improve by looking at these systems and enhancing specialized assessment, rehabilitation, and support after release.

10. POLICY RECOMMENDATIONS

10.1 Strengthening Juvenile Justice Boards –

Juvenile Justice Boards need to have enough resources and well-trained members. Members must get regular training on topics like child psychology, developmental science, child rights, and approaches that consider trauma.

10.2 Standardized Assessment Guidelines –

There need to be clear and scientifically based rules for doing preliminary assessments under Section 15. This would help lessen personal opinions in decision-making and make things more consistent.

10.3 Greater Role of Child Psychologists –

Psychologists and mental health experts need to be accessible to Juvenile Justice Boards, especially for serious crimes. Their job shouldn't just be about writing reports. They should help in understanding the child's growth and mental health situation.

10.4 Protection from Media Pressure –

It is important to keep children's identities and privacy safe. When information is made public or reported in an exaggerated way, it can harm their chances of recovering and go against the friendly nature of youth court cases.

10.5 Focus on Rehabilitation –

Even when adult trials are needed, rehabilitation should still play a key role in the process. We should offer education, job training, counseling, behavior therapy, and help with reuniting families.

11. FINDINGS OF THE STUDY

The study shows that Section 15 is an important effort to deal with serious crimes committed by young people aged sixteen to eighteen while still keeping some parts of the juvenile justice system.

This law acknowledges that not all children at the same age are equally mature. By requiring evaluations of mental ability, physical ability, understanding of consequences, and the situation surrounding the crime, the law aims to personalize the process.

However, how well this law works largely depends on how it is put into action. Issues like a shortage of trained professionals, uneven assessment methods, poor facilities, and social pressures can hinder its goals.

The study also concludes that facing an adult trial should not be an automatic result of

committing a serious crime. The legal framework requires careful evaluation and consideration by judges.

Lastly, rehabilitation should still be a key focus even in more serious cases. The rules about child-friendly court processes, safe places for youth, and programs aimed at reform show that the Act wants to balance accountability with rehabilitation.

12. CONCLUSION

The Juvenile Justice (Care and Protection of Children) Act, 2015 represents India's attempt to balance two competing concerns: the need to protect children and rehabilitate them, and the need to ensure accountability for extremely serious offences.

Section 15 is one of the most debated parts of the Act because it allows for the chance of trying kids aged sixteen to eighteen as adults if they are accused of serious crimes. However, this rule does not mean that every child will automatically face an adult trial. It needs an initial evaluation of the child's mental and physical abilities, their understanding of what could happen, and the details surrounding the alleged crime.

The provision therefore has the potential to create an individualised justice system. Nevertheless, its success depends on how responsibly it is implemented. A preliminary assessment conducted without adequate psychological expertise or under public pressure may undermine the child's rights.

The objective of juvenile justice should not be reduced to punishment. Children are capable of rehabilitation and transformation. Even children accused of serious offences should be given meaningful opportunities for education, counselling, skill development and social reintegration.

The appropriate approach is therefore not to choose completely between punishment and rehabilitation, but to develop a system of accountability with rehabilitation. Section 15 can serve this purpose only when Juvenile Justice Boards and Children's Courts apply it cautiously, consistently and in accordance with constitutional values, child rights and the best interests of the child.

The ultimate success of India's juvenile justice system will depend not merely upon the severity of punishment but upon its ability to prevent reoffending, rehabilitate children and enable them to return to society as responsible citizens.

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