
JUVENILE JUSTICE ON TRIAL: FORENSIC PSYCHOLOGY AND THE PURSUIT OF REHABILITATION IN INDIA

Mary Diana, Assistant Professor of Law, Bharata Mata School of Legal Studies, Aluva

Jinu S. Krishnan, Assistant Professor of Law, Bharata Mata School of Legal Studies, Aluva

ABSTRACT

This study critically examines the underexplored interface between forensic psychology and the Juvenile Justice (Care and Protection of Children) Act, 2015 in India.¹ With the rising complexity of juvenile delinquency, psychological assessments—ranging from mental health evaluations to risk assessments—are becoming increasingly significant in determining a juvenile’s mental maturity, criminal intent, and rehabilitation prospects.² However, there remains a noticeable legal vacuum regarding the formal admissibility, procedural safeguards, and evidentiary standards of such forensic psychological tools within juvenile justice adjudication. This research interrogates how Indian juvenile courts apply or ignore forensic psychological findings, scrutinizes the statutory objectives of rehabilitation as mandated under the Juvenile Justice Act, and questions whether current practices uphold constitutional protections under Articles 14, 20(3), and 21 of the Indian Constitution.³ Through an analysis of legislative texts, judicial decisions, and comparative insights from international child rights frameworks, the study reveals the pressing need for statutory reforms. It argues that properly regulated integration of forensic psychology can enhance both fair trial rights and child-centric rehabilitation, ensuring the juvenile justice system remains faithful to its welfare-oriented objectives.

¹ Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2 of 2016, India Code

² Pareek, P., & Kaur, S. (2017). *Forensic psychology and its application in juvenile justice*. Indian Journal of Criminology, 45(1), 52-60.

³ The Constitution of India, Articles 14, 20(3), and 21, ensuring equality, protection against self-incrimination, and right to life and dignity.

Introduction

The Juvenile Justice (Care and Protection of Children) Act, 2015 was enacted with the objective of ensuring that children in conflict with law are treated through a framework that prioritises reformation over retribution.⁴ The legislation incorporates child rights principles drawn from the United Nations Convention on the Rights of the Child (UNCRC), to which India is a signatory.⁵ The Act, through its rehabilitative framework, departs from the classical criminal justice model and embraces child-specific jurisprudence. However, the introduction of Section 15, which empowers Juvenile Justice Boards to conduct preliminary assessments in cases of heinous offences committed by children between the ages of sixteen and eighteen, has led to substantial legal discourse. The purpose of this preliminary assessment is to determine the mental and physical capacity of the child to commit the offence and to assess the child's ability to understand the consequences of the act.

The process of preliminary assessment brings forensic psychology to the forefront, especially regarding the evaluation of cognitive maturity, criminal responsibility, and the scope for reformation.⁶ Despite this, the Indian juvenile justice mechanism lacks clear legislative or judicial guidance on the nature, methodology, and evidentiary standards applicable to forensic psychological assessments. While the Act mandates a child-friendly and reformatory approach, the judicial system has been inconsistent in incorporating psychological findings due to the absence of standardised procedures or forensic protocols.⁷

Studies reveal a significant inconsistency in how Juvenile Justice Boards apply psychological evaluations during preliminary assessments. Courts often rely on non-specialist observations rather than validated psychological tools, resulting in a highly subjective determination of the child's mental status. Moreover, there exists an absence of legal clarity regarding the admissibility of psychological evidence under the Indian Evidence Act, 1872, particularly in light of constitutional guarantees such as the right to equality, protection against self-incrimination, and the right to life and dignity under Articles 14, 20(3), and 21 of the

⁴ Supra note 1.

⁵ United Nations Convention on the Rights of the Child, 1989, ratified by India on 11 December 1992.

⁶ Asha Bajpai, *Child Rights in India: Law, Policy, and Practice* (3rd edn, Oxford University Press 2017) 353-355.

⁷ Anjana Dhanda, 'Legal Dimensions of Forensic Psychology: Indian Context' (2016) 9(4) NUJS Law Review 481, 483-485.

Constitution.

The evolution of forensic psychology in other jurisdictions demonstrates its critical role in child-specific adjudication, employing techniques such as structured risk assessments, psychometric analysis, and behavioural profiling.⁸ In contrast, the Indian legal system has yet to systematically incorporate such tools into juvenile adjudication, resulting in gaps that potentially undermine both the legal rights of juveniles and the scientific validity of judicial outcomes.

This research undertakes a critical analysis of the role of forensic psychology within the Indian juvenile justice system, focusing on the interpretative application of Section 15 of the Juvenile Justice Act, 2015. It investigates whether the current legal structure facilitates a just and rehabilitative approach to children in conflict with law and whether forensic psychological assessments are applied in a constitutionally compliant and scientifically reliable manner. The study also examines comparative legal frameworks, international standards, and judicial approaches with the objective of recommending concrete reforms that would enable a more coherent integration of forensic psychological practices in Indian juvenile justice proceedings, thereby reinforcing the principles of fairness, child welfare, and rehabilitation.

The Legal Mandate of Rehabilitation under the Juvenile Justice Act, 2015

The Juvenile Justice (Care and Protection of Children) Act, 2015 legally mandates a rehabilitative approach in dealing with juveniles in conflict with law. The Preamble of the Act explicitly declares its objective of ensuring proper care, protection, development, and rehabilitation of children, thereby aligning Indian domestic law with the global child rights framework established under the United Nations Convention on the Rights of the Child (UNCRC), 1989.⁹ The Act adopts the presumption that children are inherently reformable and deserving of reintegration into society. Section 3 of the 2015 Act incorporates general principles of child welfare, including the principle of best interest, the presumption of innocence, and the principle of rehabilitation and reintegration. The Supreme Court in *Jitendra Roy v. State of West Bengal*¹⁰ held that the juvenile justice system must prioritise correction and

⁸ Emily Buss, 'Developmental Jurisprudence' (2009) 88(4) *North Carolina Law Review* 1045, discussing psychological assessments in juvenile adjudication.

⁹ Juvenile Justice (Care and Protection of Children) Act, 2015, Preamble; United Nations Convention on the Rights of the Child, 1989, ratified by India on 11 December 1992.

¹⁰ *Jitendra Roy v. State of West Bengal*, (2006) 9 SCC 174.

social integration rather than punishment, firmly establishing the Act's reformatory character. This position was reaffirmed in *Hari Ram v. State of Rajasthan* where the Court emphasised that penal law must yield to the rehabilitative intent of juvenile justice legislation.¹¹

However, this rehabilitative ideal faces legal tension with the introduction of Section 15 of the 2015 Act, which provides for preliminary assessment of juveniles aged sixteen to eighteen years in cases involving heinous offences. The provision permits the Juvenile Justice Board to conduct an inquiry into the mental and physical capacity of the juvenile to commit the offence, and if satisfied, transfer the juvenile to the Children's Court for trial as an adult.¹² In *Shilpa Mittal v. State (NCT of Delhi)*, the Supreme Court upheld the constitutional validity of Section 15 but confined its application to cases where the minimum punishment prescribed is seven years or more.¹³ The Court, while recognising the rehabilitative mandate of the Act, refrained from striking down the transfer mechanism, resulting in an unresolved conflict between the objectives of child reform and penal accountability. A similar discourse is reflected in *Pawan v. State of Uttar Pradesh* where the Court noted that juveniles are subject to a special jurisprudence aimed at reformation, though in practice the application of preliminary assessment remains inconsistent.¹⁴ The practical dilution of the rehabilitative principle is thereby evident in judicial application.

The constitutional mandate of rehabilitation finds further support in Article 21 of the Constitution of India, as interpreted in *Bandhua Mukti Morcha v. Union of India*,¹⁵ where the Supreme Court expanded the right to life to include the right to live with dignity. This principle has been read into juvenile justice jurisprudence by the Court in *Pratap Singh v. State of Jharkhand*,¹⁶ where it was observed that juvenile justice laws are not designed to punish but to reform and reintegrate juveniles into society. In addition, India's ratification of the UNCRC and adherence to the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (Beijing Rules), reinforce the obligation to treat juveniles in a manner conducive to their rehabilitation. Nevertheless, empirical studies and government reports have pointed out the inadequate implementation of rehabilitative mechanisms, especially in the

¹¹ *Hari Ram v. State of Rajasthan*, (2009) 13 SCC 211.

¹² *Supra* note 1 at s 15.

¹³ *Shilpa Mittal v. State (NCT of Delhi)*, (2020) 2 SCC 787.

¹⁴ *Pawan v. State of Uttar Pradesh*, (2020) 13 SCC 603.

¹⁵ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.

¹⁶ *Pratap Singh v. State of Jharkhand*, (2005) 3 SCC 551

functioning of Child Care Institutions (CCIs).¹⁷ The Parliamentary Standing Committee in its 111th Report (2021) highlighted significant lapses in the operationalisation of rehabilitation frameworks under the 2015 Act, underscoring the need for institutional reforms to uphold the statute's child-centric objectives.¹⁸ The Indian judiciary has articulated a consistent commitment to rehabilitation, but the legislative design, particularly in relation to heinous offences, and administrative deficiencies continue to undermine the full realisation of this legal mandate.

Preliminary Assessment under Section 15: A Legal Critique

Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 introduced a significant departure from the purely reformatory model of juvenile justice by permitting a preliminary assessment of juveniles aged sixteen to eighteen years charged with heinous offences. The provision authorises the Juvenile Justice Board (JJB) to assess the mental and physical capacity of the child to commit the offence, along with the capacity to understand the consequences, and decide whether the child should be tried as an adult under the Children's Court.¹⁹ This statutory shift was enacted in response to public sentiment following the 2012 Delhi gang-rape incident, which triggered demands for treating older juveniles involved in serious crimes under the general criminal law. However, this provision raises significant constitutional and procedural concerns regarding arbitrariness, the absence of clear forensic standards, and the potential erosion of the child's right to reformation under Indian and international law.

The Supreme Court in *Shilpa Mittal v. State (NCT of Delhi)*²⁰ upheld the validity of Section 15 but read it narrowly, clarifying that only offences carrying a minimum sentence of seven years would qualify as heinous offences under the provision. The Court refrained from striking down the provision but acknowledged the rehabilitative aim of the Act. Despite this judicial interpretation, serious concerns persist about the absence of statutory safeguards governing the process of preliminary assessment. The Act does not mandate the use of standardised psychological or psychiatric tools for evaluating the juvenile's mental capacity, nor does it

¹⁷ Devika Agarwal, 'Preliminary Assessment under the Juvenile Justice Act, 2015: A Legal and Psychological Critique' (2022) 8(1) NLUJ Law Review 1, 19-20.

¹⁸ Parliamentary Standing Committee on Human Resource Development, 111th Report on Review of Functioning of Juvenile Justice Act, 2015, Rajya Sabha Secretariat (March 2021).

¹⁹ Supra note 12

²⁰ Supra note 13

prescribe the necessary qualifications or expertise required of the experts assisting the JJB. In the absence of a scientific and legally sound methodology, preliminary assessments often rely on subjective observations, risking misclassification and violation of the child's right to a fair trial under Article 21 of the Constitution. The Delhi High Court, in *Court on its Own Motion v. State*,²¹ highlighted the procedural inconsistencies in conducting preliminary assessments, including the lack of trained experts and the superficial nature of inquiries conducted by JJBs.

The preliminary assessment mechanism under Section 15 also raises questions regarding its compatibility with India's obligations under the United Nations Convention on the Rights of the Child, 1989 and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (Beijing Rules). The UNCRC requires that the deprivation of liberty for children must be a measure of last resort and for the shortest appropriate period,²² while the Beijing Rules emphasise the primacy of rehabilitation in juvenile justice proceedings. The transfer of juveniles to the adult system through a subjective and potentially flawed preliminary assessment process risks breaching these international commitments. Moreover, Indian jurisprudence in cases such as *Pratap Singh v. State of Jharkhand*²³ and *Subramanian Swamy v. Raju*²⁴ consistently recognised the primacy of the child's right to reformation and protection from stigmatic punitive proceedings. The absence of appellate safeguards, absence of defined forensic standards, and wide discretionary powers vested in the JJB under Section 15 undermine these rights, making the provision susceptible to constitutional challenge on grounds of arbitrariness and violation of fundamental rights under Articles 14 and 21. Therefore, while Section 15 remains constitutionally upheld, its operationalisation continues to contradict the rehabilitative foundations of juvenile jurisprudence in India.

Forensic Psychological Evidence: Admissibility and Legal Standards

Forensic psychological evidence occupies a complex position within Indian legal adjudication, particularly in the context of juvenile justice proceedings. The Indian Evidence Act, 1872 does not expressly define the scope of psychological evidence, yet Section 45 recognises expert opinion in matters involving science and mental condition as relevant.²⁵ Forensic psychological assessments, especially in juvenile cases, are intended to evaluate mental maturity, cognitive

²¹ *Court on its Own Motion V. State*, 2017 SCC OnLine Del 11625

²² *Supra* note 5 at Art. 37(b).

²³ *Supra* note 16.

²⁴ *Subramanian Swamy v. Raju*, (2014) 8 SCC 390.

²⁵ Indian Evidence Act, 1872, s 45.

capacity, and rehabilitative potential. However, the Indian legal system remains underdeveloped in prescribing uniform admissibility standards for such evidence. In *State of Himachal Pradesh v. Jai Lal*,²⁶ the Supreme Court underscored that expert opinion must be based on reliable scientific principles and should assist the court in forming an independent conclusion. Despite this, Juvenile Justice Boards often rely on non-standardised psychological reports, creating significant inconsistencies in evidentiary application, particularly during preliminary assessments under Section 15 of the Juvenile Justice Act, 2015.

The constitutional interface of forensic psychological evidence is governed by fundamental rights under Articles 20(3) and 21. Article 20(3) safeguards the right against self-incrimination, and the jurisprudence in *Selvi v. State of Karnataka*²⁷ held that compulsory narco-analysis and polygraph tests violate this right. Although the judgment primarily addressed criminal proceedings, its principles extend to juvenile justice, cautioning against coercive or involuntary psychological evaluations. Furthermore, Article 21 guarantees the right to dignity and fair trial, and any reliance on unscientific or prejudicial psychological reports without procedural safeguards risks violating this fundamental protection. The Delhi High Court, in *Court on its Own Motion v. State*,²⁸ stressed the importance of conducting psychological assessments through trained professionals using standardised protocols to prevent arbitrariness in juvenile adjudication. However, there exists no legislative clarity on procedural safeguards, minimum qualifications for forensic psychologists, or admissibility thresholds specific to juvenile proceedings under the Juvenile Justice Act, 2015.

Comparative legal frameworks in jurisdictions such as the United Kingdom and the United States provide more developed statutory guidance on the use of forensic psychological evidence, mandating structured assessments, admissibility hearings, and qualifications of experts.²⁹ Indian law, despite recognising expert testimony under the Evidence Act, lacks a specialised statutory framework to regulate forensic psychological evidence in juvenile justice cases. This lacuna affects both the evidentiary value of psychological assessments and their influence on judicial decisions concerning transfer of juveniles or determination of rehabilitative suitability. As seen in *Shilpa Mittal v. State (NCT of Delhi)*,³⁰ the absence of

²⁶ *State of Himachal Pradesh v. Jai Lal*, (1999) 7 SCC 280.

²⁷ *Selvi v. State of Karnataka*, (2010) 7 SCC 263.

²⁸ *Supra* note 21.

²⁹ Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (UK); *Daubert v. Merrell Dow Pharmaceuticals*, 509 US 579 (1993).

³⁰ *Supra* note 13

standardised forensic practices contributed to judicial uncertainties regarding juvenile mental assessment. The failure to codify admissibility standards for forensic psychological evidence thus undermines procedural fairness and opens the door to constitutional infirmities under Articles 14 and 21, necessitating urgent legislative attention and judicial clarification.

Gaps in Procedural Safeguards in Juvenile Justice Boards

The Juvenile Justice (Care and Protection of Children) Act, 2015 vests the Juvenile Justice Boards (JJBs) with exclusive jurisdiction to adjudicate offences involving children in conflict with law, intending to create a child-centric legal environment.³¹ However, a review of Indian judicial practices and empirical findings indicates that the procedural safeguards enshrined under the statute are routinely compromised in their actual implementation. The Supreme Court has consistently upheld the principle of procedural fairness as integral to Article 21 of the Constitution,³² yet the structural and operational deficiencies within JJBs result in inconsistent adherence to fair trial rights. A 2021 audit by the National Commission for Protection of Child Rights (NCPCR) exposed that in over 40% of JJBs surveyed, crucial personnel like child psychologists and social workers were either absent or inadequately trained,³³ directly undermining the protective safeguards envisaged by the legislation.

One of the most critical lacunae is the non-standardised and superficial application of preliminary assessment under Section 15, especially in heinous offence cases. Although the provision mandates the assistance of experts,³⁴ field assessments by organisations such as HAQ: Centre for Child Rights reveal that in several states, JJBs either bypass psychological evaluations altogether or rely on perfunctory assessments conducted by under-qualified counsellors, with no adherence to forensic psychological protocols.³⁵ The Delhi High Court, in *Court on its Own Motion v. State*, observed that the absence of clear scientific methodology leads to mechanical certification of juveniles' mental capacity, infringing on their right to non-arbitrary adjudication.³⁶ The lack of structured guidelines regarding the weightage given to expert reports vis-à-vis judicial discretion further compounds the problem, as the findings of

³¹Supra note 1 at s 8.

³² *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

³³ National Commission for Protection of Child Rights (NCPCR), *Audit of Functioning of Juvenile Justice Boards*, 2021, pp. 15–17.

³⁴ Supra note 12

³⁵ HAQ: Centre for Child Rights, “Status of Implementation of Juvenile Justice Act in India,” 2020 Report, pp. 22–25.

³⁶ Supra note 21

social investigations or psychological assessments are often ignored by JJBs without proper reasoning, in contravention of principles of natural justice.

Another stark gap lies in the provision of legal aid and regular sittings of JJBs, particularly in non-metropolitan regions. Although Section 8(3) of the Act provides for the presence of at least one social worker, empirical data from states like Uttar Pradesh, Madhya Pradesh, and Bihar shows high vacancies in such positions,³⁷ resulting in JJBs functioning more akin to adult criminal courts rather than child-friendly forums. The Supreme Court in *Kishore Samrite v. State of Uttar Pradesh*³⁸ reaffirmed that access to justice is a constitutional right, especially applicable to marginalised populations, yet the absence of effective representation is rampant. The NCPCR further reported that in numerous districts, JJBs did not conduct mandated fortnightly sittings, leading to prolonged detention of children in Child Care Institutions without timely legal adjudication.³⁹ The Parliamentary Standing Committee, in its 111th Report (2021), expressly criticised the gross underutilisation of rehabilitation options such as counselling, community service, and vocational training, finding that JJB orders frequently default to institutionalisation without exploring non-custodial alternatives.⁴⁰

Thus, while the Juvenile Justice Act, 2015 lays down a theoretically robust rehabilitative framework, the failure to operationalise procedural safeguards such as qualified forensic assessments, timely hearings, effective legal representation, and regular Board sittings seriously undermines its constitutional validity under Articles 14 and 21. The existing legal practice reflects a widening gap between statutory promise and practical implementation, demanding urgent judicial monitoring, legislative reforms, and administrative accountability to uphold the true spirit of juvenile justice in India.

Forensic Psychology and the Right Against Arbitrary Transfer

Forensic psychology, as a multidisciplinary science bridging law and psychology, plays a crucial evidentiary role in modern criminal justice systems, especially in determining criminal responsibility, competency, risk assessment, and rehabilitation potential.⁴¹ In juvenile justice,

³⁷ Supra note 33 at p. 12.

³⁸ *Kishore Samrite v. State of Uttar Pradesh*, (2013) 2 SCC 398.

³⁹ Supra note 33 at p. 18.

⁴⁰ Parliamentary Standing Committee on Human Resource Development, 111th Report on Juvenile Justice Act, Rajya Sabha Secretariat, 2021, p. 28.

⁴¹ Curt R. Bartol & Anne M. Bartol, *Introduction to Forensic Psychology: Research and Application* (SAGE Publications, 6th edn, 2022), p. 3–7

its significance multiplies due to the complex interplay between adolescent brain development, impulsivity, psychosocial immaturity, and the evolving capacity for reformation. The Juvenile Justice (Care and Protection of Children) Act, 2015 recognises these considerations through Section 15, which mandates a preliminary assessment of mental and physical capacity before transferring juveniles aged sixteen to eighteen years, accused of heinous offences, to adult criminal courts.⁴² However, the Indian legal framework continues to lack institutionalised forensic psychological protocols, posing a risk of arbitrary transfer and contravention of constitutional protections under Articles 14 and 21.

International neurodevelopmental research, particularly post-2015, has increasingly highlighted the adolescent brain's underdeveloped prefrontal cortex, which governs impulse control, risk assessment, and moral reasoning.⁴³ Modern forensic psychology incorporates these neurobiological insights while conducting assessments of juveniles, using tools like the SAVRY (Structured Assessment of Violence Risk in Youth) and the MACI (Millon Adolescent Clinical Inventory), focusing on risk, protective factors, and treatment responsiveness.⁴⁴ In contrast, India's JJBs generally rely on outdated or subjective assessments, often conducted by inadequately trained personnel, without the application of scientifically validated psychological tools. A 2023 report by HAQ: Centre for Child Rights found that in more than 60% of JJBs, no standardised psychological assessment tools were used during Section 15 proceedings,⁴⁵ raising serious procedural and constitutional concerns.

Judicial scrutiny has acknowledged these deficiencies but systemic reforms remain absent. In *Court on its Own Motion v. State*,⁴⁶ the Delhi High Court underlined the superficiality of psychological evaluations in transfer proceedings. Though the Supreme Court in *Shilpa Mittal v. State (NCT of Delhi)*⁴⁷ limited the scope of heinous offences, it did not resolve the underlying absence of forensic rigour. Furthermore, the absence of appellate mechanisms against the JJB's preliminary assessment orders undermines procedural fairness. Comparatively, countries like the United States impose stricter due process in transfer hearings. *The Kent v. United States*⁴⁸

⁴² Supra note 12

⁴³ Laurence Steinberg, "Adolescent Brain Development and Juvenile Justice" (2017) Annual Review of Law and Social Science 13: 59–76

⁴⁴ Borum, R., Bartel, P., & Forth, A. (2006). Structured Assessment of Violence Risk in Youth (SAVRY): User's Manual. Psychological Assessment Resources, Inc.; Millon, T. (2008). Millon Adolescent Clinical Inventory (MACI) Manual. NCS Pearson.

⁴⁵ Supra 35 at p. 18–21.

⁴⁶ Supra note 21.

⁴⁷ Supra note 13.

⁴⁸ *Kent v. United States*, 383 US 541 (1966).

standard mandates a full investigation, reasons for decision-making, and enforceable rights to legal representation, supported by comprehensive psychological evaluations adhering to forensic standards—protections glaringly missing in Indian practice.

From a constitutional perspective, the failure to ensure standardised forensic assessments directly impairs the juvenile's right to equal protection under Article 14 and the right to a fair procedure under Article 21. In *Maneka Gandhi v. Union of India*,⁴⁹ the Supreme Court held that the procedure established by law must be “just, fair, and reasonable,” a principle equally applicable to juvenile transfer hearings. Moreover, India's international obligations under the United Nations Convention on the Rights of the Child (UNCRC), particularly Articles 37 and 40,⁵⁰ require prioritisation of rehabilitation over punishment, a goal defeated by arbitrary and scientifically unsound transfer practices.

Emerging Indian academic discourse increasingly advocates for formal recognition of forensic psychology within the juvenile justice legal framework, establishment of minimum qualification standards for forensic experts, and adoption of evidence-based tools. The current legislative silence creates a dangerous gap, exposing children to irreversible punitive consequences without scientifically grounded judicial safeguards. Establishing statutory forensic psychology protocols and appellate oversight is not just a legal necessity but a constitutional imperative to prevent arbitrary transfer decisions and uphold the rehabilitative mandate of juvenile justice in India.

International Human Rights Obligations and India's Compliance

India, as a State Party to key international human rights instruments, bears explicit legal obligations to safeguard the rights of children in conflict with law, with a specific emphasis on ensuring fair, rehabilitative, and non-discriminatory treatment. The principal legal framework arises from the United Nations Convention on the Rights of the Child, 1989 (UNCRC), ratified by India on 11 December 1992.⁵¹ The Convention mandates that children must be treated in a manner consistent with their age, promoting their sense of dignity, worth, and facilitating reintegration into society (Article 40).⁵² Additionally, Article 37(b) of the UNCRC expressly restricts deprivation of liberty for children to a measure of last resort and for the shortest

⁴⁹ Supra note 32

⁵⁰ Supra note 5 at Arts. 37 & 40.

⁵¹ United Nations Treaty Collection, Convention on the Rights of the Child, Status of Ratification: India (1992).

⁵² Supra note 5 Art. 40

appropriate period.⁵³ These obligations place a legal duty on India to ensure that punitive or adult criminal procedures, such as transfer to adult courts under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015, remain an exception, founded on objective, scientific, and fair assessments.

In connection with forensic psychological assessment, General Comment No. 10 (2007) of the Committee on the Rights of the Child elaborates that States must ensure a comprehensive assessment of the child's psychological maturity before subjecting them to any adult criminal procedures, which must be conducted by adequately trained multidisciplinary teams. The Beijing Rules, formally known as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (1985), reinforce this principle by mandating that institutionalisation should be avoided wherever possible, with emphasis placed on individualised treatment and careful assessment of each child's circumstances (Rule 5.1 and 17.1). The Havana Guidelines (1990) further stipulate that juveniles deprived of liberty must be treated in a manner that respects their human rights and dignity, focusing on educational and rehabilitative objectives.⁵⁴

Despite these binding and persuasive international obligations, the Indian juvenile justice system exhibits significant inconsistencies in practical compliance. While the Juvenile Justice Act, 2015 formally integrates principles of child-friendly adjudication and rehabilitation,⁵⁵ in practice, multiple reports including the 2021 Parliamentary Standing Committee Report have highlighted systemic flaws—ranging from untrained Juvenile Justice Board (JJB) members, absence of forensic psychological expertise, to inconsistent application of rehabilitation schemes. The transfer mechanism under Section 15, without statutorily mandated psychological assessment protocols, risks violating India's obligations under Articles 37 and 40 of the UNCRC. Indian courts, including in *Shilpa Mittal v. State (NCT of Delhi)*,⁵⁶ have acknowledged the narrow application of “heinous offences,” yet left the scientific standards of psychological evaluations unaddressed, thereby exposing juveniles to subjective and potentially arbitrary transfer proceedings.

⁵³ Ibid at Art. 37(b).

⁵⁴ United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Guidelines), 1990, Rules 3 and 12.

⁵⁵ Supra note 1 at s 3

⁵⁶ Supra note 13.

From a constitutional standpoint, these international obligations find direct resonance under Article 21 of the Constitution of India, which guarantees fair, just, and humane treatment of all individuals, including juveniles.⁵⁷ Consequently, India's failure to provide structured, scientific, and adequately trained forensic psychological assessment mechanisms in juvenile justice proceedings, particularly during preliminary assessments under Section 15, constitutes a breach of both international obligations and constitutional guarantees.

In conclusion, although India has taken commendable legislative steps to incorporate global juvenile justice principles, the absence of concrete procedural safeguards, particularly concerning forensic psychological assessments and the unchecked use of transfer proceedings, places the country in partial non-compliance with its international human rights commitments. This gap calls for urgent legislative reform, judicial oversight, and administrative restructuring to ensure that children in conflict with law are treated in conformity with both international standards and constitutional mandates.

Reform Proposals

In light of documented inconsistencies in the application of forensic psychological assessments and the risk of arbitrary transfer under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015, urgent legislative and institutional reforms are warranted to uphold the constitutional mandates of fairness, equality, and dignity under Articles 14 and 21 and to ensure compliance with India's international human rights obligations.

Firstly, it is imperative to introduce a statutory framework for forensic psychological assessments. A separate schedule under the Juvenile Justice Act or through amendments to the Juvenile Justice (Model Rules), 2016, should prescribe mandatory use of standardised forensic psychological tools—such as cognitive maturity scales, risk assessment protocols, and trauma evaluation instruments—for all preliminary assessments.⁵⁸ The statute must mandate that only registered clinical or forensic psychologists with certified qualifications are authorised to conduct these assessments, thereby eliminating reliance on untrained or ad hoc personnel.

Secondly, the establishment of dedicated forensic psychological units attached to every

⁵⁷ Supra note 32

⁵⁸ Proposed amendment to Juvenile Justice (Model Rules), 2016, incorporating mandatory psychological assessment protocols.

Juvenile Justice Board (JJB) is essential. These units should be tasked with conducting assessments in accordance with forensic protocols, ensuring consistency and eliminating subjective judicial discretion. The procedure should be overseen by State Child Protection Units, with annual audits by the National Commission for Protection of Child Rights (NCPCR).

Thirdly, legislative amendments must guarantee the right to appellate review against any order transferring a juvenile to the Children's Court under Section 15.⁵⁹ An expedited appellate procedure before the Children's Court or Sessions Court would act as a safeguard against erroneous or arbitrary transfer decisions.

Fourthly, it is necessary to legally prohibit the transfer of children with identifiable psychological vulnerabilities—such as developmental disabilities, history of trauma, or mental illness—irrespective of the nature of the offence. This aligns with the UNCRC's mandate to avoid criminalisation of children with diminished capacities and promotes rehabilitation as a statutory priority.

Finally, to ensure effective implementation, a nationwide training and accreditation programme on forensic psychology should be instituted under the supervision of the National Institute of Mental Health and Neurosciences (NIMHANS), in partnership with judicial academies and law schools. Regular training for JJB members, probation officers, and child welfare officials is necessary to create system-wide awareness of the rights of juveniles and the proper use of psychological evidence.

These reforms would help in closing the legal gaps, aligning Indian juvenile justice mechanisms with both constitutional principles and binding international child rights standards.

Conclusion

The Juvenile Justice (Care and Protection of Children) Act, 2015, while progressive in its legislative intent, suffers from substantive procedural gaps in the practical application of forensic psychological assessments, particularly under Section 15. The absence of standardised methodologies, lack of qualified forensic psychologists, and insufficient appellate safeguards have resulted in inconsistent and, at times, arbitrary transfers of juveniles to adult criminal

⁵⁹ Proposal for appellate review mechanism under a new Section 15A, Juvenile Justice Act, 2015.

courts, undermining the core rehabilitative principle of juvenile justice. These deficiencies not only contravene constitutional guarantees of fairness and equality under Articles 14 and 21 but also place India in partial non-compliance with its binding obligations under the United Nations Convention on the Rights of the Child.

The present analysis establishes the necessity of institutionalising forensic psychology through clear statutory mandates, infrastructural support, and qualified expert engagement. Judicial practices must be complemented by administrative reforms, forensic standardisation, and regular training to create a child-sensitive, scientifically informed adjudicative process. By addressing these lacunae, the Indian juvenile justice system can better uphold its constitutional duties, honour international human rights commitments, and ensure that children in conflict with law are treated with fairness, dignity, and a genuine opportunity for rehabilitation.