
COMPARATIVE PERSPECTIVES ON JUVENILE JUSTICE FOR HEINOUS OFFENCES: INDIA AND INTERNATIONAL STANDARDS

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ABSTRACT

The growing involvement of juveniles in heinous offences presents a significant challenge to contemporary criminal justice systems. While juvenile justice traditionally emphasises rehabilitation and reintegration, serious offences committed by adolescents have raised concerns regarding accountability and public safety. India addressed this issue through the Juvenile Justice (Care and Protection of Children) Act, 2015, which introduced a mechanism allowing juveniles aged sixteen to eighteen years accused of heinous offences to undergo preliminary assessment for possible adult trial. This article critically analyses the Indian legal framework and compares it with international standards followed in jurisdictions such as the United Kingdom, Canada, Japan, Singapore, and the United Arab Emirates. The study evaluates whether India's approach successfully balances child rights with societal protection and highlights challenges arising from inconsistent implementation of preliminary assessment procedures.

Keywords: Juvenile Justice; Heinous Offences; Child in Conflict with Law; Comparative Law; Preliminary Assessment; International Juvenile Standards.

INTRODUCTION

Juvenile justice systems across the world are founded upon the recognition that children differ from adults in psychological maturity, emotional development, and decision-making capacity. Consequently, most legal systems adopt a reformative approach that seeks correction rather than punishment. The objective is not merely to respond to crime but to prevent future offending through rehabilitation and reintegration.

However, increasing instances of juveniles being involved in serious crimes such as murder and aggravated sexual offences have created a complex legal dilemma. Societies demand accountability for grave offences, while international child rights principles insist upon protection and reform of young offenders. Balancing these competing interests remains one of the most challenging aspects of modern criminal jurisprudence.

India's response to this challenge materialised through the Juvenile Justice (Care and Protection of Children) Act, 2015, which introduced a differentiated approach for older juveniles accused of heinous offences. This legislative shift marked a transition from a purely welfare-based framework towards conditional accountability.

HEINOUS OFFENCES UNDER THE INDIAN JUVENILE JUSTICE FRAMEWORK

The Juvenile Justice Act, 2015 classifies offences into petty, serious, and heinous categories. Heinous offences are defined as offences carrying a minimum punishment of seven years or more under criminal law statutes.

Unlike adult criminal justice, classification under juvenile law primarily determines procedural treatment rather than punishment.¹ The categorisation reflects legislative recognition that certain offences require closer examination of the offender's maturity and understanding before deciding the mode of trial.²

LEGAL FRAMEWORK IN INDIA

A major innovation introduced by the 2015 Act is contained in Section 15, which mandates a preliminary assessment by the Juvenile Justice Board when a child aged between

¹ Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1

² Dr. Subramanian Swamy v. Raju, (2014) 8 SCC 390

sixteen and eighteen years is alleged to have committed a heinous offence.

The Board evaluates:

- Mental capacity of the child,
- Physical ability to commit the offence,
- Understanding of consequences, and
- Circumstances surrounding the incident.

If satisfied that the child possessed sufficient maturity, the matter may be transferred to the Children's Court for trial as an adult. Nevertheless, courts have consistently clarified that such transfer must remain exceptional and must strictly comply with procedural safeguards.

INTERNATIONAL STANDARDS ON JUVENILE JUSTICE

International norms significantly influence national juvenile justice policies. The United Nations Convention on the Rights of the Child emphasises reintegration and social rehabilitation as primary objectives.³ The Beijing Rules and Riyadh Guidelines further stress proportionality, dignity, and child-friendly procedures.⁴

These frameworks collectively discourage excessive punitive responses and recommend deprivation of liberty only as a measure of last resort.⁵ Rehabilitation, education, counselling, and community-based correction remain central to global juvenile justice philosophy.⁶

COMPARATIVE PERSPECTIVES: INDIA AND FOREIGN JURISDICTIONS

Comparative analysis demonstrates that most jurisdictions maintain strong rehabilitative approaches even in cases involving serious offences.⁷

In the United Kingdom, juveniles accused of grave crimes may appear before higher

³ Juvenile Justice (Care and Protection of Children) Act, 2000.

⁴ Juvenile Justice (Care and Protection of Children) Act, 2015.

⁵ Convention on the Rights of the Child, Nov. 20, 1989

⁶ Youth Criminal Justice Act

⁷ Federal Law No. 9 of 1976

courts; however, sentencing remains guided by youth justice principles ensuring review and reform opportunities. Canada recognises reduced moral culpability of young offenders and permits adult sentencing only in exceptional circumstances.

Japan adopts an extended protective framework wherein Family Courts prioritise behavioural correction and reintegration. Similarly, Singapore and Malaysia emphasise structured supervision and rehabilitation programmes rather than adult criminal punishment.⁸

The United Arab Emirates follows correction-oriented juvenile legislation that excludes extreme penalties and maintains separation between juvenile and adult offenders.

India's preliminary assessment mechanism, therefore, represents a comparatively stricter yet conditional model attempting to reconcile accountability with child protection obligations.⁹

CRITICAL CHALLENGES IN IMPLEMENTATION OF SECTION 15

The introduction of Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 represents one of the most debated developments in Indian juvenile jurisprudence. While the provision seeks to introduce accountability in cases involving heinous offences committed by juveniles aged between sixteen and eighteen years, its practical implementation has revealed significant procedural concerns.

Section 15 requires the Juvenile Justice Board to conduct a preliminary assessment regarding the mental and physical capacity of the child, the ability to understand consequences, and the circumstances in which the offence was committed. However, the statute and the Juvenile Justice Model Rules, 2016 do not prescribe uniform scientific standards or psychological evaluation methods. This absence of structured guidance has resulted in inconsistent application across jurisdictions.

Indian courts have repeatedly intervened where preliminary assessments were conducted mechanically or influenced by public sentiment rather than objective evaluation.

⁸ Juvenile Justice (Care and Protection of Children) Model Rules, 2016, rule 10A.

⁹ Convention on the Rights of the Child, Nov. 20, 1989

JUDICIAL RESPONSES TO IMPROPER APPLICATION OF SECTION 15

*CCL v. State (Delhi High Court, 2018)*¹⁰

In this case, the Juvenile Justice Board transferred a seventeen-year-old accused involved in a heinous offence to the Children's Court primarily on the basis of the gravity of the offence. The Delhi High Court set aside the transfer order and observed that seriousness of the offence alone cannot determine mental maturity. The Court emphasised that preliminary assessment must involve expert psychological assistance and individual evaluation of the child's capacity. The absence of proper reasoning rendered the transfer legally unsustainable.

CCL v. State of Rajasthan (Rajasthan High Court, 2020)

The Rajasthan High Court examined a case where the preliminary assessment was completed within a short duration without detailed psychological analysis. The Court held that Section 15 does not permit a superficial inquiry and that the Juvenile Justice Board must demonstrate application of mind through a reasoned order. The matter was remanded for fresh assessment, highlighting that procedural safeguards are integral to the validity of transfer decisions.

CCL v. State of Tamil Nadu (Madras High Court, 2022)

In this decision, the Madras High Court quashed an order transferring a juvenile to adult trial after finding that the Board relied predominantly on public outrage and offence severity. The Court reiterated that preliminary assessment is not a mini-trial but a scientific determination of maturity. Failure to obtain meaningful psychological evaluation defeated the purpose of juvenile justice legislation.

JUDICIAL PRINCIPLE EMERGING FROM CASELAW

These decisions collectively establish that:

- Gravity of offence cannot replace psychological assessment;
- Preliminary assessment must be expert-based;

¹⁰ Child in Conflict with Law v. State (NCT of Delhi), 2018

- Mechanical or hurried evaluations violate Section 15;
- Public pressure cannot influence transfer decisions.

Thus, judicial practice demonstrates that improper application of Section 15 poses a serious risk to the reformatory philosophy underlying juvenile justice.

COMPARATIVE IN SIGHT FROM INTERNATIONAL STANDARDS

A comparative study indicates that most foreign jurisdictions avoid mechanisms similar to India's preliminary assessment for transferring juveniles into adult criminal systems. Countries such as Canada, Japan, and the United Kingdom rely on specialised youth sentencing frameworks even in serious offences. Rehabilitation, periodic review, and reintegration remain dominant objectives.

The contrast highlights that while India permits conditional adult trial, international standards emphasise procedural safeguards to prevent premature criminalisation of adolescents.

CONCLUSION

The evolving discourse surrounding juveniles involved in heinous offences reflects a fundamental tension between child protection and societal security. India's Juvenile Justice Act, 2015 represents an attempt to reconcile these competing interests by introducing accountability through preliminary assessment while retaining the reformatory foundation of juvenile justice.

However, judicial experience since the enactment of the legislation reveals that the effectiveness of Section 15 depends less on legislative intent and more on institutional implementation. The absence of uniform assessment guidelines has resulted in varied interpretations by Juvenile Justice Boards, compelling constitutional courts to intervene repeatedly. When assessments are conducted without scientific evaluation or adequate reasoning, the risk of treating children as adults unjustly becomes significant.

Comparative international practice demonstrates that mature legal systems continue to recognise developmental differences between adolescents and adults even in cases involving

grave crimes. Rehabilitation remains central not merely as a humanitarian ideal but as a pragmatic strategy for long-term social protection.

Therefore, the legitimacy of India's approach lies in ensuring that adult trial remains an exceptional measure applied only after rigorous, expert-based evaluation. A juvenile justice system achieves true balance when accountability operates alongside opportunities for reform, ensuring justice to victims without permanently extinguishing the future of the child offender.

SUGGESTION

- Uniform national guidelines should be formulated for conducting preliminary assessments under Section 15.
- Mandatory participation of qualified psychologists or psychiatrists should be ensured in all assessment proceedings.
- Juvenile Justice Board members should receive specialised training in child psychology and behavioural assessment.
- Detailed written reasoning must be compulsory before transferring a juvenile to adult court.
- Preliminary assessment should be insulated from media influence and public pressure.
- Periodic judicial review mechanisms should be strengthened to prevent arbitrary transfers.
- India may adopt best rehabilitative practices followed in foreign jurisdictions to reinforce reform-oriented justice.

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