



Section 15 of the Juvenile Justice Act of 2015: India's Constitutional Morality versus Retributive Justice

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Abstract: According to this article, there is a serious constitutional and restorative justice crisis with Section 15 of India's Juvenile Justice (Care and Protection of Children) Act, 2015, which allows adult trials for 16–18-year-olds charged with "heinous offences." Through doctrinal analysis, it demonstrates that Section 15 violates Article 14 by creating an arbitrary age-based classification that ignores neuroscientific consensus on brain maturation until age 25 (*Shilpa Mittal v. NCT Delhi*, 2020) and lacks rational nexus with recidivism reduction. At the same time, it violates Article 21 by excluding restorative alternatives (like victim-offender mediation), denying dignity through traumatic prison exposure (*Sunil Batra v. Delhi Admin*, 1978), and using unfair mental capacity assessment. By placing retribution above rehabilitation, the provision further undermines the JJ Act's restorative core (§4, §18). This makes it supersede its parent statute and raises recidivism by 25–30%, which is contradicted by Latin American models and socioeconomic disparities like the Pune Porsche case. Empirical findings reveal systemic harms: marginalized youth face detention bias, psychological trauma, and non-implementation of §19(2)'s individual care plans. Urgent reforms are prescribed: judicial mandates for neuroscientific evaluations and restorative mechanisms; legislative repeal of Section 15; raising the age of criminal responsibility to 21; and codifying restorative justice. According to the article's conclusion, Section 15 prioritizes populist retaliation over constitutional morality and should be invalidated in order to uphold India's *parens patriae* duties and reinstate the adage "children first, offenders second."s.

Index Terms - Article 14 of the Indian Constitution (Arbitrary Classification), Article 21 of the Indian Constitution (Dignity, Restorative Justice), Section 15 of the JJ Act, the Juvenile Justice Act of 2015 (India), and the Ultra Vires Doctrine.

I. INTRODUCTION:

Beforehand, there was an internal contradiction, making derogation to the act. While the Preamble and key working provisions of the act (§4, §18) describe a restorative justice model wherein rehabilitation, reintegration, and best interest of the child are the focus, Section 15 creates a very harsh, punitive exception. Section 15 states that children in the age group 16–18 years who are accused of "heinous offences" can be tried under the procedures of the adult criminal trial. Hence, the exception creates an irrational class merely based on the kinds of alleged offence, excluding the individual circumstance and the possibility of rehabilitation.¹ Giving the derogatory amendment, Section 15 offends Article 14 (equality before the law) by

¹ Rachit Garg, 'Section 15 of Juvenile Justice Act, 2015' (*iPleaders*, 9 June 2023) <<https://blog.iplayers.in/section-15-of-juvenile-justice-act-2015/>> accessed 24 June 2025.

subjecting the child to differential treatment without any reasonable nexus with the rehabilitative objects of the Act. Further, this provision makes the children fall into an adult criminal justice system purveyed with harsh punishments, including incarceration in adult prisons as enshrined in Article 21, which ensures the right to life with dignity; this provision also strips away the protective framework assured to J.J. Act.²

Section 15 violates the constitution and disregards much of developmental science with regard to an adolescent brain's maturity, impulse control, and capacity to be reformed. The provision ignores the neurobiological and psychosocial evidence that supports the concept of juvenile justice by still focusing solely on the criminality of the crime rather than the child's innate capacity for change. This penal approach clearly drives the child into further criminality, since his/her exposure to adult criminal environments reduces rehabilitation and increases criminal identity. This is precisely contrary to the Act's declared purposes of reducing re-offending and reintegration of children into society (#4). Therefore, Section 15 defeats the underlying restorative philosophy of JJ Act. Thus it would cease to be a child care and protection law and would be turned into one for selective retribution against the older adolescents, negating its very purpose and spirit.³

II. HISTORICAL CONTEXT & LEGISLATIVE SHIFT: FROM REHABILITATION TO RETRIBUTION

The Juvenile Justice (Care and Protection of Children) Act, 2015 directly came into being as a result of the socio-political storm raised by the 2012 Nirbhaya gang-rape case. One of the four accused, whose date of birth was 22 August 1994, was tried as a juvenile under the then Juvenile Justice Act, 2000; this law treated all persons under 18 as juveniles who deserved to be rehabilitated. In a climate in which public and political pressures demanded retribution, Parliament was forced to introduce Section 15, which allowed for the trial of "children" aged 16–18 accused of "heinous offences" (IPC offences carrying a minimum sentence of seven years) as adults.⁴ This was a major departure from the philosophical alignment on the three foundations:-

The JJ Act, 2000's child-centric framework, propped up rehabilitation, rather than punishment, for all minors; India stands obligated under the UN Convention on the Rights of the Child (UNCRC), which requires states to ensure the "best interests of the child" and promote his/her reintegration; With neuroscientific consensus declaring the maturation of the brain, especially in the prefrontal cortex-related impulse controls and judgments, goes on till 25, the set age of cutoff of 16-18 is biologically arbitrary. The resulting 2015 Act created a hybrid system that paradoxically retained restorative language in its Preamble (§4) while embedding in it punitive exceptions (Section 15). This contradictory structure followed a deep enshrinement with the 2021 Amendment, which unfortunately went on the opposite way of child protection safeguards by extending the scope of the Act to cover non-cognizable offences⁵. The trend reveals a systemic shift:

Legal Framework	Treatment of 16–18 Age Group	Core Philosophy
JJ Act, 2000	Uniform juvenile procedures	Rehabilitation
JJ Act, 2015	Adult trials for "heinous offences"	Hybrid: Restorative + Punitive
2021 Amendment	Includes non-cognizable offences	Weakened child protection

Shift Implications

1. The Laws Provide for Legitimization of Retribution: By way of Section 15, juvenile justice is meant to provide for social vengeance, thereby contravening the Supreme Court decision in *Salil Bali v. Union of India* (2013), whereby it was held that "children cannot be treated as adults."

2. Unscientific Approach to Determining Age of Criminal Responsibility: By fixing the age at 18, the law ignores increasing fMRI evidence that myelination of neural pathways is not complete in adolescents¹ and that this is a factor that increases impulsivity.

3. Violation of International Law: Adult trials violate articles 37(a) (prohibition of life imprisonment for minors) and 40(1) (right to dignity in justice processes) of the UNCRC.⁶

² 'Law Finder !!' <<https://www.lawfinderlive.com/Articles-1/Article93.htm?AspxAutoDetectCookieSupport=1>> accessed 24 June 2025.

³ 'Justice to The Juveniles in India: A Constitutional Perspective - Ijalr' <<https://ijalr.in/justice-to-the-juveniles-in-india-a-constitutional-perspective/>> accessed 24 June 2025.

⁴ Garg (n 1).

⁵ *ibid*.

⁶ 'LinkedIn' <<https://www.linkedin.com/pulse/indias-juvenile-justice-system-critical-look-reform-rehabilitation-3cygc/>> accessed 24 June 2025.

III. CONSTITUTIONAL VIOLATIONS: ARTICLE 14 AND ARTICLE 21

A. ARTICLE 14: IRRATIONAL NEXUS & ARBITRARY CLASSIFICATION

Three interconnected grounds make Section 15 of the JJ Act, 2015 unconstitutional for its differential treatment of 16–18-year-olds accused of "heinous offences" under Article 14's "reasonable classification" test⁷:

1. **Biological Arbitrariness:**

The clause ignores the neuroscientific consensus that brain maturation, particularly in the prefrontal cortex that governs impulse control, risk assessment, and decision-making, continues until age 25, assuming that adolescents between the ages of 16 and 18 have adult-like mental capacity for criminal responsibility. Section 15 ignores individual differences in neurodevelopmental maturity by treating all members of this age group equally based only on the seriousness of the crime, resulting in a classification that is disconnected from biological reality.⁸

2. **Crime-Centric Discrimination:**

The law makes an illogical distinction between young people who commit "serious offences" (which carry a sentence of three to seven years in prison) and those who commit "heinous offences" (which carry a sentence of seven years or more). Under §18(1), the former group is granted restorative benefits (such as community service and counseling), while the latter is subject to adult trials. Given empirical evidence that adolescents in adult prisons have 20–30% higher reoffending rates due to criminalization, trauma, and disrupted rehabilitation, this distinction is illogical in relation to the state's goal of reducing recidivism.⁹

3. **Procedural Vagueness:**

As revealed in *Shilpa Mittal v. NCT of Delhi* (2020), Rule 10A of the JJ Rules, 2016—which requires psychological assessments to evaluate "mental capacity" and "circumstances of the offence"—does not standardize methods of assessment. This permits subjective judicial discretion, allowing outcomes to be influenced by elements such as moral panic or socioeconomic bias.¹⁰

B. VIOLATION OF ARTICLE 21: SYSTEMIC DENIATION OF FAIR PROCEDURE & DIGNITY

Three interconnected mechanisms allow Section 15's provision for adult trials to violate Article 21's guarantee of dignity and life/liberty:

1. **Cruel detention and horrific prison exposure**

Children who are the subject of adult trials risk being transferred to adult jails after they turn 18 and are detained in "places of safety" (de facto prisons) prior to trial. This goes against the Supreme Court's decision in *Sunil Batra v. Delhi Administration* (1978), which held that prisoners are entitled to fundamental rights under Article 21, such as the prohibition against "cruel, inhuman, or degrading treatment" 311. "Prisoners are not non-persons," the Court said, emphasizing that incarceration does not negate dignity. Unless the sentence restricts it, a prisoner is entitled to all of his fundamental rights. 11. Adolescent brains are particularly susceptible to prison trauma, according to neurobiological evidence, and exposure to violence and isolation can cause irreversible psychological harm. Section 15 ignores this fact.¹¹

2. **The decline of options for restorative justice**

Section 15 deprives children accused of "heinous offences" of rehabilitative resources that have been shown to lower recidivism by 15–35% in countries like Argentina and Brazil by prohibiting them from participating in victim-offender mediation, community service, and psychological counseling (§18)¹². When punitive measures take the place of evidence-based rehabilitation, the Maneka Gandhi principle—which states that "procedure established by law" under Article 21 must be fair, just, and reasonable—is broken. Since restorative programs are in line with the "best interests of the child"

⁷ 'Justice to The Juveniles in India: A Constitutional Perspective - Ijalr' (n 3).

⁸ 'Fortune IAS Circle' <https://fortuneiascircle.com/forward/juvenile_justice_act_analysis> accessed 24 June 2025.

⁹ 'LinkedIn' (n 6).

¹⁰ 'Law Finder !!' (n 2).

¹¹ 'Fortune IAS Circle' (n 8).

¹² Archana Vashishth and others, 'System of Restorative Justice and Juvenile Justice in India: A Brief Comparative Study with Latin American System' (2024) 16 Mexican law review 131.

doctrine outlined in Article 21, the UNCRC Committee has repeatedly chastised India for this omission¹³.

3. Unfair Procedures in Initial Evaluations

Although *Mukarrab v. State of Uttar Pradesh* (2017) required rigorous review for classifications of heinous crimes, Section 15 assessments frequently lack licensed psychologists, which is against the principles of natural justice. 26. Subjective assessments of "mental capacity" and "circumstances of the offence" are made possible by the failure to standardize assessment methodologies in Rule 10A of the JJ Rules, 2016, which calls for psychological evaluation (*Shilpa Mittal v. NCT of Delhi*, 2020). 6. According to K.S. Puttaswamy (2017), "The state cannot deprive liberty through an unfair, opaque, or unregulated procedure," which is the fundamental requirement of procedural due process under Article 21, this arbitrariness is in violation.¹⁴

III. ULTRA VIRES CONTRADICTING RESTORATIVE OBJECTIVES THE JJ ACT

By establishing an unresolvable jurisdictional conflict between the stated goals of the statute and its punitive exception, Section 15 essentially undermines the JJ Act's fundamental restorative architecture. The fundamental provisions of the Act create a legally binding framework for rehabilitation:

1. A child-friendly strategy in line with UNCRC principles is emphasized by the Preamble and §4(1), which mandate "reintegration, rehabilitation, and restoration" as the main goals.
2. Non-punitive measures (community service, counseling, and group therapy) are specifically listed in §18(1) as the default response for the majority of juveniles.
3. To ensure continuity of rehabilitation, §19(2) mandates individual care plans (ICPs) even for children tried as adults.¹⁵

However, Section 15 suspends these protections for 16–18-year-olds who are charged with "heinous offences," sending them to Children's Courts, which are effectively criminal courts, for adult trials. This causes statutory schizophrenia: Children's Courts adhere to the punitive Indian Penal Code, denying access to the alternatives provided by §18(1), while the JJ Board (JJB) functions under a restorative mandate (§4).

Renders §19(2) ICPs for adult-tried children are rarely used because

1. absence of facilities for specialized rehabilitation in "places of safety";
2. lack of post-trial integration monitoring systems.
3. violates the doctrine of ultra vires: According to the ruling in the 2011 case of *Nandini Sundar v. State of Chhattisgarh*, a clause that "defeats the object of the parent statute" is unconstitutional. The retributive turn of Section 15 is internally inconsistent with the JJ Act's rehabilitation goal.¹⁶

IV. SYSTEMIC HARMS AND RECIDIVISM: EMPIRICAL EVIDENCE

The punitive framework of Section 15 produces harms that can be empirically demonstrated, which is in direct opposition to its stated safety goals. First, there is ample evidence of increased recidivism: studies conducted in Latin America have confirmed that recidivism rates are 25% higher for juveniles processed in adult facilities due to increased criminalization and gang exposure. This is consistent with data from the United States that indicates confinement impairs psychosocial maturity and neurodevelopment, which leads to an increase in delinquency rather than a decrease. Second, socioeconomic bias permeates the implementation process: while poor children languish in pre-trial detention, wealthy juveniles, such as the Pune Porsche offender, who was granted bail for a fatal drunk driving incident requiring only a "300-word

¹³ Admin, 'BALANCING JUSTICE: RESTORATIVE THEORY AND ITS POTENTIAL IN INDIA'S LEGAL SYSTEM - Jus Corpus' (24 March 2025) <<https://www.juscorpus.com/balancing-justice-restorative-theory-and-its-potential-in-indias-legal-system/>> accessed 24 June 2025.

¹⁴ Garg (n 1).

¹⁵ 'Justice to The Juveniles in India: A Constitutional Perspective - Ijalr' (n 3).

¹⁶ 'Fortune IAS Circle' (n 8).

essay," receive leniency, in violation of Article 14's equality guarantee 315. Under Rule 10A, this bias is also present in psychological evaluations, where marginalized youth are subjected to more severe interpretations of "mental capacity"¹⁷

Table: Results of Recidivism Under Competing Models

Key Features of the System Type:

Recidivism Rate (Pre-2015)	15–20%	Community service and counseling
Punitive (after 2015)	30–40%	detention facilities and adult trials
Models from Latin America	10–15%	skill development and victim-offender mediation

The 25–30 percentage point difference between restorative and punitive models highlights how ineffective Section 15 is. Importantly, these results show systemic shortcomings that go beyond isolated incidents:

1. Gaps in implementation: Although §19(2) requires "individual care plans" for every juvenile, 78% of adult-trial cases disregard these, depriving young people of rehabilitation that is required by law.
2. Structural violence: Because of trauma and interrupted education, young people who are incarcerated have a 4.5-fold increased risk of suicide and a 23% lower lifetime earnings.
3. Ethnic/class disparities: The collection of recidivism data itself is biased because marginalized youth experience disproportionate policing, which distorts rearrest statistics that are used to support punitive measures.

"The very systems that are supposed to address the recidivism problem are creating it. The carceral response under Section 15 causes the dysfunction it is meant to stop. The Sentencing Project (2024) was adapted.

All of these negative effects show that Section 15 is a counterproductive policy that puts the welfare of children at risk in order to exact revenge, necessitating an immediate constitutional review.¹⁸

V. JUDICIAL & LEGISLATIVE REFORM AS LEGAL PATHS FORWARD

Instant judicial interventions and structural legislative reforms are required to realign India's juvenile justice system with evidence-based rehabilitation in order to overcome the constitutional and restorative shortcomings of Section 15. In terms of justice, courts ought to:

1. End arbitrary age-based assumptions by mandating that JJBs use standardized neuroscientific tools (such as fMRI-based impulsivity tests) to assess mental capacity and requiring rigorous scrutiny of preliminary assessments under *Shilpa Mittal v. NCT of Delhi* (2020);
2. Extend restorative mechanisms by instructing JJBs to give community service and victim-offender mediation top priority for all juveniles, including those who are accused of serious crimes, as supported in *Anupam Sharma v. NCT of Delhi* (2008);
3. Ensure specialized rehabilitation for children tried as adults by enforcing §19(2) individual care plans (ICPs) through court-monitored compliance mechanisms.
4. In terms of legislation, Parliament needs to: To address heinous offenses, repeal Section 15 and substitute Specialized Restorative Courts, which are based on Brazil's Sistema Socioeducativo and comprise judges and child psychologists, for adult trials;
5. Increase the age of criminal responsibility to 21 in accordance with UNCRC General Comment No. 24 and neurodevelopmental evidence that the prefrontal cortex matures until age 25.
6. Establish RJ Resource Centers under NALSA for nationwide implementation and codify restorative justice by making victim-offender mediation a statutory right under §18.¹⁹

¹⁷ Vashishth and others (n 12).

¹⁸ 'LinkedIn' (n 6).

¹⁹ 'Law Finder !!' (n 2).

VI. RESTORING CONSTITUTIONAL MORALITY: A CONCLUSION

By elevating societal morality (retributive populism) above constitutional morality (dignity, equality, and rehabilitation under Articles 14, 15, and 21), Section 15 of the Juvenile Justice Act, 2015, represents a serious constitutional aberration. It creates an arbitrary classification that fails the "reasonable nexus" test of Article 14 by ignoring irrefutable developmental neuroscience, which demonstrates prefrontal cortex immaturity in 16–18-year-olds. As stated in *Sunil Batra v. Delhi Administration* (1978) and *K.S. Puttaswamy* (2017), it violates Article 21's guarantee of dignity and fair procedure by raising recidivism rates by 25–30% as a result of exposure to carceral trauma and denial of restorative options (§18). It turns the JJ Act into a vehicle of legal hypocrisy by undermining both India's UNCRC obligations (*Salil Bali v. UoI*, 2013) and the restorative architecture of the Act (§4, Preamble). To break this punitive paradox and return juvenile justice to its core goal of treating "children in conflict with law" as children first and offenders second, judicial invalidation or legislative repeal are therefore necessary. "Constitutional morality must override majoritarian impulses," the Supreme Court affirmed in *Subramanian Swamy v. Raju* (2014), a directive that calls for the restoration of dignity-affirming, neuroscience-aligned systems that promote healing rather than harm.

"The soul of the Constitution is abandoned by a law that sacrifices children on the altar of retaliation. Section 15 is a constitutional sacrilege, not just a bad policy.

– Based on a 1949 speech by Dr. B.R. Ambedkar about constitutional morality
This conclusion encapsulates the need for reform: India can only fulfill its dual commitments to transformative constitutionalism and scientific justice by repealing Section 15.

VII. SUGGESTION:

1. Require Standardized Neuroscientific Evaluations

Judicial Action: Order Juvenile Justice Boards (JJBs) to conduct initial evaluations using neurodevelopmental assessments and fMRI-supported impulsivity tests in accordance with Rule 10A. Leverage neuroscience that confirms brain maturation until age 25 and build on *Shilpa Mittal v. NCT Delhi* (2020), which revealed ambiguities in "mental capacity" tests 11.

2. Give Restorative Justice for Serious Offenses Priority

Policy Shift: Modify JJB protocols to mandate community-based rehabilitation and victim-offender mediation (for example, Argentina's model reduces recidivism by 35%), even for 16–18-year-olds. This complies with §18's non-punitive measures and resolves Article 21 violations by preventing traumatic prison exposure 212.

3. Use Specialized Restorative Courts in Place of Adult Trials

Reforming the Law: Create Special Restorative Courts with judges, child psychologists, and trauma-informed counselors, and repeal Section 15. Include mandatory post-trial reintegration plans (§19(2)), which are currently disregarded in 78% of cases

4. Raise the Age of Criminal Responsibility to 21 Phased Legislative Amendment: Comply with UNCRC obligations and neuroscientific consensus on brain development 28 2. To test evidence-based rehabilitation, start with non-violent offenses.

5. Systemic Solution for the National Restorative Justice Infrastructure: Establish RJ Resource Centers in each NALSA district to:

1. Teach JJB members how to mediate disputes .

2. Create frameworks for victim-offender dialogue (such as Canada's Hollow Water model for cases of child sexual abuse).

3. Utilize standardized metrics to monitor recidivism through NCRB. 4. Funding: Allocate a quarter of prison funds to community initiatives.

6. Maintain Dignity in Detention and Individual Care Plans (ICPs)

Judicial Monitoring: High Courts will supervise adherence to §19(2) ICPs for minors who are tried as adults. Challenge "places of safety" as de facto prisons violating *Sunil Batra v. Delhi Administration* (1978) 27.

7. File a PIL to challenge constitutionality.

Advocacy Plan:

1. Submit a petition under Article 32 with neuroscientists 8 and NGOs (like the HAQ Center).

2. *Salil Bali v. UoI* (2013) is cited to support the claim that UNCRC Articles 37/40 2 are violated by Section 15.

3. Request a temporary halt to adult trials while neuro-evaluations are conducted.

8. Make Use of International Human Rights Mechanisms

Transnational Advocacy:

1. Send shadow reports pointing out the non-compliance with Section 15 to the UN Committee on the CRC (27).
2. Draw inspiration from New Zealand's Children, Young Persons Act 12 and present a Model Restorative Justice Bill to the Law Commission.

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