

Infancy As A Defence: Constitutionality Of The Legal Protection Provided To The Child Offenders

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Abstract

It has long been believed that children lack the mental maturity and development to discriminate between right and bad behavior, and that they are incapable of judging their own behavior. They are unable to comprehend the repercussions of their acts. For instance, if a child hits someone with a stone while playing, they are unable to consider the possibility that this could cause them serious harm, possibly even death. It is practically hard to develop and align the child's mens rea and actus reus, therefore in such instances, we are unable to prosecute and punish the child under the appropriate offenses. This is mostly because it is difficult to establish the mens rea and the subsequent actus reus. Children should also be treated like children, not like adults, as they have not yet reached the mental, physical, or biological maturity necessary to comprehend the repercussions of their actions. "Therefore, through ages since the criminal laws have evolved, it has become a common notion that a child who lacked the capacity to understand the wrongfulness of his conduct could not be held criminally culpable"³.

INTRODUCTION: INFANCY UNDER INDIAN LAWS

In accordance with the Common Law system, children younger than seven were considered to be "incapable" of committing any crime, even if they did, inadvertently, perform an act that would have constituted an offense. Additionally, unless otherwise demonstrated, children between the ages of seven and fourteen were assumed

³ "Kaban, Barbara and Orlando, James (2007). Revitalizing The Infancy Defense in the Contemporary Juvenile Court. *Rutgers Law Review*, Vol. 60, Issue 1"

incapable of committing any crimes (rebuttable assumption). The law treated children fourteen years of age and older as adults capable of developing the necessary mens rea and acting upon it, so committing any crime. Today, various legal systems acknowledge the Common Law age distinction as a means of establishing systematic control over juvenile criminality.

Infancy has been recognized by international criminal laws as a special defense that deals with juvenile delinquency, which includes any illegal conduct committed by minors as well as their limited mental ability. As a defence, infancy stands to shield "child" or "juvenile" perpetrators who might not have the necessary mental capacity to comprehend completely the implications and consequences of their actions.

Legislation pertaining to juvenile delinquents is enacted globally with the aim of reconciling the protection of the kid's rights with the accountability of their actions. The Indian Penal Code, 1860 (henceforth referred to as the "IPC, 1860"), which recognizes children's developing capacities and how they should be handled in circumstances when they result in crime, protects infancy in India. Section 82⁴ of the IPC, 1860 provides for doli incapax which translates to "incapable of evil" or "incapable of guilt". It is assumed that a kid less than seven years old is incapable of committing any crime and cannot be found guilty as such because of his limited mental development and inability to fully consider the nature and ramifications of his actions. Further, section 83⁵⁶ of the IPC, 1860 gives children older than seven but younger than twelve the defense of doli incapax, provided the child hasn't reached the mental development to understand the nature and consequences of his act at the

⁴ "Section 82: Act of a child under seven years of age-Nothing is an offence which is done by a child under seven years of age."

⁵ "Section 83: Act of a child above seven and under twelve of immature understanding- Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion."

⁶ "Section 105: Burden of proving that case of accused comes within exceptions- When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the General Exceptions in the Indian Penal Code (45 of 1860), or within any special exception or proviso contained in any other part of the same Code, or in any law defining the offence, is upon him, and the Court shall presume the absence of such circumstances."

time it occurred. In other words, the defense under section 83 IPC is rebuttable in court and the presumption isn't absolute like in the case of section 82. The section has addressed the fact that people in this age range differ in their levels of comprehension and maturity; hence, even in cases where there is ample evidence to support their decision, they cannot all be released from accountability. In addition, the accused bears the burden of evidence while attempting to use the General Exceptions of the IPC, 1860, as per section 1054 of the Indian Evidence Act, 1872.

Trial courts have authority over instances involving infancy as a defense, followed by pertinent appellate courts. The Juvenile Justice (Care and Protection of Children) Act, 2015 (hereafter referred to as the "JJ Act, 2015") was enacted in order to manage situations involving children, which have a higher level of sensitivity.

In order to safeguard the welfare and development of children who are already in an emerging period of development, the legislation places more emphasis on providing a caring and rehabilitative environment than on punishing behavior. In accordance with IPC 1860, the Act specifies guidelines that courts must adhere to when handling juvenile offenders who claim the defense of infancy. The purpose of this study is to trace the development of infancy in relation to the JJ Act, 2015 and to critically analyze the JJ Act, 2015 in light of infancy as a defense.

EVOLUTION OF INFANCY AS A DEFENCE UNDER JJ ACT, 2015

Our Constitution has imposed duties on the States for welfare of the children so that all their basic needs are met and their basic human rights are protected. Article 15 (3)⁷,

⁷ “Article 15(3): Nothing in this article shall prevent the State from making any special provision for women and children.”

Article 39 (e), (f)⁸, Article 45⁹ and Article 47¹⁰ are some of the welfare provisions for the children. Additionally, by ratifying a number of international agreements pertaining to children's welfare, such as the "Convention on the Rights of the Child," which was adopted by the UN General Assembly and comprises a set of guidelines that State parties must adhere to in order to protect the best interests of the children; based on the guidelines outlined in the "United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules)," the "United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990)," and the "Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993)," it became necessary to enact separate legislation for dealing with juveniles in order to ensure their protection and welfare, and consequently, juvenile justice

It was only after the case of "**Mukesh v State NCT of Delhi**"¹¹, also known as the

'Nirbhaya Case' or the 'Delhi Gang Rape' case, that changes to the JJ Act regarding the age of infancy were proposed. By utilizing a child-friendly approach in the adjudication and disposal of matters in the best interest of children and for their rehabilitation, the JJ Act, 2015 seeks to address and protect the rights and welfare of those children who are found to be in conflict with the law. "This includes providing

⁸ "Article 39: Certain principles of policy to be followed by the State: The State shall, in particular, direct its policy towards securing-(e)-that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; (f)- that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment."

⁹ "Article 45: Provision for free and compulsory education for children- The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years."

¹⁰ "Article 47: Duty of the State to raise the level of nutrition and the standard of living and to improve public health-The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health."

¹¹ Criminal Appeal Nos.607-608 of 2017

proper care, protection, development, treatment, and social re-integration.”¹²

Historical evolution of ‘infancy’ laws in India

After independence, the Children Act of 1960 introduced the idea of treating juvenile offenders differently from those in the normal criminal justice system. The act defined a "child" as "a boy who has not attained the age of sixteen and a girl who has not attained the age of eighteen." However, this act only applied to Union territories—not to States. Instead, because juvenile justice was deemed to be the topic of the State list under the Constitution, each State had its own authority over the matter, which resulted in discrepancies across the country. "Thus, the Supreme Court recommended the necessity of legislative legislation that would be applicable across the nation"¹³. "The JJ Act of 1986 was passed as a result of this. This Act attempted to establish an advisory board and children's finances, as well as a similar age of infancy for boys and girls.

India ratified the UN Convention on the Rights of the Child (UNCRC) in 1992 after the UN General Assembly adopted it in 1989. A kid is "any human being below the age of eighteen," according to the UNCRC."¹⁴ The JJ Act of 2000, which established the definition of a child in accordance with the UNCRC, was passed by the Indian Parliament in an effort to keep up with the momentum and quantity of international instruments for child rights and welfare. The JJ Act, 2000 established the age of infancy at eighteen years old in conformity with the UNCRC.

Following the tragic Nirbhaya Case, the public were incensed and requested revisions when one of the accused—who was 17 years old on the day the crime was committed—was spared harsh sentences because of his "minority" for doing such a horrible deed. The Juvenile Justice Board report contained inadequate proof to back up his allegation that he was the most severe criminal. He was thus released from the reformation home after three years. Many asked that the juvenile rapist in this case be handled like an adult because it was such a horrific act of crime, but the rules of the day were favourable to him, and even though his deed was heinous and cruel, he was released from a correctional

¹² "Objectives of the JJ Act, 2015, <https://wcd.nic.in/sites/default/files/JJAct2015-1.pdf>"

¹³ Sheela Barse v UOI, 1986 SCALE (2) 230

¹⁴ "United Nations Convention on the Rights of Child, Art.1, U.N.Doc.A/RES/44/25"

facility after three years. However, the public outcry was not in vain, as the Parliament debated later changes to the rules pertaining to "children in conflict with the law." The Juvenile Justice (Care and Protection of Children) Bill was enacted by the Lok Sabha in 2015, stating that children between the ages of sixteen and eighteen might be charged with serious offenses and treated as adults.

This resulted in the adoption of the JJ Act of 2015, which modified the legal definition of infancy in India and stipulated the use of particular procedures in handling situations of this kind.

Amendments of the JJ Act, 2015 w.r.t. Infancy

"The definition of "child" under the JJ Act of 2015 is "a person who has not completed eighteen years of age"¹⁵. "The Act also defines "child in conflict with the law" as "a child who is found to have committed an offense and who has not reached the age of eighteen on the date of such offense."¹⁶. The definition of a "juvenile" is "a child under the age of eighteen."¹⁷ &¹⁸

This implies that an individual under the age of eighteen is considered a youngster. If someone has been charged with a crime and is younger than eighteen, they will be considered "children in conflict with the law." In accordance with their age, the Act also lays forth a variety of rules and procedures for handling juvenile offenders. Juvenile Justice Boards (JJBs) are district-level entities created under Section 4 of the Act that are responsible for making decisions in instances involving adolescents who have breached the law. The Boards are required by Section 15 of the Act to do an initial evaluation of a child's mental and physical aptitude for committing a major offense, as well as his comprehension of the offense's repercussions and the circumstances leading up to it.

According to the JJ Act, 2015, particularly section 15, infancy is primarily concerned with assessing a child's maturity in order to determine their understanding of the consequences of their actions and their potential for rehabilitation. In addition to age, a number of factors are considered when assessing a child's maturity level, such as cognitive

¹⁵ "Section 2 (12) of the JJ Act, 2015."

¹⁶ "Section 2 (13) of the JJ Act, 2015."

¹⁷ "Section 2 (34) of the JJ Act, 2015."

¹⁸ "Section 15 (1) of the JJ Act, 2015"

development, emotional intelligence, social skills, morality, and the ability to understand the consequences of one's actions. In this assessment procedure, psychological evaluations, counselling, and social inquiry reports are frequently employed.

These instruments assist the Juvenile Justice Board (JJB) in assessing the juvenile's level of development and prospects for recovery. It is important to bear in mind that ascertaining an individual's maturity level is a fluid procedure that considers the likelihood of personal advancement and development. To ensure that the measures taken are appropriate and serve the interests of the minor, the Act emphasizes the need of periodically examining and reassessing the circumstances surrounding the minor. The purpose of measuring maturity in the context of infancy as a defense is to provide the appropriate treatments, guidance, and help to facilitate in the juvenile's recovery and absorption into society, as opposed to punishing them. Ensuring the child's rights, welfare, and opportunities to grow up to be responsible, productive individuals in society is the aim.

CONSTITUTIONALITY OF THE PROVISIONS

Violation of the Right to Equality Under Article 14

A perspective that differs slightly from the definitions of "child" and "children in conflict with the law" is given in Section 15 of the Act. The age of infancy is considered to be eighteen years old when examining the phrases indicated above under section-2. Section 15 separates, however, minors who have reached or are over sixteen (but under eighteen) in situations when they are accused of committing horrible crimes. Juveniles or children between the ages of sixteen and eighteen cannot reasonably be distinguished from other age groups of juveniles, which clearly manifests in good quality for juveniles and children above the age of sixteen. Furthermore, it seems unclear what criteria the Juvenile Justice Board is supposed to follow when deciding whether to transfer a case to the Children's or Sessions Court after determining that the child in question meets the requirements for being tried as an adult under Section 15 of the Act. This authority is provided in Sections 15 and 18(3) of the Act. When evaluating a child's "mental and physical capacity to commit the offense, their ability to comprehend the consequences of the offense, or the circumstances

surrounding the alleged commission of the offense," Section 15 does not specify any requirements or principles that must be followed. "This illustrates how ambiguous the clause is. The Standing Committee was formed before the Juvenile Justice (Care and Protection of Children) Bill, 2014 was passed by the Rajya Sabha. The Committee stated that it had consulted with stakeholders and they all agreed that the proposed legislation, which sought to bring about major changes to the juvenile justice system, was in violation of Article 14 and 15 of the Constitution."¹⁹

At that time, the Committee came to the conclusion that "the existing juvenile system" recognized that 16 to 18 years old was a very vulnerable and crucial age that needed more protection, in addition to being reformatory and rehabilitative in character. Therefore, it is unnecessary to subject minors to an adult or distinct court system, as this would violate the Constitution's Articles 14 and 15(3).

"The Justice Verma Committee looked at the existing statistics, the scientific facts on recidivism, and India's international commitment to protecting children's rights as part of its investigation into possible changes to the criminal laws dealing to sexual assault against women. The committee came to the conclusion that a juvenile's age shouldn't be decreased to 16 years old and that the existing 18-year-old limit should be kept."²⁰

The Lack of any Reasonable Classification

"When people with comparable circumstances are treated differently, the issue of discrimination and equality violations comes up."²¹ "Equality before law and equal protection of laws" is what Article 14 envisions. "Equal Protection of Laws is corollary to Equality before Law and in substance both the expressions mean the same," as the Supreme Court eloquently noted."²¹ "The Supreme Court further noted that "the principle of equal protection does

¹⁹ "Department Related Parliamentary Standing Committee on Human Resource Development, Rajya Sabha, The Juvenile Justice (Care and Protection of Children) Bill, 2014, Report No.264,(25 February 2015) available from <http://www.prsindia.org/uploads/media/Juvenile%20Justice/SC%20report-%20Juvenile%20justice.pdf>."

²⁰ "Gopal Subramaniam, J.S. Verma & Leila Seth, Report of the Committee on Amendments to Criminal Law, (23 January 2013) available from <http://www.prsindia.org/uploads/media/Justice%20verma%20committee/js%20verma%20committee%20report.pdf>." ²¹L.P.Agarwal v.Union of India,(1992) 3 SCC 526

²¹ Id

not take away from the state the power of classifying persons for the legitimate purpose.”²² Additionally, as the Supreme Court noted in the “Mohd. Shujat Ali v. Union of India case, “the doctrine of Reasonable Classification must not be over emphasized as it is only a subsidiary rule involved to give practical content to the doctrine of Equality and therefore the doctrine of equality should remain superior to doctrine of classification.”²³

“As per law, classification, should be based upon two things firstly, it should be based upon the Intelligible Differentia and secondly, the Intelligible Differentia should have a “rational nexus with the object sought to be achieved.”²⁴ “Article 14 forbids class legislation, but reasonable classification is permissible if it is founded on a discernible difference that distinguishes the people or things that are grouped together from those that are not, and if the difference makes sense in light of the objective that the applicable legislation is meant to achieve.”²⁵

The categorization made under Section 15 of the JJ Act of 2015 is irrational and has no connection to the goal being pursued. The Act's preamble outlines its goals, which include consolidating and amending the laws dealing to children who need care and protection and who are suspected of being in legal difficulty. Additionally, it strives to meet these kids' basic needs by offering them the proper care, protection, development, treatment, and social reintegration. It also takes a kid-friendly stance when deciding cases and making decisions that are in the best interests of the kids. Finally, it supports the kids' rehabilitation through the institutions, procedures, and bodies that are set up under it, as well as for matters that are connected to or incidental to it.

Juveniles and children are defined by the Act as those under the age of eighteen thirty. Nevertheless, the Act's Section 15 introduces a distinct categorization for the 16–18 age range that does not include any discernible differences. Section 15 thereby classifies this age group solely on the basis of the serious offenses specified in Act Section 2(33). But this begs the question, what would happen if a youngster under the

²² “State of Bombay v.F.N.Balsara, AIR 1951 SC 318.”

²³ “Mohd.Shuja Ali v.Union of India, (1975) 3 SCC 76”

²⁴ “Laxmi Khandsari v.State of U.P.(1981) 2 SCC 600.”

²⁵ “National Council for Teacher Education v.Shri Shyam Shiksha Prashikshan Sansthan, (2011) 3 SCC 238”

age of sixteen committed a crime that falls under the definition of a heinous crime?

“In **Subramanian Swamy v. Raju**³¹, According to the Supreme Court's explanation, "there may be differences among the members included within a particular class and categorization need

not be the outcome of a mathematical or arithmetical precision in the similarities of the persons included in a class." Article 14 will not prohibit such a course of action as long as the general characteristics of the classification are recognizable and discernible and the classification is adequately related with the object targeted." "In this context, in the case of **State of W.B. v. Anwar Ali Sarkar**³², Section 5 (1) of the WB Special Courts Act, 1950, which stated that "a Special Court shall try such offences or classes of offences or cases or classes of cases, as the State Government may, by general or special order in writing, direct," was up for debate before the Supreme Court. Because it "gives arbitrary power to the executive and the legislature to decide which cases are to go to a special Court and which ones are to be decided by a normal Court without making any classification in the law itself," the Court declared that the provision was unconstitutional. Applying this idea, distinctions between and within the "under eighteen" category may occur when all individuals under the age of eighteen are included in a class named "juveniles," as defined above.”

³⁰The Juvenile Justice (Care and Protection of Children) Act, 2015, Section 2(12) & 2(35) ³¹(2014) 8 SCC 390. ³²AIR 1952 SC 75.

But Article 14 will accept that viewpoint. "No classification will include precision or mathematical correctness. However, Article 14 does not take such accuracy and precision into consideration."²⁶

The distinct designation of those aged sixteen to eighteen as "juveniles" is neither in line with the goal that is being pursued, nor is it related to it. The JJB has the authority to carry out an initial investigation to determine whether a juvenile offender should be sent for rehabilitation or tried as an adult; this decision is made in ambiguous circumstances

²⁶ Id.

without any upper bound. Section 15, for example, stipulates that consideration must be given to the individual's "account mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence," but it does not specify a cutoff point for determining these requirements. As a result, the authority granted to the JJB above is arbitrary and susceptible to outside influences

(Corruption, blackmail, etc.). Article 14's authority encompasses the prevention of the State's "antithetical" arbitrary and irrational conduct²⁷ to the rule of equality. "In **Avinder Singh v. State of Punjab**,²⁸ The ruling said that "arbitrariness must be excluded from the law, for Art. 14 is fatally allergic to inequality of the law, and if power is arbitrary, it is potential inequality."

Arbitrary power of the Board under Section 15 of the JJ Act, 2015

The proviso According to Section 15 of the Act, 2015, the Board may enlist the aid of seasoned psychologists, psycho-social workers, or other specialists in the preliminary evaluation it conducts in the event of heinous crimes. The word "may" implies that the Board may choose to enlist the help of the aforementioned experts. This gives the JJB the arbitrary authority to act according to its own wishes and whims when it comes to receiving help from these knowledgeable individuals. It cannot be claimed that the JJB members are "experienced psychologists or psycho-social workers or other experts," and as such, they are not fit to evaluate the juvenile's mental and physical abilities. This is a task best left to specialists, thus it is imperative that you seek advice from them. It may occur that the JJB refuses to accept advice from specialists due to an outside factor, which might result in injustices for the young people implicated in any crime.

The Lack of Appropriate Qualified Persons in the Board for Preliminary Assessment of the Juvenile

The makeup of the Board is outlined in Section 4 of the Juvenile Justice (Care and Protection of Children) Act, 2015. According to the Section: "(2) A Board shall consist of two social workers chosen in a manner that may be prescribed, at least one of whom shall be a woman, and a Metropolitan

²⁷ A.P.Pollution Control Board II v.M.V.Nayudu, (2001) 2 SCC 62.

²⁸ (1979)1 SCC 137

Magistrate or a Judicial Magistrate of First Class with at least three years of experience, not being Chief Metropolitan Magistrate or Chief Judicial Magistrate (hereinafter referred to as Principal Magistrate)." "Each Bench will have the authority granted to it by the Code of Criminal Procedure, 1973 for Metropolitan Magistrates or, as the case may be, Judicial Magistrates of First Class. (3) A social worker cannot be selected to the Board unless they have actively participated in welfare, education, or health-related initiatives."²⁹

"Or" is the operational word in paragraph (3) of section 4. This suggests that having a degree in child psychology or psychiatry and being in active practice are not prerequisites for the social workers on the board. To adequately evaluate the juvenile and determine whether or not the juvenile possessed the necessary mental capacity of an adult during the commission of the offense, it is imperative that at least one member of the board hold a degree in child psychology or psychiatry. Whether the juvenile will be tried in the same way as an adult depends on a preliminary assessment of their mental and physical capabilities to conduct the crime, their comprehension of the consequences of the crime, and the circumstances surrounding the alleged crime. If the juvenile's mental capacity is not required to be evaluated by a psychologist or psychiatrist, there is a strong probability that the Board will not accurately appraise it. The Board is misusing its power and acting arbitrarily by not having enough competent applicants for review.

THE IMPLICATIONS OF TREATING 16-18 YEAR OLDS AS ADULTS

The juvenile's future, life, and liberty will be severely impacted if the Juvenile Board, in compliance with Section 15 read with Section 2(20) of the Act, finds that a minor within the 16–18 age range possessed the mental and physical ability to perpetrate the offense and forwards the case to the Sessions Court. These repercussions include the youngster becoming liable to trial for all major offenses under the Penal Code, 1860.

Even though it is frequently the case that these persons are either victims of trafficking themselves or the offspring of people engaged in commercial sex work who become

²⁹ The Juvenile Justice (Care and Protection of Children) Act, 2015, S.4.

enmeshed in trafficking operations, juveniles may also face legal penalties for engaging in trafficking activities³⁸. Therefore, the already vulnerable teenage population will be disproportionately affected by these consequences. The additional consequences include situations in which the minor could be held accountable under various sections of the "Food Safety and Standards Act," "Unlawful Activities (Prevention) Act," "Arms Act," "Narcotic Drugs and Psychotropic Substances (NDPS) Act," "Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act," "Terrorist and Disruptive Activities (Prevention) Act," and other related laws.

Several parts of the NDPS Act provide punishments ranging from 10 to 20 years for violations involving the possession, distribution, or exchange of marijuana, poppy straw, and psychotropic drugs in commercial amounts. These fines are especially applied to violations concerning the sale of certain kinds of psychotropic and narcotic medications on the black market. The Juvenile Justice Act's new start idea will not be applicable in any situation of this kind.

As a result, treating 16 to 18-year-olds as adults has major consequences that will undoubtedly wreck the juvenile's life if he is sentenced to a lengthy prison term because he is regarded as an adult. Because preserving minors' rights is the core purpose of juvenile justice, Sections 15 and 18 have far-reaching consequences that contradict the fundamental foundations of the Juvenile Justice Act of 2015 and juvenile justice precedent. Instead than inflicting unjust punitive or retributive consequences on adolescents, the state should work to reform them. Juveniles are a vulnerable segment of society.

³⁸Section 370, IPC

CONCLUSION

The major goal of the Juvenile Justice (Care and Protection) Act of 2015 is to protect and defend children's fundamental rights. This legislation is intended to benefit children rather than cause them harm. Nonetheless, this article demonstrates that the process of examining and dealing with criminal acts committed by people aged 16 to 18 as adults provides no visible benefits for the preservation of those adolescents' rights. The government quickly passed the 2015 Act in reaction to the terrible Nirbhaya tragedy, which had sparked considerable concern across the country. The release of a 17-year-old juvenile offender after a brief detention, in compliance with the current Juvenile Justice

(Care and Protection of Children) Act of 2000, aroused widespread public anger. This outrage was essential in prompting the Parliament to create the 2015 Act as a deliberate step to assuage public concern. While the recent Act has made significant strides in improving child safety, it is worth noting that Sections 15 and 18, which deal with the evaluation and subsequent trial of individuals aged 16 to 18 in either the Children's Court or the Sessions Court, are problematic from both a legal and justice standpoint.

The aforementioned behavior is considered legally undesirable since it clearly violates the fundamental values of equality and fair trial, as discussed in the current scholarly study. The practice of treating juveniles in accordance with Juvenile Justice Ideas, which highlight the necessity to treat people under the age of 18 differently from adults owing to their fragility, is judged unfair. This research carefully evaluated the classification and assessment of adolescents aged 16 to 18, as well as their transfer to a Children's Court or Sessions Court. It contends that this classification is irrational, arbitrary, and in breach of fair trial norms, rendering it clearly unlawful.