

## **WHEN CHILDREN ARE TRIED AS ADULTS: A CRITICAL ANALYSIS OF THE ROLE OF CHILDREN'S COURTS UNDER THE JJ ACT 2015**

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### **Abstract**

*The Juvenile Justice (Care and Protection of Children) Act, 2015 brought along with it, a major shift in India's long history of rehabilitative juvenile justice. It allows children aged 16-18, accused of heinous offences, to be tried as adults after a preliminary assessment; a legislative change that was born out of intense public outrage rather than any solid empirical evidence. It thus led to the creation of a Children's Court and set up a complex dual system that includes both the Juvenile Justice Board and the Children's Court. This paper seeks to address the information gap regarding Children's Courts and how they operate in this new system. It addresses the common misconception that transferring a child for an adult trial means it will follow the usual sessions trial process. Through a detailed doctrinal examination of the statutes, judicial precedents, and the protections outlined in Sections 15 and 19 of the Act, the paper argues that a Children's Court is a distinct forum based on child rights, rehabilitation, and the best interests of both the wronged children and those in conflict with the law. Key findings indicate implementation challenges, including limited awareness of Section 19 safeguards, procedural inconsistencies between the JJ Act and Rules and variations in bail framework, underscoring the need for uniform practices to prioritise child treatment in these proceedings.*

*Keywords:* children's courts; children in conflict with law; child rights; trial as adult; rehabilitation

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## Introduction

A child is a product of his present, molded by the conditions of his surroundings. When a child runs afoul of the law, it is not only the fault of one individual or family; rather, it is the fault of the entire system and should be a problem for society as a whole. Indian laws recognise this vulnerability. Article 14 of the Indian Constitution guarantees equality before the law, and Articles 15(3), 39(e) and (f), 45 and 47 place a special duty on the State to protect and nurture children. It is within this constitutional framework that the Juvenile Justice (Care and Protection of Children) Act, 2000 was enacted. However, with the passage of time, the need for stronger safeguards and reforms was felt, leading to the enactment of the Juvenile Justice (Care and Protection of Children) Act of 2015, passed in the aftermath of the national uproar over the release of the juvenile in the infamous Nirbhaya case.

By giving into public demands, the Indian legislature disregarded recommendations of the United Nations Convention on the Rights of the Child (UNCRC), high-powered domestic Committees, child rights advocates and organisations, national human rights institutions by legislating a system that allows the trial in an adult criminal court of children, at or above the age of 16 and below 18 years of age, accused of heinous offences. While the 2015 Act builds upon the progressive framework of the 2000 Act, it introduced significant changes. Notably, it categorised offences committed by juveniles into three classes:

- Petty offences (punishable with less than three years' imprisonment),
- Serious offences (punishable with imprisonment between three and seven years), and
- Heinous offences (punishable with imprisonment of seven years or more)

In 2021, this category of offences was further amended and some of the offences which did not strictly fall under any of these categories, particularly those offences where the maximum sentence was more than 7 years imprisonment but no minimum sentence had been prescribed or minimum sentence of less than 7 years was provided, were decided be treated as serious offences within this Act.

Another important change in the 2015 Act, is with respect to the categorisation in the age group of the Children in Conflict with Law (CiCL). Whereas the 2000 Act treated all CiCLs under 18 as children, Section 15 of the 2015 Act provides that in cases of heinous offences alleged to have been committed by a child who has completed or is above the age of 16 years and below 18 years, the Juvenile Justice Board (JJB) must conduct a preliminary assessment. Such a process would include assessment of a child's mental and physical capacity to commit the offence, ability to understand the consequences, and the circumstances in which it was allegedly committed, and may thereafter allow the child to be tried as an adult. In other words, following the CiCLs' release three years after the Nirbhaya case, the law carved out a whole new class of CiCLs; adolescents between the ages of 16 and 18, who could be treated as adults when charged with heinous offences.

The constitutionality of the retention of all persons below the age of 18 years under the juvenile justice system under the erstwhile Juvenile Justice (Care and Protection of Children) Act, 2000 had been upheld by the Supreme Court in two successive cases before 2015. Yet, the judiciary also tuned in to the public protests and supported the government in revising the law to address heinous offences by juveniles. Thus, by carving out a law to treat juveniles differently based on category of offences, India joined the list of countries such as USA, UK and France that treat children falling under certain age groups as adults for heinous crimes, defying the CRC, to which it acceded to in 1992 and which mandates under Article 40(3), the establishment of a justice system specifically for persons below 18 years accused of offences.

This paper aims to address: How do Children's Courts function under the Juvenile Justice (Care and Protection of Children) Act 2015, particularly in maintaining rehabilitative and child-rights principles during proceedings involving transferred cases, and what implementation challenges arise? The paper is organised as follows: Section 1 outlines the research methodology. Section 2 examines the concept and role of Children's Courts. Section 3 discusses the transfer process from JJB to Children's Court, focusing on preliminary assessment under Section 15 and then a fresh assessment under Section 19. Section 4 analyses trial procedures in Children's Courts under Section 19. Section 5 explores the bail framework. Section 6 reviews child-friendly measures. Section 7 addresses outcomes upon conviction. Section 8 concludes with observations on gaps and recommendations.

## **Research Methodology**

This paper uses a doctrinal method of research to understand the law related to children who have been transferred to the adult criminal justice system and the functioning of the Children's Court under the Juvenile Justice (Care and Protection of Children) Act of 2015. The reliance has been placed on the Constitution, Juvenile Justice (Care and Protection of Children) Act, 2000, JJ Act 2015 and Juvenile Justice (Care and Protection of Children) Model Rules, 2016 (India). Further judgments of various high courts and supreme court have been studied to understand the evolving jurisprudence on this issue. A qualitative study of ground practices has been done to understand the challenges on the ground in terms of bail, assessment under section 19, review at the age of 21 etc to share insights on the implementation of the act. The paper does not use empirical research but it seeks to bridge the gap between law and practice through a contextual and practice-informed analysis

## **Findings**

Drawing on doctrinal analysis and informed by field-level realities, the following findings are presented to a deeper understanding of systemic issues and inform potential areas for reform.

### **What are Children's Courts?**

Now the question arises, what is the meaning of the term "being tried as an adult" or "being treated as adult"? Does it mean that a child stops being seen as a child and his/her matter is transferred to a regular Sessions Court? Under the JJ Act, two special forums are mentioned: Juvenile Justice Board and Children's Court. A Juvenile Justice Board (JJB) can handle the following cases:

1. All petty and serious offence cases of children below 18 years
2. All heinous offence cases of children below 16 years
3. All heinous offence cases of children above 16 years and below 18 years who are found to be treated as CiCLs and not adults after the preliminary assessment under Section 15 of the Act.

Whereas, a Children's Court has the jurisdiction to deal with:

1. All cases of children between 16-18 years who have committed heinous offences and have been transferred for trial as adults after the preliminary assessment under Section 15.
2. Cases of appeal against orders passed by the JJB.

The most common misconception is that when the JJB under Section 15 of the JJ Act, decides that a child between 16-18 years who is accused of committing a heinous offence, should be tried as an “adult” and transfers the case to a Sessions Court, the trial proceeds exactly like a regular sessions court case.

A Children’s Court in simple terms, functions as an extension of the JJB and has the authority to impose a higher punishment than the maximum of three years prescribed under S.18 of the JJ Act. If found guilty, the CiCL may even be sent to an adult prison once they attain 21 years of age. However, it has to be remembered that these bodies are not ordinary criminal courts in disguise, they are built on a different philosophy altogether; one that places reformation and rehabilitation above retribution. The proceedings in both these forums remain bound by the principles of the child’s best interests and are required to follow child-friendly procedures throughout. “Child-friendly”, as defined under Section 2(15) of the JJ Act, refers to any behaviour, conduct, practice, process, attitude, environment, or treatment that is humane, considerate, and in the best interest of the child.

According to the JJ Act, A “Children’s Court” may be a court established under the Commissions for Protection of Child Rights Act, 2005, or a Special Court designated under the Protection of Children from Sexual Offences (POCSO) Act, 2012. In places where no such specialised court exists, the Court of Sessions with jurisdiction functions as the Children’s Court for offences under the Act. However, in situations like these, the Court of Sessions has to describe itself specifically as a ‘Children’s Court’ while dealing with cases related to CiCLs in the proceedings drawn by it. Therefore, the purpose of designating a Sessions Court as Children’s Court highlights that the intent of the legislature was to provide a forum for these children who are transferred to the adult criminal justice system to be treated differently from a regular adult accused.

However, although statutory obligations clearly exist, many Sessions Courts remain unaware of their designation and responsibilities as Children’s Courts. The role is frequently misconstrued as merely referring to courts that adjudicate offences committed against children, such as cases under the POCSO Act, rather than courts mandated to address matters involving children in conflict

with law. In some instances, even court staff are unaware that the presiding officer is functioning as a Children's Court, or of the legal implications of such a designation. Consequently, these courts often remain uninformed about the powers vested in them under the Juvenile Justice Act and their critical role in the rehabilitation and reintegration of children in conflict with law.

In a recent Supreme Court judgment, while explaining the role of Children Courts, a bench comprising Justice MM Sundresh and Justice Aravind Kumar observed that *“a Court is expected to play the role of parens patriae by treating a child not as a delinquent, but as a victim, viewed through the lens of reformation, rehabilitation and reintegration into the society”*. They further went on to say that *“a Juvenile Court is a species of a parent. A delinquent, who appears before the Court, is to be protected and re-educated, rather than be judged and punished and thus the Court will have to press into service the benevolent provisions for rehabilitation introduced by the Legislature. A Juvenile Court therefore, assumes the role of an institution rendering psychological services. It must forget that it is acting as a Court, and must don the robes of a correction home for a deviant child.”*

The need for special treatment of CiCLs during judicial processes has been repeatedly recognised by various authorities, committees, and government bodies, both national and international. The National Policy for Children, adopted by the Government of India in 2013, firmly establishes the “best interest” principle as the primary consideration in all decisions and actions affecting children taken by courts of law. This commitment was reiterated in the Report of the National Annual Stakeholders Consultation on Child Protection (2023), organised by the Supreme Court Juvenile Justice and Child Welfare Committee, which highlighted the damaging impact that formal judicial proceedings can have on a child's mental and physical well-being. One of its key recommendations was to strengthen and embed child-friendly processes at every stage of justice delivery.

## **How does a Case Get Transferred from the JJB to the Children's Court?**

### ***The Concept of 'Preliminary Assessment'***

The most important change that the 2015 amendment brought to the juvenile justice framework in India, is the process of 'Preliminary Assessment'.

As the name suggests, it is conducted right after determining the age of the CiCL being produced before the JJB. The Board is then required to assess the mental and physical capacity of a child to commit such an offence, his ability to understand its consequences, and the circumstances in which the said offence was committed. Using these parameters, the Board is to accurately determine, within a period of three months, whether the child is to be tried as a child or as an adult. The Board may obtain the assistance of experienced psychologists for such determination. Along with this, the JJB usually calls for, and peruses the social background report, social investigation report, physical mental drug assessment report, Preliminary Assessment Report (PAR) and other relevant records filed by the police. Some of these reports contain versions of the child in conflict with law too, thus ensuring fulfilment of the mandate, to an extent, right of participation of children. CiCLs are entitled to receive a copy of each of these reports. The Hon'ble Bombay High Court in 2018 had observed that all the four aspects-physical capacity, mental ability, understanding, and the circumstances should be considered by the Board cumulatively and that none is dispensable. This is because transfer to an adult criminal justice system is an exception and not a norm.

### ***Judicial and Policy Framework***

In 2022, the Supreme Court of India, followed by the National Commission for Protection of Child Rights (NCPCR) in 2023, issued guidelines governing the process of preliminary assessment. These guidelines lay down the parameters for evaluating four key aspects, which are cumulatively discussed below. First, the assessment of the child's physical capacity to commit the alleged offence is to be framed in terms of locomotive and functional abilities, including gross motor skills such as walking, running, lifting, and throwing. Second, the evaluation of mental capacity has to take into account the child's ability to make reasoned social decisions and judgments. In principle, this requires a nuanced engagement with the child's mental health and psychosocial profile, including factors such as substance use, deficits in life skills, neglect, lack of parental supervision, exposure to poor role models, and experiences of trauma or abuse. Third, the "circumstances" in which the offence was allegedly committed are expansively defined to include a wide spectrum of psychosocial vulnerabilities, ranging from family environment and economic deprivation to peer influences,

trauma, and developmental history. Notably, the guidelines emphasise that this inquiry must extend beyond the immediate triggering event that led to the alleged crime and instead adopt a longitudinal perspective of the child's lived experiences. Finally, the child's ability to understand the consequences of the alleged offence encompasses both legal and social awareness, including the recognition of stigma, interpersonal repercussions, harm to the victim, and potential legal sanctions. This component is arguably the most normatively loaded, as it presumes a level of cognitive and moral development that may not be uniformly present across children.

### ***The Challenge of Preliminary Assessment Becoming a 'Mini-Trial'***

Explanation to Section 15 of the JJ Act strictly clarifies that the inquiry at the stage of Preliminary Assessment is not a trial. However, herein lies the fallacy of the 2015 Amendment. The evaluation by the Board of the mental capacity of the CiCL to commit the offence is the first step of the evaluation process, taking place before it is even proved if the offence has been committed by him or not. Thus, the preliminary assessment of the CiCL proceeds on the assumption that the alleged offence has been committed, and is thus a sentencing decision before guilt is established. While, the statutory discretion of taking help from experienced psychologists to conduct a preliminary assessment has been held as mandatory, the Board is also free to independently assess the parameter of 'circumstances' of the child independently. Sometimes, this particular evaluation lacks procedural fairness as Boards often rely on the prosecution documents and supposed statement of the CiCL in his psychological report to assess the circumstances in which the alleged offence has been committed. However, the Delhi High Court in 2022 has clarified that extracting a confession from a child is unconstitutional, violative of Art. 20(3), and goes beyond the scope of a preliminary assessment report. Thus, the Board transfers the child to be tried as an adult only when it is satisfied that the above four criteria are being met.

### **Trial Procedure Adopted by the Children's Courts**

The Children's Court is endowed with the responsibility of delicately balancing the application of criminal law with the principles of child rights enshrined under the JJ Act. Its powers are primarily derived from S.19, supplemented by the provisions of the JJ Model Rules 2016. While the trial of CiCLs accused of heinous offences follows the procedure under the Criminal

Procedure Code, 1973 (Cr.P.C.), Section 19(1)(i) of the JJ Act, makes it clear that such trials are not intended to mirror adult trials in all respects.

The process begins when the JJB, after conducting the preliminary assessment, decides under Section 18(3) that a CiCL should be tried as an adult. However, the matter does not automatically proceed to an adult trial. A CiCL can still file an appeal against the order of the Board in the Children's Court and the latter holds the power to remit the case back to the Board or to dismiss the appeal.

Therefore, once the case is transferred and an appeal (if filed) is dismissed, the Children's Court is required to carry out its own independent preliminary assessment under Section 19 of the Act. Based on this second assessment, the Court can either declare the CiCL to be a child and assume the role of the JJB, proceeding with a summons trial, or confirm that the CiCL is to be tried as an adult and commence a sessions trial. This was reiterated by the Hon'ble Delhi High Court in *Children in Conflict with Law LK v. State* wherein the Court held that the power to conduct a preliminary assessment on its own before the initiation of proceedings is mandatory and the Court is not bound to simply affirm the JJB's preliminary assessment report.

### ***Role of the Children's Court in Conducting a Fresh Preliminary Assessment***

It bears reiteration that where the Children's Court, on hearing an appeal, concludes that there is no requirement to try the child as an adult, it is not obligated to remit the matter back to the JJB. Instead, the Children's Court itself is empowered to act as a Board and conduct an inquiry and pass appropriate orders in accordance with Section 18 of the Act. This distinction is critical, as a trial before the Children's Court as an adult and an inquiry before the JJB as a juvenile carry markedly different legal and rehabilitative consequences. However, if an appeal is dismissed or is not filed for some reason, Section 19 offers the child a second opportunity for a fresh and independent assessment.

Although the statutory and judicial focus has largely centred on the preliminary assessment under Section 15, the language and legislative intent of Section 19 make it clear that the Children's Court is independently required to determine whether a trial of the child as an adult is necessary.

The use of the word “may” in Section 19(1) suggests that the Children’s Court has discretion in conducting a fresh preliminary assessment. This discretion appears to have been deliberately built into the statute to account for practical limitations, particularly in remote or resource-constrained districts where qualified mental health professionals may not be readily available. However, the Supreme Court, while interpreting Section 19(1), held that the word “may” therein must be read as “shall,” thereby making it mandatory for the Children’s Court to determine the necessity of trying the child as an adult. Therefore, this is one of the most consequential but frequently overlooked powers of the Children’s Court.

### ***Challenges***

Although detailed guidelines for conducting a preliminary assessment under S. 15 have been formulated by the NCPCR, no comparable guidelines currently exist for assessments under Section 19. Consequently, the Children’s Court is often compelled to rely on direct interaction with the child to evaluate their mental and psychological disposition and to arrive at an objective conclusion on whether the child ought to be tried as an adult. In this sense, the preliminary assessment conducted by the JJB assumes the character of a secondary, hierarchically superior assessment when reviewed by the Children’s Court.

A question emerges here- Is the Children’s Court required to take help from experts under Section 19 as does the JJB under Section 15? The answer seems simple. If it is mandatory for the Board, then it should be mandatory for the Children’s Court too. Moreover, the Children’s Court is also empowered to seek the assistance of experienced psychologists and medical specialists distinct from those who assisted the JJB, as contemplated under Section 101(2) of the Act while deciding an appeal against the order of the Board.

When Section 19 and 101(2) are read together, a prima facie argument emerges that the discretion under Section 101(2) ought to be exercised meaningfully, if not mandatorily. That said, any authoritative reinterpretation of Section 101(2) as compulsory would require further clarification by the Supreme Court. Accordingly, the legal position may be summarised as follows:

(a) Upon receipt of the preliminary assessment conducted by the JJB under Section 15, the Children’s Court is mandatorily required to independently determine, under Section 19, whether the child should be tried as an adult or whether the matter should proceed as an inquiry akin to that conducted by the JJB.

(b) While deciding an appeal or otherwise exercising jurisdiction under Section 19, the Children’s Court may, at its discretion, seek assistance from experienced psychologists and medical specialists, provided they are distinct from those consulted by the JJB, as envisaged under Section 101(2).

The Supreme Court’s observations in *Barun Chandra Thakur* further reinforce this interpretive approach, having held that the word “may” in Section 15(1) operates as a mandatory requirement.

An additional and often overlooked complexity in proceedings under Section 19 is the passage of time. By the time the matter reaches the Children’s Court, the child may have already attained majority, and in some cases may be well over 21 years of age. This temporal gap raises serious questions about the feasibility and validity of conducting a fresh psychological assessment, given that the individual no longer falls within the 16-18 age bracket relevant to Section 15. In the absence of clear statutory or judicial guidance on this issue, the Children’s Court must necessarily rely on the original preliminary assessment, supplemented by its own interaction with the individual, while remaining guided by the “General Principles” enshrined in Section 3 of the Juvenile Justice Act.

A significant challenge to the functioning of Children’s Courts comes from the fact that the law is silent on how they are supposed to conduct themselves when acting as the Board if they choose to try the CiCL as a child after Section 19 proceedings. The JJ Model Rules 2016 require that the Board hold its sittings either in an observation home, or proximate to such homes, mandating that the Board should, in no circumstances, operate from within court premises. They further require that the premises of the sitting should not resemble a court room, and there should be no witness boxes or raised platform for the Board members. Therefore, trial of a CiCL as a child, in an adult court, such as the Sessions Court, is contrary to the international mandates of the child-friendly

juvenile system. Additionally, while the 2015 Act prescribes qualifications for Magistrates and social workers constituting the Board, thereby ensuring that they are experienced in dealing with children, no such qualifications exist for judges of the Children's Court. Being ill-equipped in juvenile psychology, the Children's Court is not adequately qualified to pass orders under Section.18. Further, the absence of statutory prescribed timelines for disposal of cases before the Children's Courts, dilute the emphasis on time bound adjudication of cases concerning juveniles. This is in contravention of the right of the juvenile to decisions being taken without delay. Therefore, such challenges create gaps and loopholes not only in the functioning of the Courts but also make the process violative of the Act's very own objective of the best interests of the child.

### **Bail Framework under the JJ Act**

A difference between the trial of an adult accused and a CiCL also emerges in the concept of granting bail to the CiCL. Section 12 of the JJ Act deviates from Section 439 of the Cr.P.C (Section 483 of BNSS, 2023) and holds that granting bail to a CiCL is mandatory, save in three situations: if there are reasonable grounds to believe the child's release would lead to association with a known criminal, exposure to moral, physical, or psychological danger, or if the release would defeat the ends of justice. Thus, as opposed to an adult accused, granting bail to a juvenile is mandatory.

As per the 2022 National Crime Records Bureau (NCRB) data total of 78,443 children were apprehended out of this 17,112 children were sent home after advice or admonition and 4104 were acquitted and 1769 were discharged. This means that out of 78,443 children who were apprehended 22,985 were sent home while rest continued to be institutionalised.

### ***Judicial Interpretation***

The treatment of the child as an adult, led many to assume that as in regular sessions case, bail would also be governed by provisions of Cr.P.C. This confusion was soon cleared by the Hon'ble Delhi High Court in A.C. v. State (NCT of Delhi) (*supra*) where it was clarified that there is no provision in the JJ Act requiring a departure to be made from the general provision contained in Section 12 in the matter of release on bail of a CiCL who has been referred to be tried as an adult. Thus, Section 12 governs the field for all children in

conflict with law, irrespective of the age bracket to which they belong, and notwithstanding the fact as to whether the case against them is being inquired into by the JJB or by the Children's Court. Moreover, there is no unqualified right for the complainant to be heard at every stage of bail proceedings under the JJ Act. The involvement of the complainant remains a matter of judicial discretion rather than an enforceable entitlement and the fundamental principle of juvenile justice i.e. "rehabilitation over retribution" must remain paramount in any such determination.

Another significant issue in juvenile justice jurisprudence concerns whether CiCLs can seek anticipatory bail, given that the JJ Act is explicitly silent on this aspect. This question has been answered in the favour of juveniles in *Raman v. State of Maharashtra*, wherein the Hon'ble Bombay High Court examined the interplay between the JJ Act and the CrPC, setting a precedent for granting anticipatory bail to juveniles. The Court harmonised Section 12 of the JJ Act with Section 438 of the CrPC, rejecting the contention that Section 10 and 12 of the JJ Act which are applicable post-apprehension, exclude the pre-apprehension protection provided under Section 438. Relying on Article 14 of the Constitution of India, the Court held that since IPC's definition of "person" includes children, juveniles too are entitled to the safeguards of Section 438 CrPC and cannot be denied the protection of a beneficial legislation. Thus, even when applying Cr.P.C. provisions, the JJ Act expressly requires that the court proceedings must remain child-friendly, humane and considerate, ensuring the best interests of the child. This creates a deliberate and important policy choice between the trial of a CiCL and that of an adult.

### ***Emerging Challenges***

The question that persists however, is whether child-friendly procedures genuinely translate into practice on the ground. High-profile incidents such as the Pune Porsche case cast serious doubt on this assumption. In that case, a 17-year-old allegedly caused the death of two individuals while driving under the influence of alcohol. The JJB granted bail within hours of arrest, imposing notably lenient conditions, but revoked the bail shortly thereafter in response to intense public outrage. Although the Bombay High Court eventually restored bail, the episode underscores how the implementation of statutory protections is often shaped by prevailing societal sentiments rather than consistent legal

considerations. In practice, Sessions Courts frequently base bail decisions on factors such as the nature of the offence, the alleged role of the CiCL, and the perceived heinousness of the crime, considerations that tend to dilute the statutory presumption of bail and the conditions listed under Section 12 of the Juvenile Justice Act.

This inconsistency is further highlighted by the Supreme Court's decision in *ABC v. State of Chhattisgarh* on 2 July 2025, where bail was granted to a CiCL who had remained in custody for over 16 months. The child contended that the case against him rested entirely on circumstantial evidence and the alleged disclosure statement of a co-accused who was also a juvenile. Despite this, the Chhattisgarh High Court had denied bail on 31 January 2025, citing the gravity of the offence and expressing concerns that release would result in a "miscarriage of justice" and pose a "danger to society." Notably, neither the High Court nor the subordinate the JJB and the Children's Court, Bilaspur had explained how any of the three statutory exceptions under Section 12 were satisfied to justify their denial of bail. The CiCL also apprised the Supreme Court that the Social Investigation Report prepared by the Legal-cum-Probation Officer had recommended the grant of bail, a factor placed before the High Court but conspicuously absent from its order. The Supreme Court's eventual intervention exposed a failure to apply the statutory framework in letter and spirit, resulting in an avoidable incarceration of 16 months.

Even at the level of the Supreme Court, inconsistencies persist. On 22 May, a Bench comprising Justices J.B. Pardiwala and R. Mahadevan denied bail to a CiCL who had spent 15 months in custody, noting that the trial was ongoing and the victim had yet to be examined, but without explaining how the Section 12 exceptions were attracted. Again, on 8 May, a three-judge Bench of Justices Vikram Nath, Sanjay Karol, and Sandeep Mehta declined relief to a CiCL who had been in custody for over three and a half years, after the Allahabad High Court had earlier denied bail without clearly stating the statutory basis for doing so. These divergent outcomes suggest a deeper structural problem. When the grant of bail to a child in conflict with law, which is statutorily framed as the norm, depends on judicial discretion, completely divergent from the clear mandate of Section 12, it ceases to be a safeguard to rehabilitate and reintegrate children in the society and becomes a matter of chance.

## **Child-Friendly Measures to be Adopted by the Court**

Contrary to the trial of an adult, the trial of a child as an adult safeguards his basic rights not only as a person who is accused of an offence but also as a child who is in conflict with law. With respect to such basic distinction, there are various factors that a Children's Court keeps in mind while proceeding against a child. Article 45 of the Model Law on Juvenile Justice issued by the United Nations Office on Drugs and Crime in 2013 provides that a court trying children shall ensure that the language used during the trial is suitable to the child's age and understanding and that a child is given breaks from the proceedings appropriate to his or her age, health, and understanding. All throughout the trial, the Court is also required to maintain the confidentiality of the child, referring to the child using child-friendly terminology. The General Comment No 24 emphasise that throughout the proceedings dignity of a child should be maintained, a child's right to participation in proceedings should be ensured. The judges and court staff should be trained to be sensitive to the needs of the children. Priority should be given to diversion, non institutional recourse. United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules) also provide for child friendly measures. Rule 10 and 14 emphasise on procedural safeguards such as presumption of innocence, right to participation and protection of privacy.

In *A.K. Asthana v. Union of India & Anr.*, the Hon'ble Delhi High Court issued guidelines requiring courts to obliterate details leading to the disclosure of the identity of a child from judicial proceedings before issuing certified copies. The Court also directed that the Registry/Reader/Ahlmad of the Court concerned shall not accept any application if it contains the name of the child and inspection of court records would only be permitted upon an undertaking being given that the child's identity and related details would not be disclosed to anyone else. One of the key safeguards is that the proceedings are conducted by a Special Public Prosecutor appointed under the Commissions for Protection of Child Rights Act, 2005, or the POCSO Act, 2012. The Madhya Pradesh Juvenile Justice (Care and Protection of Children) Rules, 2022 provide that a trial conducted by the Children's Court under the JJ Act shall be 'in camera' while maintaining a 'child-friendly' atmosphere. The draft Karnataka State Juvenile Justice (Care and Protection of Children) Rules provide for a different

physical environment for the Children's Court. Rule 8 says that where the Children's Court decides that there is a need for trial of the child as an adult, it shall not sit on a raised platform and there shall be no barriers, such as witness boxes or bars between the Court and the child. Thus, the child for all intents and purposes is supposed to be treated differently from how an adult accused is treated in a regular Sessions Court.

### **What Happens to a CiCL Who is Found Guilty by the Children's Court?**

The final decision and conclusion of the trial also differs from that of an adult court proceeding. Upon the conclusion of the trial, every final order of the Children's Court must include an individual care plan for rehabilitation, in line with Section 19 and Rule 13(8) of the Model JJ Rules. The child is to be placed in a designated place of safety until the age of 21, where they must have access to reformative services, including education, skill development, counselling, behaviour modification therapy, and psychiatric support. The Court must receive annual follow-up reports from the probation officer, the District Child Protection Unit (DCPU), or a social worker, to monitor the child's progress and prevent ill-treatment. Therefore, unlike an adult who is sent to a formal prison system, a CiCL does not get transferred to a prison till he is 21. In Kerala a project named Kawal is run in a public private partnership model where focus is on reformation. Even when a child is released on bail he stays in continuous follow up through probation officers and NGO. The reports are constantly submitted to the JJB to track the progress of a child. This model has shown a reduction in recidivism from 13 percentages at the beginning of the program to 5%.

When a CiCL reaches 21 years of age inside the place of safety, the Court reviews their progress to determine readiness for reintegration. This assessment considers reformative progress, expert evaluations, and institutional reports. The Court may order unconditional release, release on bond with or without sureties, continued rehabilitative support, or appoint a monitoring authority. In rare cases, it may direct that the remainder of the sentence be served in jail. However, even then, a CiCL cannot be given life-imprisonment without possibility of release or death penalty.

Sections 22 and 23 of the JJ Act provide further legal safeguards. Children cannot be subjected to preventive detention or security proceedings under Chapter VIII of the CrPC, and they cannot be tried jointly with adult co-accused, even if charged in the same offence.

The role of the Children's Court, thus, is not to act as a regular Sessions Court that deals with adult offenders on a regular basis, but to balance law with compassion, ensuring that every proceeding respects the child's rights while guiding them toward a future free from the circumstances that led them into conflict with the law.

### **Conclusion**

The Children's Court was intended to be a specialised forum to maintain the rehabilitative foundations of juvenile justice, even when a child faces an adult trial system. However, this paper shows a consistent gap between what the law aims for and how it is practised in courts. When courts do not recognise their role as Children's Courts or treat it like a regular Sessions Court, the protections in the Juvenile Justice Act become meaningless.

Inconsistencies in applying Section. 12, an overemphasis on the gravity of offences, and a lack of careful consideration of legal exceptions indicate a gradual move towards punishment-focused reasoning. Public pressure and media attention further complicate this issue, leading to longer sentences and inconsistent outcomes for children involved with the law. Such actions go against the Act's main idea that a child remains a child, regardless of the seriousness of the alleged offence. In order to ensure that the mandate of the JJ Act 2015 is achieved with respect to children who are transferred structured and strategic interventions are required:

- Capacity building: The children's court judges, public prosecutor staff members should be provided specialised training on JJ Act along with orientation towards child sensitive approach.
- Maintaining data and reporting to the juvenile justice committee of high court: all the children's court should be directed to maintain data regarding number of cases of CiCL transferred from JJB, cases in which

section 19 proceedings took place and number of cases in which review was done after a child reaches 21 as per the requirement of section 20. This data should be quarterly submitted before the Juvenile Justice Committee of the High Court to bring in accountability regarding the functioning of the Court.

- Ensuring appropriate infrastructure: The state should make sure that at least in each district there is one Children's Court. Each of such Children's Courts should be equipped with infrastructure to ensure a child friendly environment.
- Detailed SOP should be prepared for functioning of section 20: When a CiCL attains the age of twenty-one years and is yet to complete the term of stay, the Children's Court is to provide for a follow up by the probation officer or the District Child Protection Unit or a social worker or by itself, as required, to evaluate if such child has undergone reformative changes and if the child can be a contributing member of the society and for this purpose the progress records of the child under sub-section (4) of section 19, along with evaluation of relevant experts are to be taken into consideration. SOP should be prepared regarding how this evaluation is to be conducted and what are the factors that the Court should take into account while reaching a decision.

Without these steps, the Children's Court may become just a title without real meaning. This would weaken the rehabilitative goals of the juvenile justice system and undermine the commitment to child-focused justice.

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