

# Juvenile Crime Particularly among Older Children has increased in India, with Special Reference to the State of Odisha, a Critical Investigation of the Criminal Liability, Pattern, Cause, and Legislative Framework to Deal with it

Bishwa Bhusan Nayak<sup>1</sup>, Dr. S.D Moharana<sup>2</sup>

<sup>1</sup> Ph.D. Research Scholar, Utkal University, Odisha, India.

<sup>2</sup> Principal, GM College, Puri, Odisha, India.

## ABSTRACT:

In India, juvenile delinquency is a depressing reality. Over the last decade, the rate of juvenile offenses perpetrated by older teenagers aged 16 to 18 in India has risen considerably. These juveniles have recently been charged with some of the most terrible crimes, including murder and gang rape. This troubling rise of adolescent delinquency is a societal problem. The majority of Juvenile crime in recent years have been sexual offenses. To combat it, the new JJCP Act, 2015 states that 16- to 18-year-olds who commit a heinous crime may be tried as adults in specific circumstances, regardless of when they were arrested. The researchers are aiming to ascertain whether there has been an increase in heinous crime among older minors aged 16 to 18 in both India and Odisha.

**Keywords:** Juvenile, Crime, JJCP Act -2015, Criminal Liability, offences, IPC & SLL Offences.

## INTRODUCTION:

In India, the number of adolescent offenses has recently increased. Youth crime is a major issue in both India and Odisha, where it causes the majority of young people to ruin their lives and careers. The issue not only affects the victims of the crime, but also the family, future, and society at large of the young offender. In India, the rate of juvenile offenses perpetrated by older adolescents between the ages of 16 and 18 has significantly increased over the past ten years. From 21657 juveniles in the category of 16 to 18 years apprehended under both Indian Penal code and Special and local Crime/offence in the year 2011, the figure has been increased to 28539 in the year 2021, which is a whopping 31.77 % increase<sup>1</sup>. The age range of 16 to 18 years comprised the majority of juveniles in conflict with the law who were caught under the IPC and SLL offences in 2021 (28,539 out of 37,444).<sup>2</sup>. In the same way, Majority of juveniles in conflict with the law apprehended under Indian penal code & SLL offenses were in the age bracket of 16 years to 18 years (76.2%) (26,954 out of 35,352)

<sup>1</sup> Crime in India 2021 | National Crime Records Bureau. (n.d.). Crime in India 2021 | National Crime Records Bureau. <https://ncrb.gov.in/en/Crime-in-India-2021>

<sup>2</sup> Crime in India 2021 | National Crime Records Bureau. (n.d.). Crime in India 2021 | National Crime Records Bureau. <https://ncrb.gov.in/en/Crime-in-India-2021>

during 2020<sup>3</sup>. The data relating to overall Juvenile Crime is also very grim. The number of Murders increased from 531 in 2002 to 1, 007 in 2013., and again substantially reduced to 842 in 2020, the statistics for rape and assault with the purpose to violate women's modesty have increased from 485 and 522 respectively from the year 2002 to 1, 884 and 1, 424 respectively during 2013 and again reduced to 937 and 1154 respectively in 2020<sup>4</sup>. These young people have recently been implicated in some of the most terrible crimes, including murder and gang rape. In 2015, the age range of 16 years old to under 18 years old made up the majority of minors apprehended for IPC offenses (27,986 out of 39,074). Such juvenile criminal activity is a troubling trend that troubles society as a whole. In our society, juvenile crime is like a disease. The majority of juvenile crimes in recent years have been sexual offenses. According to NCRB's 2015 Report, 22.6% of all SSL instances (2,037 cases) against minors were reported under 2012 POCSO Act, making up the majority of cases against minors<sup>5</sup>. Theft accounted for the majority (19.3%) of cases filed under the juvenile category, followed by the offence of rape (5.4%), kidnapping & abduction (5.2%), and criminal trespass/burglary (8.3%). It's wonderful news for our nation that, according to NCRB, 2015 data, the amount of cases filed under the Indian penal code and Special and local law against minors has decreased by 6.4% (from 33,526 cases in 2014 to 31,396 cases in 2015) and 59.6% (from 5,039 cases in 2014 to 2,037 cases in 2015) throughout the course of 2015 compared to 2014, respectively<sup>6</sup>. In the State of Odisha, a total of 1206 minors were apprehended in 2015 under various IPC and SLL criminal headings, including 29 for murder, 35 for attempted murder, 105 for rape, and 6 for gang rape<sup>7</sup>. Youth criminality is primarily brought on by factors such as poverty, illiteracy, starvation, unemployed parents, drug misuse, peer pressure, easy access to firearms, shattered homes, opulent lifestyles, and having too much independence from their parents. 4,757 juveniles were illiterate out of 41,385 juveniles detained in 2015<sup>8</sup>; 14,229 had only completed their primary education, while 19,056 had completed their secondary education but were not yet high school pass out.. These percentages represent 11.5%, 34.4%, and 46.0% of all juveniles detained, respectively<sup>9</sup>

Due to the fact that the perpetrator of the famous Nirbhaya rape case was a juvenile who was just falling short of age of 18, the December 16, 2012 gang rape in Delhi resulted in significant changes to India's criminal laws. One such change was the requirement to replace and overhaul our juvenile justice system. It was planned to repeal the then JJ Act, 2000, and

<sup>3</sup> Crime in India 2020 | National Crime Records Bureau. (n.d.). Crime in India 2020 | National Crime Records Bureau. <https://ncrb.gov.in/en/Crime-in-India-2020>

<sup>4</sup> Crime in India 2020 | National Crime Records Bureau. (n.d.). Crime in India 2020 | National Crime Records Bureau. <https://ncrb.gov.in/en/Crime-in-India-2020>

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re-enact the 2015 Juvenile Justice (Care and Protection of Children) Act., to address the major issues of juvenile justice. Several changes were made to the JJ Act 2000, to address issues relating to the implementation of juvenile justice. The Juvenile Justice Act of 2000 was amended by way of total replacement. by the Act, which received presidential assent on December 31, 2015. It is a statute that amends and combines the laws pertaining to children. In order to decide cases in children's best interests and for their rehabilitation, a children friendly attitude is used in the processes that are provided, the institutions that are developed, and the bodies that are constituted.. Aiming to meet their fundamental requirements through appropriate care, protection, development, treatment, and social reintegration, it is an act to consolidate and revise the law pertaining to children who are accused to be in conflict with the law and who are judged to be in need of care and protection.

### **Trend and Statistics of Crime by Juveniles in India:**

According to data gathered by the National Crime Records Bureau, crimes committed by children between the ages of 16 and 18 are rising at an alarmingly high rate, particularly in some categories of serious offenses. From 21657 adolescents between the ages of 16 and 18 who were detained in 2011 under both the IPC and SLL Crime/offence, the number grew to 28539 in 2021, a staggering 31.77% increase<sup>10</sup>. The age range of 16 to 18 years comprised the majority of juveniles in conflict with the law who were caught under the IPC and SLL offences in 2021 (28,539 out of 37,444).<sup>11</sup>. Similarly the age range of 16 to 18 years comprised the majority of juveniles in conflict with the law who were apprehended under the IPC and SLL offences in 2020 (26,954 out of 35,352) .In 2015, the age range of 16 years old to under 18 years old made up the majority of minors apprehended for IPC offenses (27,986 out of 39,074). The majority of juvenile crimes in recent years have been sexual offenses. The bulk of SSL cases against minors—22.6% of all occurrences, or 2,037 cases—were reported in accordance with the 2012 POCSO Act, according to NCRB's 2015 Report<sup>12</sup> In 2015, there were 41,385 adolescents detained, of which 2,508 were recidivists, or repeat offenders, and 38,877 were detained for the first time<sup>13</sup>.

4,757 of the 41,385 minors apprehended in 2015 were illiterate, 14,229 had only finished elementary school, and 19,056 had finished middle school but were not yet in their senior year of high school. It is important to highlight that the % of juvenile crime to the total crime reported under IPC, 1860 increased slightly from 0.9 % in 2001 to 1.1% in 2011 & again decreased to 0.7 % in 2021<sup>14</sup>.

<sup>10</sup> Crime in India 2021 | National Crime Records Bureau. (n.d.). Crime in India 2021 | National Crime Records Bureau. <https://ncrb.gov.in/en/Crime-in-India-2021>

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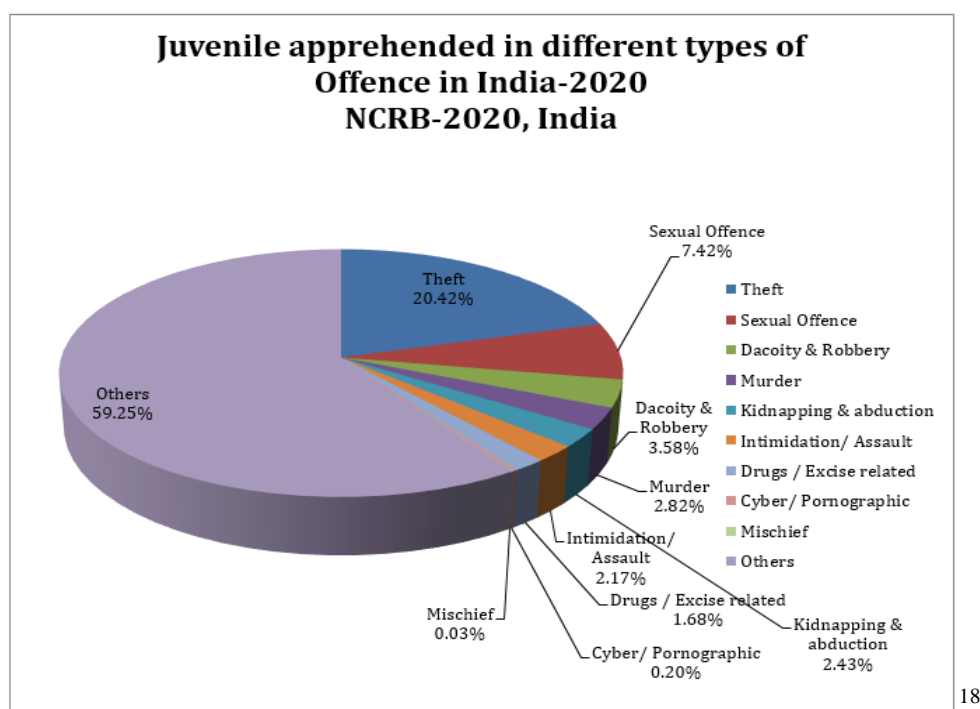
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### Odisha Information:

As stated by the NCRB, Crime in India, Report of 2021, the overall number of juveniles apprehended in the state of Odisha during 2021 under various IPC & SLL criminal headings was 1334, which is 21.82% more than the total number of juveniles apprehended in 2020, which was 1095.

As per the NCRB, Crime in India, 2015, report, the overall number of juveniles apprehended in the state of Odisha during 2015 under various IPC & SLL criminal headings was 1206, which is 11.35% more than the total number of juveniles caught in 2014, which was 1083<sup>15</sup>. The total number of juveniles detained in 2015 was 1206, of which 29 were detained for murder, 35 for attempted murder, 105 for rape, 6 for gang rape, 9 for dacoity, and 49 for robbery<sup>16</sup>. These crimes represent respectively 3.72%, 3.80%, 6.73%, 7.22%, 5.05%, and 5.54% of crime committed by juveniles of Odisha under the same head in India in 2015. It is also crucial to note that, of the total number of juveniles detained in the state of Odisha, 205 were illiterate, 456 had completed elementary school, 343 had completed upper elementary but not matriculated, and 91 had completed matriculation or higher<sup>17</sup>.

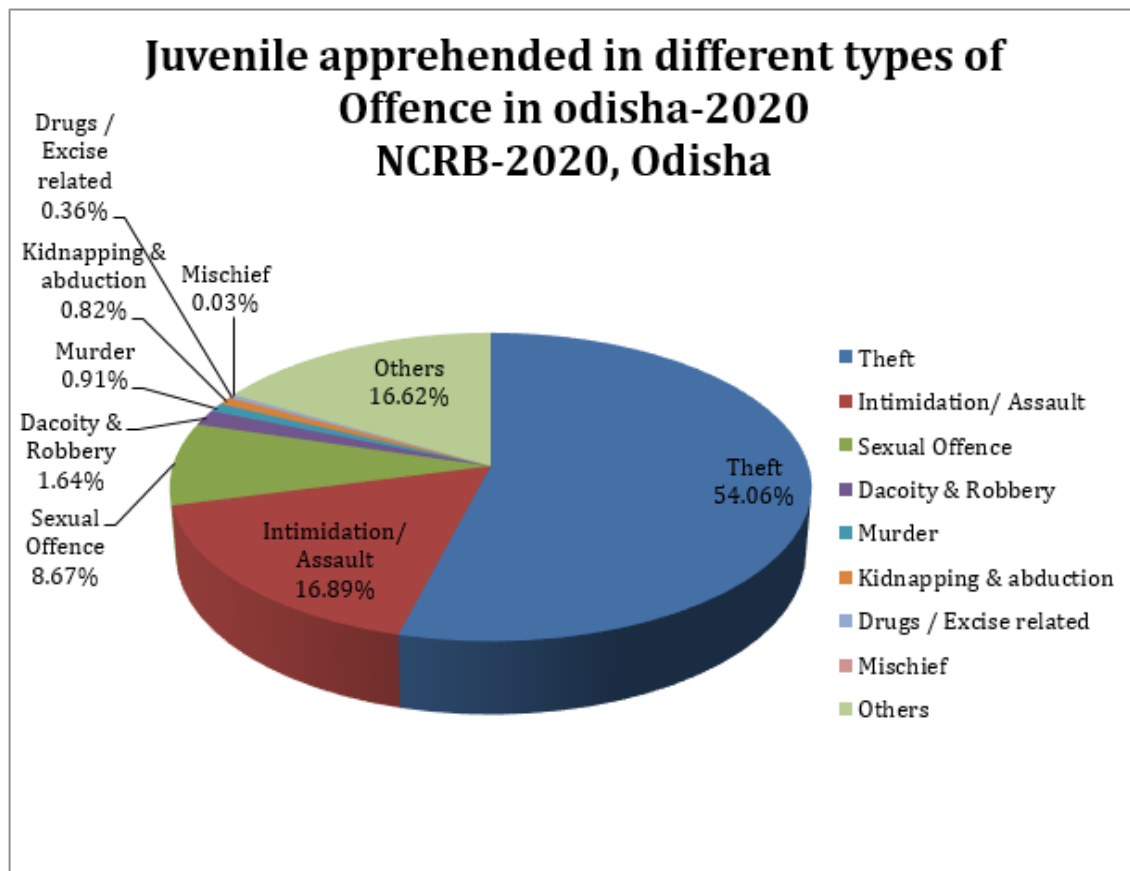


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<sup>18</sup> NCRB, Crime in India -2020



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**Causes of Juvenile Crime:** Children are innocent at birth, and if they are given delicate care and attention, they develop in a healthy way. Children who are developing physically, mentally, morally, and spiritually are better able to reach their full potential. On the other hand, unfavorable conditions, disregard for necessities, the wrong company, and other abuses can make a youngster into a juvenile delinquent. A child is an uncut diamond; how it is shaped depends on the community. A National Policy for Children exists in India that states that children are asset of the nation and that they make up around 40% of the country's population. Even still, the majority of children in India continue to live in challenging conditions. The causes of juvenile crime are numerous and varied, but some of them are as follows:

- Rampant Urbanization;
- inadequate Discipline;
- family and surroundings;
- Shattered families and homes
- Unemployed Parents;
- Cinema and media
- Too much parental freedom;
- Lavish lifestyles
- Drug abuse;
- Anti-Social peer pressure;
- a scarcity of recreational opportunities
- Unfriendly homes;
- Illiteracy;
- Criminalization of households
- malnutrition, hunger, and unemployment
- Easy access to firearms;
- Subculture of gangs
- Too much parental freedom

<sup>19</sup> NCRB, Crime in India -2020

### Juveniles and the Judiciary:

In the case of *S. Bali v. Union of India*<sup>20</sup> and in the case of *Dr. S. Swamy v. Raju*<sup>21</sup>, the Supreme Court maintained the legality of the JJ Act 2000 insofar as it allows all children in dispute with the law to be handled with through the helpful juvenile justice system regardless of the gravity of the offense.. The Supreme Court stressed in *Salil Bali* that the JJ CPC Act, 2000, and the regulations created thereunder, which provide for the rehabilitation and re-integration of children in conflict with the law into mainstream society, are restorative and not punitive. In *Salil Bali v. Union of India*<sup>22</sup>, the Honourable Supreme Court stated that by inflating juveniles' ages, they were treated as adults and sent to jails instead of being brought before the Juvenile Justice Board or Child Welfare Committees to be treated in accordance with the JJCPA, 2000. This shows the administration's apathy toward juveniles and how they are treated.

The *S. Bali v. UOI*<sup>23</sup> also stated that the court's seriousness towards the arguments made and had also taken into account the pertinent passages from the report of the committee headed by Hon'ble Justice J.S. Verma on Criminal Law amendment, 2013 and were persuaded that the JJCPA Regulations, 2007, the JJCPA Act, 2000, as revised in 2006, are based on reliable legal foundations.

### Global Scenario on the Age of Juvenile Criminal Liability:<sup>24</sup>-

Country	UK	USA	France	Canada	South Africa	Germany	India(earlier JJ Act,2000)	India(JJ CPC ACT,2015)
<b>Minimum age of minors prosecution for crimes</b>	10 Years	It ranges from 6 to 10 years of age.	Decided on a case by case basis	12 Years	10 Years	14 Years	7 Years under IPC,1860	7 Years under IPC,1860
<b>Minimum age of minors prosecution for crimes as an adult.</b>	17 Years in Wales , England, and Northern Ireland & for Scotland- 16 years but can be lowered in exceptional cases	13 Y	16 Y	14 Y	16 Y	14 Y	There was no provision for treating Juveniles as an adult.	16

<sup>20</sup>(2013) 7 SCC 705

<sup>21</sup>*Dr. Subramanian Swamy. vs. Raju* (2014) 8 SCC 390

<sup>22</sup>(2013) 7 SCC 705

<sup>23</sup>(2013) 7 SCC 705

<sup>24</sup>Legislative Brief, JJ(CPC) Bill-2014, PRS Legislative Research, 2014



Country	UK	USA	France	Canada	South Africa	Germany	India(earlier JJ Act,2000)	India(JJ CPC ACT,2015)
<b>Penalty provided for CCL who are treated as an Adult.</b>	Similar as adults. Life imprisonment is allowed but no death penalty	Similar as adults but No Life imprisonment or death penalty is provided.	Similar as adults, but decided individually for each situation. Life imprisonment is allowed	Murder-7 to 10 years, max.punishment for other offence is 3 year.life imprisonment not allowed & death penalty not allowed.	Similar as adults. No life imprisonment & No death penalty .	10 years, life imprisonment not allowed & death penalty not provided.	N.A	Similar like adults but With the chance of release, life imprisonment allowed but death penalty not allowed.
<b>Types of offences under which juvenile offenders can face trial as an adult.</b>	Rape, Murder, Causing explosion.	Murder, Assault, robbery, aggravated sexual abuse, drug offence & firearm offences.	Rape, Robbery, Murder, drug offence	Murder, Aggravated sexual assault, serious bodily harm.	Rape, Murder , robbery	Child abuse leading to death, sexual abuse,	N.A	Serious offences where punishment is 3-7 years like cheating, counterfeiting or heinous offence having more than 7 years punishment like Rape, Murder & robbery

**Canada:**

The age of criminal responsibility in Canada has been set at twelve years old under The (YCJA), 2003, as periodically amended. It was argued that Section 13 of the Canadian Criminal Code is equivalent to Section 83 of the IPC in all material respects. In actuality, the Criminal Justice Delivery System in Canada states that in some circumstances, a young person, fourteen to seventeen years old may be prosecuted was given an adult sentence.

**USA:**

In several States, there are no established guidelines, and instead, the common law age of seven is used to determine the the legal minimum age for crimes, with Northern Carolina having the youngest age of six years old in accordance with the JJ and DP Act of 1974. Although it is common practice in the USA for courts to impose life sentences without the possibility of parole for certain offenses, such sentences were not allowed for individuals

under the age of 18 who were guilty of murder or convictions involving violent type of crimes or weapons related violations.

### **Wales & England:**

The Children and Young People Act of 1933, as amended by Section 16(1) of the C and YP Act of 1963, is the primary law that governs juvenile criminal prosecutions in England and Wales. According to the aforementioned rules, individuals under the age of ten are regarded *doli-incapax* and, as a result, lacking in possessing any *mensrea*, which is very much similar to the provisions of IPC 1860, Sections 82 and 83. The least age of culpability in Wales and England is ten years.

### **Scenario in South Africa:**

In South Africa, the least age of criminal liability is 10 years unlike 7 years in India. There is some Similarity with India regarding the lowest age, the reaching of which Juveniles can face trial just like as an adult. It is 16 years for both South Africa and India, in this regard. Like India, there is no life imprisonment or death penalty for juveniles tried as an Adult.

### **Scenario in Germany:**

In Germany, the least age of criminal liability is 14 years unlike 7 years in India. The minimum age in which Juveniles can confront trial like an adult is also 14 years unlike India, where it is 16 years. Like India, there is no life imprisonment or death penalty for juveniles tried as an Adult.

### **Scenario in India:**

Law on Juveniles in India: Justifications for Determining the Juvenile Age of Criminal Liability.

Regarding establishing the age of juveniles in dispute with the law, our country is having a checkered history. The first juvenile justice legislation in India was enacted in 1850 with the Apprentice Act, which mandated that juveniles between the ages of 10 and 18 who were convicted in court receive vocational training as part of their rehabilitation. The Reformatory Schools Act of 1897, the Indian Jail Committee, and the Children Act of 1960 replaced this statute.

The Children Act, 1960 was the first major piece of legislation adopted after India's independence that aimed to establish a framework for the treatment of juvenile delinquents separate from the criminal justice system established by the Code of Criminal Procedure, 1973. A "child" was defined as a boy who had not reached the age of sixteen or a girl who had not reached the age of eighteen. However, because the 1960 Act only applied to Union Territories at the time, each state was allowed to pass its own legislation on the subject. It will not only assure uniformity in child-related regulations, but also better and more effective



implementation of the same. This resulted in the passage of the J .J Act of 1986, & with the exception of Jammu and Kashmir, this is the first comprehensive legislation of our nation. On August 22, 1986, the Lok Sabha witnessed the maiden introduction of the Juvenile Justice Bill.. This Act was revised again in 2006 and 2011, becoming JJ CPC Act of 2000. The J & K State has repealed its previous juvenile law from 1997 and established the J & K CPC Act 2013. This legislation closely resembles India's national juvenile law., with the exception that it makes no provision for adoption. The Act was signed by the President on December 31, 2015 and it superseded the JJ Act of 2000. The new JJCPC ACT of 2015, which superseded the Juvenile Justice Act, 2000, states that adolescents in the category of 16 to 18 years of age who commit a heinous crime may be tried as adults in certain situations, regardless of the date of apprehension. In all other circumstances, a CCL may be ordered to spend up to 3 years in a special home or appropriate facility for reformatory services such as counselling, behavior modification therapy, psychological support, and educational opportunities. No CCL shall be inflicted with death or for any such offence, life imprisonment without the possibility of release is imposed, whether under the terms of the JJCPC ACT, 2015, the IPC,1860, or any other legislation in effect at the time

Due to the fact that the perpetrator of the Nirbhaya rape case was a juvenile who was just shy of the legal drinking age of 18, the December 16, 2012 gang rape in Delhi resulted in significant changes to India's criminal laws. One such change was the requirement to replace and overhaul our juvenile justice system. It was planned to repeal the then JJ CPC Act of 2000, and re-enact a comprehensive JJ CPC Act of 2015, to address the major issues of juvenile justice. Drastic changes were made to the JJ CPC ACT of 2015, to address issues relating to the implementation of juvenile justice. The JJ CPC Act 2000 was replaced by the Act, which received presidential assent on December 31, 2015.

According to data gathered by NCRB, crimes committed by children between the ages of 16 and 18 are rising at an alarmingly high rate, particularly in some categories of heinous offenses, which are offenses for which the IPC,1860 or any different law currently in effect stipulates a minimum sentence of seven years or more in prison.

Only after JJB conducted a preliminary evaluation to determine the capacity, both mental and physical, to commit such an offense, the Act allows children between the ages of 16 and 18 who are suspected of committing heinous crimes to be prosecuted and sentenced as adults if they have the ability to understand the consequences of the offence and the circumstances in which the juvenile committed the act. Although it has not explicitly reduce the age of a CCL from 18 years to 16 years, the result is the same because the Act states that minors over 16 years of age can be tried and treated like adults and sent to the Children Court to deal them like adult.

## CONCLUSION AND ADVICE:

- The researchers discovered that the NCRB data indicates that crimes committed by children in the age group of 16 to 18 are rising at an absurdly high pace in both India and Odisha, particularly in several categories of serious offenses, Therefore, the provisions of the JJCP ACT, 2015 are justified to some extent in allowing children in the ages of 16 and 18 who are charged with committing heinous crimes to be tried and sentenced as adults, even though doing so would be against India's obligations under the UN Conventions on the Rights of the Child and would not serve the interests of society as a whole. It is also the fact that introduction of 'transfer system' and 'preliminary assessment' breaches the criteria of procedural fairness established by the Indian Constitution & is against the spirit of juvenile justice system which promotes reformative, restorative & rehabilitative Justice.
- To strike a balance between the larger interests of society and the child in violation of the law, the government should take action to appropriately execute the necessities of the JJCP Act, 2015 and its Rules in both letter and spirit.
- The government should act right away to address the primary causes of juvenile criminality, such as hunger, malnutrition, unemployed parents, drug misuse, peer pressure, easy access to firearms, shattered homes, opulent lives, and too much parental independence.
- The juvenile justice board's "preliminary assessment" may not be accurate, capable, or knowledgeable enough to assess a child's mental capacity to commit an offense, a very complex procedure, in every backward district in India as well as in every district of Odisha, where there is a severe lack of highly skilled and experienced medical professionals. A Government Medical College & Hospital should have established an expert medical board for the purpose of handling the "Preliminary Assessment" instead.
- Its not in the best interest of the child or the society at large to send CCL who are in the range of 16years and 18years who commit heinous offence to the criminal justice system of adults on the basis of a potentially flawed and inaccurate "Preliminary assessment" by the juvenile justice board. Effective and proper justice cannot be provided to these older juveniles/CCL, since every district is required to have a JJ Board, due to the lack of experienced and highly qualified doctors in every remote district of Odisha and in India, unless the JJCP ACT, 2015 is amended to create an expert medical Board in every Government or private medical college and Hospital in every State to assist JJ Boards in "Preliminary assessment."

## REFERENCE:

1. The first Author Sri Bishwa Bhusan Nayak is a PhD Scholar in PG Department of Law, Utkal University, Vani Vihar, Bhubaneswar. He is also Posted as Special Railway Magistrate, Khurda Road, Odisha. He also belongs to Odisha Judicial Service cadre. He

is having 11 years of experience as an Advocate in Hon'ble Orissa High Court and also worked as Young Professional-Law(Consultant/Legal Expert) in Department of Women & Child Development, Govt of Odisha and was exclusively entrusted by Government of Odisha to draft –“Draft Odisha Juvenile Justice(Care & Protection of Children) Rules 2018”.He is also an Alumni of Prestigious Indian Institute of Management-Calcutta. He had also completed M.SC, LL.M,and cleared UGC –NET in Law in 2017. His mobile number is 8249612668 ,9777303350 & email address is : bbnayak.iimcalcutta@gmail.com

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