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LEGISLATING IN THE AFTERMATH: REASSESSING THE 2015 JUVENILE JUSTICE AMENDMENT THROUGH MORAL PANIC THEORY

~*Aysha Shanza*

I. Introduction

Legal reform in India usually moves slowly. Bills sit around for years while committees deliberate and consensus gets built inch by inch. The Juvenile Justice (Care and Protection of Children) Amendment Act, 2015, did not follow that pattern. Section 15 of the Act required the Juvenile Justice Board to assess whether a child aged sixteen or above accused of a heinous offence had the mental and physical capacity to commit it and understood its consequences and to weigh the circumstances of the offence, with help from psychologists where needed. Depending on that assessment, the child could be sent to a Children's Court and tried, in effect, as an adult. This was a real break from the past. For fifteen years under the 2000 Act, no child under eighteen could be tried in the ordinary criminal system, full stop. That line moved within about two years of one case entering the public imagination.

This article argues that the speed and emotional charge behind that change are best explained through Stanley Cohen's idea of moral panic, first laid out in his 1972 study of British youth subcultures.¹ Cohen described a pattern: something gets defined as a threat to society's values, the media covers it in an exaggerated way, politicians and commentators seize on it and demand control measures, and the laws that follow often stay in place long after the panic itself has faded,

¹ Stanley Cohen, *Folk Devils and Moral Panics: The Creation of the Mods and Rockers* (3d ed. 2002) (1972).

doing damage well out of proportion to the original event.² Looking at the amendment this way is not about denying how horrific the December 2012 case was or claiming every part of the amendment is indefensible. It is about asking how a law affecting thousands of children every year got written in the compressed, emotional aftermath of a single case and what that cost in terms of evidence, developmental science, and fairness across class lines.

II. Where The Law Started

India's juvenile justice framework grew out of the UN Convention on the Rights of the Child, which India signed in 1992 and which asks states to treat children in conflict with law in a way that protects their dignity, with reintegration as the actual goal rather than an afterthought.³ The Supreme Court had already upheld this philosophy in *Salil Bali v. Union of India*, rejecting an earlier challenge to the uniform age of eighteen and finding nothing constitutionally wrong with it.⁴ That position got tested again almost immediately.

On the night of December 16, 2012, a twenty-three-year-old physiotherapy student boarded a bus in Delhi with a friend after watching a film. Five men brutally assaulted her on the moving bus, and she died from her injuries on December 29.⁵ One of the accused, referred to in later court papers as Raju, turned out to be below eighteen at the time of the offence and was sent to the Juvenile Justice Board, in line with the existing law.⁶ That single referral is what set off everything that followed.

III. When The Courts Said No

Before Parliament stepped in, people tried the courts first. Dr. Subramanian Swamy and other petitioners went to the Supreme Court asking it to strike down the blanket protection under the 2000 Act, and the victim's parents filed a separate petition seeking the same outcome, built

² Id. at 1–2.

³ Convention on the Rights of the Child art. 40, Nov. 20, 1989, 1577 U.N.T.S. 3.

⁴ *Salil Bali v. Union of India*, (2013) 4 S.C.C. 705 (India).

⁵ *Dr. Subramanian Swamy v. Raju Through Member, Juvenile Justice Board*, (2014) 8 S.C.C. 390, ¶ 1 (India).

⁶ Id.

explicitly around the facts of that case.⁷ They argued that treating a child accused of gang rape and murder the same way as a child who commits a minor offence undermined the very idea of a functioning criminal justice system, and that the proceedings before the Board were void.⁸

In March 2014, the Supreme Court disagreed. It held that the law was clear, that Parliament had deliberately placed everyone under eighteen in one class for a separate scheme of investigation and trial, and that this reflected India's international commitments.⁹ This detail tends to get lost. The judiciary, applying settled legal principle, refused to give the public what it wanted. It was Parliament that eventually did, about eighteen months later. That gap matters, because it shows the pressure for a legislative fix outliving even a Supreme Court judgment that had already closed the door on it.

IV. Reading This Through Cohen

Cohen studied clashes between Mods and Rockers at English seaside towns in the 1960s, minor scuffles that media coverage blew up into a symbol of British youth spiraling out of control.¹⁰ His sequence goes like this: a group becomes a threat, the press covers it in moralising and exaggerated terms, politicians turn diffuse public anxiety into demands for control, and the resulting laws tend to outlast the panic and land far harder than the actual scale of the problem justified.¹¹

Every piece of that shows up here. The juvenile accused became a stand-in for something much bigger: fear about women's safety, about impunity, and about whether the Indian state took sexual violence seriously at all. Coverage at the time kept returning to his age and his supposed role in the attack, often suggesting he was the most violent of the group, claims that were never conclusively settled in public view but became fixed in the national memory anyway. Politicians facing months of protest on the streets of Delhi found that lowering the juvenile age or creating some way to try older teenagers as adults was a much easier promise to make than fixing conviction rates or police accountability.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Cohen, *supra* note 1, at 9–10.

¹¹ Id. at 1.

V. Did The Numbers Actually Back This Up

A moral panic, in Cohen's own definition, involves public alarm running well ahead of what the evidence shows.¹² This is where the amendment looks weakest. The story that took hold after 2012 was that juvenile involvement in serious offences was rising fast and that the law had become a loophole. One statistic that circulated at the time claimed roughly two out of three rapes attributed to juveniles in 2013 involved offenders between sixteen and eighteen,¹³ which was used to argue this age group needed separate treatment. But a concentration within an age bracket does not, by itself, prove that juvenile crime overall was surging or that the rehabilitative options already available under the 2000 Act were failing.

That gap is exactly what Cohen's theory predicts. Once a case becomes symbolically loaded, its power to shape policy stops depending on how representative it actually is.¹⁴ The seventeen-year-old in the 2012 case became powerful enough as a symbol to justify rewriting a national statute, not because new evidence on adolescent development or recidivism had appeared, but because the case itself had become unbearable to sit with.

The body actually set up to supply that missing evidence, the Justice J.S. Verma Committee, was formed within days of the case to recommend reforms to sexual violence law. Chaired by former Chief Justice J.S. Verma along with Justice Leila Seth and senior advocate Gopal Subramaniam, the committee specifically declined to recommend lowering the juvenile age, despite that being one of the loudest public demands.¹⁵ It noted instead that the state needed to address the troubled upbringing of such children first and pointed out that child welfare homes had themselves become sites of serious abuse rather than genuine reform.¹⁶ The government later admitted that lowering the juvenile age was one of the recommendations it deliberately held back from its initial ordinance

¹² Id. at 8–9.

¹³ *A Cavalier Attitude All Round*, *Hindustan Times* (Lucknow ed., July 19, 2014).

¹⁴ Cohen, *supra* note 1, at 9.

¹⁵ *Panel Seeks Full Life Term*, *Deccan Herald* (Jan. 24, 2013).

¹⁶ Id.

precisely because opinion on it was so divided.¹⁷ So the amendment did not follow expert consensus. It arrived after the relevant experts had already rejected the core idea, following two more years of public pressure that appears to have done what evidence could not.

VI. What Section 15 Actually Means In Practice

Section 15 created an entirely new track for children aged sixteen and up accused of heinous offences, described by commentators as one of the biggest shifts in Indian juvenile law since independence.¹⁸ And this is not a narrow exception. NCRB figures show seventy-nine percent of juveniles apprehended in 2023 fell within this sixteen-to-eighteen bracket,¹⁹ meaning a provision sold to the public as a rare, exceptional response now touches most children the juvenile justice system actually processes.

Even the mechanism itself has drawn criticism from the top of the judiciary. In 2022, the Supreme Court noted that mental capacity and the ability to understand consequences are not the same thing and asked the government and child rights bodies to consider issuing guidelines to help Boards conduct these assessments properly.²⁰ A full decade in, the country's highest court found it necessary to say that Boards had never really been given proper tools to do the one evaluation that decides whether a child ends up in the adult system. That is not a small gap. It is the kind of thing that tends to happen when a law gets drafted fast, under pressure, without the procedural groundwork that a change this serious should have had from the start.

VII. Who Actually Bears The Weight Of This

One thing that gets lost in a debate this emotionally loaded is that the resulting law rarely lands evenly.²¹ The 2015 amendment was argued almost entirely around one case with an unusually high public profile, extensive coverage, and eventual Supreme Court review. But the children who

¹⁷ *Most Proposals of Verma Panel Accepted: Govt*, Deccan Herald (Feb. 2013).

¹⁸ The Juvenile Justice (Care and Protection of Children) Act, No. 2 of 2016, § 15, Acts of Parliament, 2016 (India).

¹⁹ *Preliminary Assessment or Problematic Estimation: Section 15 of Juvenile Justice (Care and Protection of Children) Act, 2015*, LiveLaw (2026).

²⁰ *Mental capacity & ability to understand consequences of acts not same; Guidelines must be in place for preliminary assessment of children above 16 years of age for trial as adults: SC*, SCC Times (Aug. 18, 2022).

²¹ Cohen, *supra* note 1, at 40–43.

actually go through Section 15 assessments now come mostly from a very different world, kids without stable housing, consistent schooling, or family support that could get them decent legal representation. The Verma Committee gestured at this itself when it said the state had failed these children long before they ever came into conflict with the law.²²

There is something close to irony in this. A law shaped by one case that received an extraordinary amount of scrutiny will, going forward, mostly govern children whose cases get none of that. The 2022 Supreme Court correction came out of the 2017 Gurgaon school murder case, again because it had the kind of visibility most cases never get.²³ Visibility seems to be doing a lot of the work in deciding which cases eventually get fixed, while everyone else moves through a system the Supreme Court has already admitted lacks proper guidelines.

VIII. A Fair Objection

It would not be honest to leave out the strongest argument for the amendment. There is a real difficulty in treating a fourteen-year-old caught shoplifting the same way as a seventeen-year-and-eleven-month-old who commits a premeditated, extremely violent crime, just because both technically fall under one age line. Age is a convenient proxy for how responsible someone is, but it is a blunt one, and people who push back against a strictly uniform approach have a point when they say ignoring gravity and intent entirely can make victims feel the law does not take what happened to them seriously.

Moral panic theory does not ask us to brush that off.²⁴ What it does ask is a narrower question: was the specific fix Parliament landed on, an individual psychological assessment the Supreme Court itself later called under-guided, arrived at through a careful weighing of these concerns, or through a rushed, symbolically charged process that set aside the one expert committee's contrary advice under two years of accumulated public pressure? The problem is not that the underlying tension is fake. It is that the way it got resolved carries all the signs of panic-driven lawmaking

²² Panel Seeks Full Life Term, *supra* note 15.

²³ SCC Times, *supra* note 20.

²⁴ Cohen, *supra* note 1, at xxii–xxiii (introduction to 3d ed.).

rather than deliberate reform, and that should worry us about how fair and durable the mechanism actually is.

IX. Conclusion

Cohen's framework does not say the amendment was wrong in every respect. What it gives us is a way to understand how a law this significant ended up looking the way it does. One case, blown up by intense media coverage into a symbol of something much larger, produced a level of public alarm that outran what the evidence, including the judgment of the very committee set up to study the question, actually supported. That alarm outlived a Supreme Court ruling that had already rejected the demand and found its way through Parliament instead. The result now governs most older teenagers who enter the juvenile system, ran for years without safeguards the Supreme Court itself later said were missing, and falls hardest on children least able to push back against it. Whatever you think about where the line for adolescent responsibility should sit, the process that moved that line in 2015 deserves a hard look on its own terms. More than a decade later, it is worth asking honestly whether India would write this provision the same way today, at a distance from that winter, or whether the country was legislating, quite literally, in a state of panic.