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# JUVENILE JUSTICE IN THE DIGITAL AGE: EXAMINING CONSENT, CAPACITY, AND CRIMINAL RESPONSIBILITY UNDER BNS-2023 AND OTHER LAWS

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## I. ABSTRACT

*The digital age has changed how young people interact, communicate, and get involved in possibly illegal activities. With the rise of social media, online gaming, and digital platforms, issues of consent, capacity, and criminal responsibility have become more complex. This paper examines juvenile justice in India, focusing on the Bharatiya Nyaya Sanhita (BNS-2023) framework, relevant parts of the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act), the Indian Penal Code, and other relevant laws. By looking at legal provisions, court interpretations, and new challenges in cyberspace, this research points out gaps, suggests policy changes, and considers how the legal system can protect children while ensuring accountability in the digital world.*

## II. KEYWORDS

Juvenile justice, digital consent, criminal responsibility, cognitive capacity, cyber offences involving minors

## III. INTRODUCTION

The 21st century has seen significant technological changes that have greatly affected the lives of children and adolescents. Smartphones, social media, and interactive digital platforms are now a central part of daily life. While these tools support education, social interaction, and creative expression, they also expose young people to online dangers that can lead to criminal behavior. Cases of cyberbullying, sharing

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intimate content without consent, hacking, and other digital crimes show the need to rethink current legal and policy approaches to juvenile justice.

In India, the JJ Act, 2015, offers a framework focused on rehabilitating children in conflict with the law. It emphasizes the child's best interests and their reintegration into society. The BNS, 2023, updates substantive criminal law by redefining offenses to focus on technology-related crimes and offering clearer guidelines for evaluating juvenile responsibility. The BNSS, 2023, revises procedural aspects like evidence collection and trial processes, allowing for digital adjudication. The POCSO Act, 2012, and the DPDP Act, 2023, provide added protection against sexual exploitation and ensure personal data consent in digital contexts.

Despite these legal advancements, challenges still exist. These include determining the age and mental capacity for criminal responsibility, evaluating informed consent in digital environments, incorporating psychological and developmental insights into legal processes, and aligning legal frameworks with fast-changing digital realities. This paper examines these issues through a socio- legal lens, combining legal analysis, cognitive science, and perspectives from international comparisons.

### **A. Research Objectives**

The present study seeks to achieve the following objectives:

1. To critically examine the statutory framework governing juvenile criminal responsibility in India with specific reference to the Bharatiya Nyaya Sanhita, 2023, the Juvenile Justice (Care and Protection of Children) Act, 2015, the POCSO Act, 2012, and the Digital Personal Data Protection Act, 2023.
2. To analyse the concepts of consent and mental capacity of juveniles in the context of digital behaviour, including online communication, cyber offences, and digital sexual conduct.
3. To evaluate the adequacy of existing age-based standards of criminal

responsibility in light of cognitive development research and international human rights norms.

4. To identify legal, procedural, and institutional gaps in the current juvenile justice system while dealing with technology-driven offences.

## **B. Research Questions**

1. Whether the age thresholds for criminal responsibility under BNS-2023 sufficiently reflect the cognitive and psychological development of children in digital environments.
2. How Indian law conceptualises consent of juveniles in online interactions and whether such standards are realistic in the contemporary digital ecosystem.
3. Whether the Juvenile Justice Boards and procedural mechanisms under BNSS-2023 are institutionally equipped to deal with cyber offences involving minors.
4. To what extent Indian juvenile justice law aligns with international standards, particularly the recommendations of the United Nations Committee on the Rights of the Child.

## **C. Research Hypotheses**

1. The minimum age of criminal responsibility under BNS-2023 is inconsistent with contemporary scientific understanding of child development and international human rights standards.
2. Existing statutory standards of consent fail to adequately account for the complexities of digital behaviour among adolescents.
3. The present juvenile justice framework lacks adequate procedural safeguards and technical capacity to fairly adjudicate cyber offences involving minors.

4. Strengthening rehabilitative and diversionary mechanisms will lead to more just and effective outcomes in cases of juvenile digital offences.

#### **D. Research Methodology**

This research adopts a doctrinal and socio-legal methodology.

Primary sources include statutory provisions such as the Bharatiya Nyaya Sanhita, 2023, Bharatiya Nagarik Suraksha Sanhita, 2023, Juvenile Justice (Care and Protection of Children) Act, 2015, Protection of Children from Sexual Offences Act, 2012, and the Digital Personal Data Protection Act, 2023.

Secondary sources include judicial decisions of the Supreme Court and High Courts, reports of the United Nations Committee on the Rights of the Child, academic articles, commentaries, and interdisciplinary literature on child psychology and cognitive development.

A comparative approach is also adopted by referring to foreign jurisdictions such as the United Kingdom and Scotland to draw reform-oriented insights for the Indian context.

### **IV. CONCEPTUAL FRAMEWORK OF JUVENILE JUSTICE**

#### **1. Meaning and Philosophy of Juvenile Justice**

Juvenile justice refers to the legal system set up to handle children who break the law. It focuses on their welfare and rehabilitation instead of punishment. This philosophy is based on the idea that children are not developmentally the same as adults.

#### **2. Doctrine of Doli Incapax and Criminal Responsibility**

The doctrine of doli incapax assumes that children do not have the mental ability to commit crimes. This assumption protects young children from facing criminal charges and requires evidence of their maturity when considering liability.

#### **3. Evolution of Juvenile Justice Laws in India.**

India's juvenile justice system has changed from strict colonial laws to more supportive laws focused on welfare. This shift culminated in the JJ Act of 2015, which takes a rights-based and child-centered approach.

## **V. PURPOSE OF JUVENILE JUSTICE**

The purpose of juvenile justice is to handle offenses committed by children in a way that understands their developmental immaturity, vulnerability, and ability to change. Unlike the adult criminal justice system, which mainly focuses on punishment, the juvenile justice system is protective, reformative, and rehabilitative. Its main goals are outlined below:

### **1. Rehabilitation and Reformation**

The main goal of juvenile justice is to reform children who break the law instead of punishing them. It aims to change behavior through counseling, education, skill building, and psychological support. This helps juveniles reintegrate into society as responsible individuals.

### **2. Protection of the Best Interests of the Child**

Juvenile justice systems follow the principle that the child's best interests should come first in all legal choices. Children are treated as individuals needing care, protection, and guidance instead of as criminals who deserve punishment.

### **3. Recognition of Developmental Differences**

Juvenile justice recognizes that children do not have the same level of mental maturity, judgment, and self-control as adults. This understanding supports age-based exceptions, lower blame, and special processes designed for children.

### **4. Prevention of Stigmatization and Criminalization**

A major goal is to prevent long-term labeling of juveniles. By steering clear of harsh punishments and criminal records, the system aims to protect children from falling into a cycle of crime.

### **5. Social Reintegration**

Juvenile justice works to help children reintegrate into society by keeping family connections, promoting education, and supporting community-based rehabilitation instead of institutionalization.

### **6. Accountability in a Child-Friendly Manner**

While focusing on reform, the system also makes sure juveniles are held responsible for their actions in a way that fits their age and understanding. Accountability is paired with empathy and guidance.

### **7. Protection from Abuse and Exploitation**

The juvenile justice framework protects children from abuse, exploitation, and neglect. Many juveniles in conflict with the law are also victims of difficult social conditions.

### **8. Compliance with International Human Rights Standards**

Juvenile justice systems aim to follow international agreements like the United Nations Convention on the Rights of the Child (UNCRC), which highlights dignity, rehabilitation, and the child's right to a fair and humane process.

## **VI. LEGAL FRAMEWORKS GOVERNING JUVENILE JUSTICE AND DIGITAL OFFENCES**

### **A. Juvenile Justice (Care and Protection of Children) Act, 2015**

Principles and Objectives of the JJ Act the Act is based on principles such as:

1. Best interest of the child
2. Presumption of innocence
3. Rehabilitation and social reintegration
4. Treatment of Children in Conflict with Law
5. Children should be handled through child-friendly processes, avoiding

formal criminal trials whenever possible.

#### 6. Preliminary Assessment and Heinous Offences

7. For children aged 16 to 18 accused of serious crimes, the Act allows for an assessment of mental and physical ability. This raises concerns, especially regarding digital crimes.

### **B. Role of Juvenile Justice Boards in Digital-Age Offences**

Juvenile Justice Boards have an important role in managing digital offences involving children. However, they often lack the necessary technical knowledge.

The JJ Act emphasizes rehabilitation and reintegration, which aligns with international standards, particularly the UN Convention on the Rights of the Child (CRC) from 1989, which India has ratified. However, the Act was mostly created for traditional crimes and needs interpretation to effectively deal with online offences.

### **C. Bharatiya Nyaya Sanhita, 2023 (BNS)**

The BNS, 2023, updates the basic criminal law and is essential for understanding juvenile liability in the digital age. Important provisions include:

1. The minimum age of criminal responsibility: Children under 7 are seen as unable to commit offences, while those aged 7 to 12 are evaluated based on their maturity and understanding of their actions.
2. The recognition of technology-related crimes: The BNS includes offences like online harassment, digital fraud, unauthorized sharing of content, and the cyber exploitation of minors.
3. Stricter penalties for crimes against children, including digital offences, while still considering the age and maturity of juveniles.

BNS aligns legal age limits with traditional insights on cognitive development but does not fully tackle the issues of digital consent and peer influence online.



#### **D. Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)**

The BNSS updates procedural law and is relevant for juvenile trials in the digital landscape:

1. It establishes electronic methods for proceedings, including video conferencing for hearings, to speed up the examination of digital evidence.
2. It updates procedures for gathering digital evidence while protecting the privacy of juveniles and ensuring compliance with child protection rules.
3. It provides clear procedures for coordinating between law enforcement, JJBs, and digital forensics experts, which is crucial for cybercrime cases involving minors.

#### **E. Protection of Children from Sexual Offences Act, 2012 (POCSO)**

POCSO offers strong protection to children against sexual offences, including those that happen online.

1. **Digital Exploitation and Online Grooming:** The Act makes online grooming, digital pornography, and exploitation illegal, acknowledging the vulnerability of minors in cyberspace.
2. **Conflict between Protection and Criminalization of Minors:** Strict liability rules sometimes lead to minors being seen as offenders for consensual behavior.
3. **Judicial Interpretations and Case Law:** Courts have tried to find a balance in their interpretations, focusing on child welfare rather than just applying the law mechanically.

#### **F. Information Technology Act, 2000 & Digital Personal Data Protection Act, 2023 (DPDP)**

These laws regulate digital behavior and data privacy, The IT Act makes hacking, identity theft, cyberstalking, and publishing offensive content online illegal. The DPDP

Act requires parental consent for processing minors' personal data and includes age-based thresholds for digital participation, although practical enforcement challenges remain.

## **VII. CONSENT, CAPACITY, AND DIGITAL BEHAVIOUR**

### **A. Cognitive Development and Maturity**

To assess juvenile liability, we need to understand cognitive development:

1. Children under 7 are presumed unable to take on criminal responsibility.
2. For those aged 7 to 12, a maturity assessment is necessary to see if the child understood what their actions meant and what consequences might follow.
3. After age 12, juveniles are usually held responsible, but psychological evaluations are more crucial in digital cases. Peer pressure and anonymity can cloud judgment.

Research in adolescent psychology shows that teenagers are still developing executive function, impulse control, and risk assessment. This makes it harder to assume they grasp adult-like understanding online.

### **B. Digital Consent**

Digital interactions create complex issues around consent. When sharing personal information, images, or intimate content online, consent may be implicit or uninformed. Digital platforms often make it hard to understand the consequences, raising questions about a person's ability to consent. Laws like the DPDP Act require parental consent but do not have effective ways to verify maturity and understanding.

### **C. Case Illustrations**

India does not have much specific case law on juvenile cybercrime, but some cases offer guidance, *Salil Bali v. Union of India* stressed the importance of rehabilitation and child-friendly legal processes. This includes complex cases with digital exposure.

International cases, such as the UK's approach under the Children and Young Persons Act 1933 and the Age of Criminal Responsibility (Scotland) Act 2019, can inform possible reforms in India.

## VIII. CHALLENGES AND GAPS

### 1. Age Threshold vs. Cognitive Maturity

The Bharatiya Nyaya Sanhita sets the minimum age of criminal responsibility at 7 years, with qualified liability up to 12 years, which is significantly lower than international standards. The United Nations Committee on the Rights of the Child has expressly recommended that States establish a minimum age of criminal responsibility of at least 14 years.<sup>3</sup>

### 2. Digital Crime Complexity

Cybercrimes change more quickly than laws and procedures can keep up. Young people might not understand the lasting impact or legal consequences of their online actions.

### 3. Digital Consent Standards

Current laws do not offer enough detail for assessing digital consent in minors, leading to legal confusion.

### 4. Procedural and Institutional Gaps

The connection between JJBs, digital forensics, BNSS procedures, and law enforcement is weak. This causes delays and sometimes results in unsuitable decisions.

### 5. Balancing Protection and Rights

Trying young people as adults for digital crimes can contradict the principles of reformatory justice that are important to the JJ Act.

## IX. RECOMMENDATIONS AND POLICY SUGGESTIONS

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<sup>3</sup> U.N. Comm. on the Rts. of the Child, *General Comment No. 24 (2019) on Children's Rights in the Child Justice System*, 22, U.N. Doc. CRC/C/GC/24 (Sept. 18, 2019).

### **A. Legal Reforms in Juvenile Criminal Responsibility**

India needs to update its juvenile justice system to better reflect the realities of the digital age. The Bharatiya Nyaya Sanhita, 2023, is modern in structure, but it does not fully address the unique nature of digital crimes involving juveniles. We should introduce specific laws to clearly differentiate between serious cybercrimes and impulsive or experimental online behavior typically seen in adolescents. These reforms would reduce confusion and prevent the blanket application of strict criminal laws to juveniles. Furthermore, we should regularly review age-based limits for criminal responsibility, taking into account developments in child psychology and international standards.

### **B. Standardization of Capacity and Maturity Assessment**

One major issue in juvenile justice is the lack of consistent criteria for assessing a child's mental capacity and maturity. Courts and Juvenile Justice Boards often depend on subjective judgments, resulting in inconsistent outcomes. We should create a standardized system that includes psychological evaluations, reports on social background, educational history, and digital literacy levels. Qualified child psychologists, social workers, and digital behavior experts should be required to participate in these assessments. This would ensure that decisions about criminal responsibility rely on solid evidence, focus on the child, and avoid arbitrary judgments.

### **C. Reforming Consent Laws for Digital Contexts**

Current consent laws, especially regarding sexual and digital offenses, often apply a strict standard of liability that may unintentionally criminalize consensual interactions among adolescents. We need to introduce carefully designed close-in-age or peer-consent exceptions, particularly for non-exploitative digital exchanges. These reforms must include strong safeguards to prevent misuse, coercion, and exploitation. Clarifying the legal stance on digital consent would improve fairness while still protecting minors from real harm.

#### **D. Strengthening Rehabilitation, Counselling, and Digital Literacy**

Rehabilitation should be the foundation of responses to digital offenses by juveniles. Instead of harsh penalties, juveniles should be guided to counseling programs, digital ethics education, cyber awareness training, and community service. Digital literacy programs should cover responsible online behavior, data privacy, and the legal repercussions of online actions. Strengthening both institutional and community-based rehabilitation programs would reduce repeat offenses and help juveniles navigate digital environments safely and responsibly.

#### **E. Capacity Building of Institutions and Stakeholders**

To effectively enforce juvenile justice laws in the digital age, we need to build capacity at several levels. Law enforcement agencies, Juvenile Justice Boards, prosecutors, and judges must receive training in child psychology, cyber law, and handling digital evidence. Specialized cyber units working on juvenile cases should employ child-friendly investigation methods. Building institutional capacity would increase sensitivity, efficiency, and consistency in managing juvenile digital offenses.

#### **F. Adoption of Diversion and Restorative Justice Mechanisms**

We should broaden diversion and restorative justice options for juveniles involved in minor digital offenses. Restorative approaches, such as mediation between victims and offenders, writing apology letters, and supervised community activities, promote accountability while focusing on healing rather than punishment. These methods align with international best practices and lessen the load on formal criminal justice systems, all while protecting the child's future.

#### **G. Alignment with International Standards and Best Practices**

India should strive to align its juvenile justice system with international standards, particularly the United Nations Convention on the Rights of the Child (UNCRC) and the recommendations from the UN Committee on the Rights of the Child.

Studying jurisdictions that have successfully adapted their juvenile justice systems for the digital age can provide valuable insights. Bringing domestic laws in line with global best practices would reinforce India's commitment to child rights and justice.

## X. LANDMARK JUDICIAL PRONOUNCEMENTS ON JUVENILE JUSTICE

### 1. **Pratap Singh v. State of Jharkhand**<sup>4</sup>, Citation: (2005) 3 SCC 551

**Significance:** This is a key case in determining juvenility. The Supreme Court decided that the date of the offence, not the trial date, matters in deciding if the accused is a juvenile. The Court stressed that the purpose of juvenile justice law is beneficial and reformative, so juvenility should be interpreted broadly in favor of the child.

**Relevance:** The case reinforces the child-focused approach found in the JJ Act, 2015 and remains relevant when assessing juvenile responsibility under BNS-2023.

### 2. **Hari Ram v. State of Rajasthan**<sup>5</sup>, Citation: (2009) 13 SCC 211

**Significance:** The Supreme Court ruled that juvenility can be raised at any stage of the proceedings, even after a conviction. The Court reaffirmed that the goal of juvenile justice law is rehabilitation rather than punishment.

**Relevance:** This judgment highlights the importance of juvenile justice principles over procedural issues, particularly in cases involving cyber and digital offences discovered later.

### 3. **Salil Bali v. Union of India**<sup>6</sup>, Citation: (2013) 7 SCC 705

**Significance:** The Court examined the constitutional validity of treating juveniles differently from adults. The Supreme Court upheld that children are developmentally different and should be treated separately from adults.

**Relevance:** The ruling supports the idea of reduced blameworthiness and is

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<sup>4</sup> Pratap Singh v. State of Jharkhand (2005) 3 SCC 551

<sup>5</sup> Hari Ram v. State of Rajasthan (2009) 13 SCC 211

<sup>6</sup> Salil Bali v. Union of India (2013) 7 SCC 705

significant when considering the criminal responsibility of juveniles under BNS-2023.

**4. Dr. Subramanian Swamy v. Raju @ Raju<sup>7</sup>, Citation: (2014) 8 SCC 390**

**Significance:** The Court upheld the constitutional validity of the Juvenile Justice Act, even for serious offences. It stated that reformatory justice must take precedence over retributive justice for juveniles.

**Relevance:** This case influenced the later introduction of preliminary assessments for juveniles aged 16 to 18 under the JJ Act, 2015.

**5. Shilpa Mittal v. State (NCT of Delhi)<sup>8</sup>, Citation: (2020) 2 SCC 787**

**Significance:** The Supreme Court provided clarity on the meaning of "heinous offences" under the JJ Act. It held that offences punishable by more than seven years but without a minimum sentence do not automatically qualify as "heinous."

**Relevance:** These ruling limits the arbitrary transfer of juveniles to adult courts and is significant for digital-age offences where sentencing rules vary.

**6. Independent Thought v. Union of India<sup>9</sup>, Citation: (2017) 10 SCC 800**

**Significance:** The Supreme Court limited the marital rape exception regarding minors, asserting that the sexual autonomy and bodily integrity of children must be safeguarded.

**Relevance:** This case is vital to understanding consent and the age of consent, especially under POCSO and BNS. It also has implications for digital sexual offences involving minors.

**7. Court on Its Own Motion v. State (NCT of Delhi)<sup>10</sup>, Citation: 2018 SCC OnLine Del 12344**

**Significance:** The Delhi High Court focused on consensual sexual activity between

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<sup>7</sup> Dr. Subramanian Swamy v. Raju @ Raju (2014) 8 SCC 390

<sup>8</sup> Shilpa Mittal v. NCT of Delhi (2020) 2 SCC 787

<sup>9</sup> Independent Thought v. Union of India (2017) 10 SCC 800

<sup>10</sup> Court on Its Own Motion v. State (NCT of Delhi) 2018 SCC Online Del 12344

adolescents, warning against the automatic application of POCSO that punishes minors for peer-to-peer relationships.

**Relevance:** This case is very relevant to the digital context, including sexting and online relationships among juveniles.

**8. State of Madhya Pradesh v. Madanlal<sup>11</sup>, Citation:** (2015) 7 SCC 68

**Significance:** The Court stressed the need to strictly protect children from sexual offences and rejected leniency based on compromise or consent.

**Relevance:** While protective, the case highlights the conflict between strict liability and juvenile autonomy under POCSO.

**9. Gaurav Jain v. Union of India<sup>12</sup>, Citation:** (1997) 8 SCC 114

**Significance:** The Supreme Court recognized the State's duty to help children in vulnerable situations, emphasizing social reintegration and dignity.

**Relevance:** This case supports the rehabilitative approach in juvenile justice, relevant for children involved in digital offences due to social vulnerability.

**10. Sheela Barse v. Union of India<sup>13</sup>, Citation:** (1986) 3 SCC 596

**Significance:** The Court set out guidelines for the humane treatment of children in custody, underscoring the need for legal aid, separation from adult offenders, and child-friendly procedures.

**Relevance:** This case remains fundamental for procedural safeguards under the JJ Act and applies to juveniles accused of cyber offences.

## **XI. CONCLUSION**

The juvenile justice system plays an important role in criminal law. It recognizes that children are fundamentally different from adults in their mental maturity, decision-

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<sup>11</sup> State of Madhya Pradesh v. Madanlal (2015) 7 SCC 681

<sup>12</sup> Gaurav Jain v. Union of India (1997) 8 SCC 114

<sup>13</sup> Sheela Barse v. Union of India (1986) 3 SCC 596



making ability, and vulnerability to outside influence. In the digital age, these differences are even clearer as juveniles increasingly interact with online platforms that blur the lines between innocent exploration and criminal behavior. The Bharatiya Nyaya Sanhita, 2023 is a significant step toward updating India's criminal law. However, how it applies to juveniles must align carefully with child-focused principles found in the Juvenile Justice (Care and Protection of Children) Act, 2015, and related laws like the POCSO Act, 2012.

This study shows that issues of consent, capacity, and criminal responsibility are much more complicated in digital settings. Strict age-based responsibility and inflexible definitions of consent, intended to protect children, often risk punishing adolescent behavior that is impulsive, driven by peers, and not malicious. Courts have consistently stressed the importance of rehabilitation, fairness, and the child's best interests, stating that punitive methods are neither effective nor fair when it comes to juveniles.

In summary, juvenile justice in the digital age needs a balanced and thoughtful legal system. This system should protect children from exploitation and harm while acknowledging their growth and ability to change. Lawmakers, courts, and law enforcement must respond to technological changes by using child-friendly, research-supported, and rehabilitative strategies. Bringing domestic law in line with international standards and improving institutional capacity will help ensure that the juvenile justice system remains caring, fair, and responsive. Ultimately, it should guide children toward responsible citizenship instead of condemning them for temporary mistakes.

## **XII. SUGGESTIONS AND RECOMMENDATIONS**

1. The minimum age of criminal responsibility should be reconsidered and gradually raised to align with international standards and scientific evidence on child development.

2. A uniform, evidence-based framework for assessing cognitive capacity and digital maturity of juveniles should be developed and implemented by Juvenile Justice Boards.
3. Consent laws, particularly under POCSO, must be recalibrated to incorporate close-in-age and peer-interaction exceptions in non-exploitative digital cases.
4. Juvenile Justice Boards, police, and prosecutors should receive specialised training in cyber law, child psychology, and digital forensics.
5. Diversion and restorative justice mechanisms should be expanded for minor digital offences to avoid unnecessary criminalisation of children.

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