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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

A CHILD'S RIGHT TO ANONYMITY VS. SOCIETY'S RIGHT TO KNOW: REVISITING JUVENILE CONFIDENTIALITY LAWS IN INDIA

AUTHORED BY - JAFREEN HAQUE & DR. KASTURI GAKUL

Abstract:

This article explores the intricate legal, ethical, and policy aspects related to the confidentiality of juvenile identities as stipulated in India's Juvenile Justice (Care and Protection of Children) Act, 2015, especially following its contentious amendments. The Act is founded on the principles of child protection, rehabilitation, and reintegration. Section 74 of the Act clearly forbids the revelation of the identities of children who are in conflict with the law. Nevertheless, the introduction of judicial discretion via the first proviso to Section 74(1), which permits the court to authorize disclosure if it is considered to be in the best interest of the child has sparked significant concerns.

The changing legal environment has seen discussions regarding whether this discretionary authority undermines the fundamental aim of preventing stigmatization. This article contends that the absence of a definitive age distinction in Section 74(1) implies a wider judicial discretion that, without strong guidelines, could jeopardize the child's right to privacy as enshrined in Article 21 of the Constitution. Moreover, the enforcement of these provisions seems to vary across different jurisdictions, resulting in disparate outcomes that disproportionately impact children's futures.

By drawing comparisons with practices in the UK, USA, and Australia, and aligning the discussion with international frameworks such as the UNCRC, Beijing Rules, and Havana Rules, this paper critiques the interpretative deficiencies in Indian legal practice. The article offers criminological perspectives on the damage inflicted by identity disclosure, highlighting concerns related to labelling, recidivism, and social reintegration. As a remedy, this article presents a more comprehensive solution- enhancing the function of the current Juvenile Justice Board (JJB) by mandating psychological evaluations, ensuring child involvement, and subjecting decisions to a review by a panel of child rights specialists prior to granting any

permission for disclosure. This pragmatic and resource-efficient suggestion seeks to integrate child-sensitive decision-making into the existing legal framework.

Keywords: Juvenile Justice, Identity Disclosure, JJ Act 2015, Child Rights, Rehabilitation, Restorative Justice, Constitutional Law, International Law, Criminology

1. Introduction

The tension between maintaining the confidentiality of juvenile offenders and addressing the perceived needs of public safety has long been a complex issue in discussions surrounding juvenile justice worldwide.¹ Confidentiality plays a crucial role in the juvenile justice system, as it aims to support the rehabilitation and reintegration of young individuals who have faced legal challenges, allowing them to move forward without the lasting stigma associated with their past actions. However, as communities experience an increase in violent crimes committed by juveniles, there are growing public demands for greater transparency, deterrence, and accountability. These demands often conflict with the fundamental principles of protecting children and ensuring their anonymity.²

In India, the conversation surrounding juvenile justice gained unprecedented attention after the tragic 2012 Delhi gang rape incident, where one of the offenders was a minor.³ This shocking case ignited a passionate public discourse about the perceived leniency of the juvenile justice system, leading to widespread calls for reform in legislation. In response to this outcry, the Indian Parliament enacted the Juvenile Justice (Care and Protection of Children) Act, 2015, commonly referred to as the “JJ Act 2015”.⁴ This new legislation brought about several crucial changes to the existing juvenile justice framework in India. The primary objective of the 2015 Act was to address the growing concerns regarding serious offenses committed by minors, while still adhering to the rehabilitative principles that are fundamental to juvenile law.⁵

¹ Barry C. Feld, *The Youth Discount: Old Enough to Do the Crime, Too Young to Do the Time*, 11 OHIO ST. J. CRIM. L. 107, 115–18 (2013).

² See J.R. Spencer, *The Young Offenders and the Criminal Justice System: Should There Be Transparency or Anonymity?* 3 CRIM. L. REV. 205, 209 (2010).

³ See Shekhar Singh, *Juvenile Justice in India: From Welfare to Rights*, 52(33) ECON. & POL. WKLY. 113, 114–15 (2017); see also *2012 Delhi gang rape: Timeline of a crime that horrified India*, HINDUSTAN TIMES (Dec. 16, 2022.) <https://www.hindustantimes.com/india-news/2012-delhi-gang-rape-timeline-of-a-crime-that-horrified-india/story-WTo8Vhp2VpySgGGPvAsU5I.html>.

⁴ The Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2 of 2016, Acts of Parliament, (India).

⁵ Neha Chaudhry, *Revisiting Juvenile Justice in India: A Legal Analysis of the JJ Act, 2015*, 4(2) INDIAN J. CRIM. L. & JUST. 33, 35–36 (2018).

One of the most debated elements is Section 74(1), which addresses the confidentiality of minors involved in legal proceedings. This section primarily prohibits the disclosure of a minor's name, image, address, or any other information that could lead to their identification. However, a significant modification is introduced through the proviso, which empowers a court to permit such disclosures if it finds that doing so is in the “best interest of the child”.⁶ This proviso adds a layer of judicial discretion to an area that was previously governed by strict anonymity, potentially leading to subjective interpretations that could either safeguard or compromise a child's privacy rights.

The legal duality surrounding juvenile offenders presents a profound ethical and legal challenge. On one side, it is crucial to maintain the confidentiality of these young individuals to safeguard their dignity, avoid stigmatization, and support their rehabilitation process. Conversely, there are pressing societal concerns that must be taken into account, such as the necessity for public safety, the rights of victims, and the need to deter future criminal behaviour. The application of the “best interest of the child” principle as a rationale for revealing identities complicates the situation further, as courts are tasked with finding a delicate equilibrium between the rehabilitative objectives of the juvenile justice system and the broader imperatives of justice and public opinion.⁷

Furthermore, the regulation functions within a context characterized by the widespread impact of media and social networking sites, where even slight exposure can result in the rapid spread of a minor's identity, thereby undermining the safeguards that the law aims to provide. This situation prompts further questions regarding media ethics, the accountability of the judiciary, and the extent of constitutional protections afforded to minors who are in legal trouble.⁸

In light of this context, the present paper conducts a thorough examination of the changing jurisprudence related to juvenile confidentiality in India following 2015. It investigates the legal basis and justification for Section 74(1), scrutinizes judicial patterns in the interpretation of the “best interest of the child,” and assesses the alignment of this provision with international human rights standards, including those established by the United Nations Convention on the

⁶ The Juvenile Justice (Care and Protection of Children) Act, No. 2 of 2016, §74(1) & proviso.

⁷ See, Ved Kumari, *The Juvenile Justice (Care and Protection of Children) Act, 2015: A Critical Analysis*, in *REFORMING JUVENILE JUSTICE IN INDIA* 83, 88 (Oxford Univ. Press 2019).

⁸ Faizan Mustafa & Jinee Lokaneeta, *Naming Juveniles and Shaming Justice: The Media, Public Opinion, and the Rule of Law*, 24 NAT’L L. SCH. INDIA REV. 1, 10–12 (2012).

Rights of the Child (UNCRC).⁹ Furthermore, the paper delves into the wider criminological and psychological consequences of identity disclosure, especially its enduring effects on the social reintegration of juvenile offenders. Ultimately, this research aims to ascertain whether the legal framework established by the JJ Act 2015 adequately protects children's rights while effectively reconciling the requirements of public safety and justice within a swiftly changing societal landscape.

2. Legislative and Judicial Landscape on Juvenile Identity in India

The Juvenile Justice (Care and Protection of Children) Act, 2015 ("JJ Act 2015") signifies a major advancement in India's juvenile justice system, especially regarding the confidentiality of minors involved in legal issues. Section 74(1) of the Act explicitly forbids the revelation of a child's name, address, photograph, family information, school, or any other details that could facilitate identification, whether during an investigation or subsequently.¹⁰ This clause aims to protect the child's right to privacy and safeguard them from stigmatization, aligning with constitutional values and international commitments under the United Nations Convention on the Rights of the Child (UNCRC).¹¹

Nevertheless, the initial proviso to Section 74(1) introduces a significant element of judicial discretion: a court may allow such disclosure if it serves the "best interest of the child."¹² This legislative change represents a considerable shift from previous regulations, such as the Juvenile Justice Act of 1986, which categorically prohibited identity disclosure under any circumstances.¹³ While this proviso is arguably designed to address intricate scenarios where limited disclosure could be advantageous for the child such as locating missing family members, providing legal assistance, or preventing recidivism. It also raises concerns about potential misuse and subjective interpretations.

The Act notably lacks clarity in defining the parameters or criteria that determine the 'best interest of the child' when it comes to identity disclosure. Unlike the detailed guidelines found in other sections of the JJ Act, such as the preliminary assessments outlined in Section 15, the

⁹ United Nations Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3, Arts. 3, 16 & 40.

¹⁰ The Juvenile, *supra* note 6.

¹¹ United Nations, *supra* note 9, Art. 16; *See*, Maneka Gandhi v. Union of India, (1978) 1 S.C.C. 248 (India) (establishing the right to privacy as a part of Article 21 of the Constitution).

¹² The Juvenile, *supra* note 6.

¹³ The Juvenile Justice Act, No. 53 of 1986, § 36, India Code (1986) (repealed).

disclosure process described in Section 74(1) lacks essential procedural protections. There is no mandatory requirement for a report from a child psychologist, an expert assessment, or even a hearing that includes the child or their guardian before allowing such disclosure. As a result, courts often resort to ad hoc reasoning, leading to inconsistent legal interpretations across different jurisdictions.

For example, in the case of *Jugal Kishore v. State of Rajasthan*, the Rajasthan High Court recognized the superiority of rehabilitative justice compared to retribution in matters concerning juveniles. However, it permitted limited media access to the proceedings of a juvenile accused of a serious crime, which inadvertently posed a risk to the child's identity being disclosed.¹⁴ The court defended its decision by citing public interest and the gravity of the offense, even though there was no evidence suggesting that such exposure would benefit the child's well-being.

In the case of *Salil Bali v. Union of India*, the Supreme Court of India adopted a more protective approach, affirming the legitimacy of the previous juvenile age limit and strongly highlighting the necessity for a reformatory framework instead of a punitive one.¹⁵ The Court cautioned against the influence of public hysteria on juvenile policy and emphasized the significance of recognizing children as individuals capable of change. Ironically, the legislative reaction to these concerns manifested in the 2015 amendment, which rather than enhancing child rights implemented provisions permitting children aged 16–18 to be prosecuted as adults for serious crimes and eased restrictions on identity disclosure under specific conditions.¹⁶

These judicial rulings illustrate the changing and at times conflicting strategies of Indian courts in reconciling confidentiality with various legal and social factors. In the absence of a clearly defined judicial standard or statutory criterion, the enforcement of the “best interest” clause in Section 74(1) remains susceptible to external influences, such as media narratives, political discourse, and public opinion.

¹⁴ *Jugal Kishore v. State of Rajasthan*, 2020 SCC Online Raj 3645.

¹⁵ *Salil Bali v. Union of India*, (2013) 7 S.C.C. 705 (India).

¹⁶ See *Kumar v. State (NCT of Delhi)*, 2019 SCC Online Del 10699 (commenting on the adult trial of juveniles under Section 15–18 of JJ Act 2015); see also Ved, *supra* note 7.

3. Comparative Legal Analysis: UK, USA, and Australia

Globally, juvenile justice systems have consistently highlighted the significance of confidentiality in order to uphold the dignity, privacy, and rehabilitative prospects for children who find themselves in conflict with the law. A comparative examination of key common law jurisdictions—the United Kingdom, the United States, and Australia—demonstrates a systematic and principled commitment to anonymity. This approach sharply contrasts with the more discretionary and less regulated framework established by Section 74(1) of India's Juvenile Justice (Care and Protection of Children) Act, 2015.

3.1 United Kingdom

In the United Kingdom, Section 49 of the Children and Young Persons Act 1933 serves as a crucial legal framework that guarantees automatic anonymity for minors involved in judicial proceedings.¹⁷ This legislation prohibits the release of any information that could potentially disclose the identity of a child or young person participating in criminal cases, whether they are a defendant, victim, or witness, unless a court specifically orders the removal of this protection.¹⁸ It is essential to note that any decision to lift these anonymity protections must be based on significant public interest considerations and cannot be granted solely due to the seriousness of the crime or the influence of the media.

A notable case that addresses this issue is *R (on the application of Y) v. Aylesbury Crown Court*, which exemplifies the judiciary's reluctance to compromise juvenile anonymity. In this particular case, the court decided against lifting the reporting restrictions, despite the gravity of the crime involved. This decision underscored the priority of protecting the child's welfare and their chances for rehabilitation over the public's right to be informed.¹⁹ This ruling reinforced the principle that the severity of the offense does not negate the fundamental presumption of confidentiality, which stands in stark contrast to India's discretionary framework as specified in Section 74(1).

3.2 United States

In the United States, the regulations surrounding juvenile confidentiality vary significantly from state to state due to the nature of the federal system. However, a common principle across

¹⁷ Children and Young Persons Act 1933, 23 & 24 Geo. 5 c. 12, § 49 (UK).

¹⁸ *Id.*; See, *BBC News v. A and Others*, [2013] EWCA Civ 43 (UK) (explaining limits on lifting anonymity orders).

¹⁹ *R (on the application of Y) v. Aylesbury Crown Court*, [2012] EWHC 1140 (Admin).

many jurisdictions emphasizes the necessity of sealing juvenile court records and restricting public access to a minor's identity, especially in cases involving non-violent offenses or first-time offenders.²⁰ Some states allow for the disclosure of a juvenile's identity only when they are tried as an adult, typically in cases of serious felonies. Even in such situations, courts consider various factors, including the juvenile's age, mental maturity, and prior history, before permitting any public identification.

In recent years, the dominant policy trend in the United States has increasingly focused on strengthening privacy protections for juvenile offenders. This shift is largely driven by research findings that suggest publicly identifying young offenders can result in long-lasting psychological harm, social ostracism, and a higher likelihood of reoffending.²¹ For example, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has consistently advocated for initiatives aimed at minimizing the visibility of juveniles within the criminal justice system, while also promoting restorative justice principles that seek to repair harm and reintegrate young individuals into society.²²

3.3 AUSTRALIA

Australia adopts a primarily rights-based framework concerning juvenile confidentiality. The majority of states and territories, such as Victoria, New South Wales, and Queensland, have implemented laws that categorically forbid the dissemination of identifying details about juvenile offenders. For example, Section 534 of the Children, Youth and Families Act 2005 (Vic) enforces anonymity and establishes criminal repercussions for violations.²³ Exceptions to these restrictions are infrequent and are subjected to rigorous judicial examination.

In the pivotal case of *Director of Public Prosecutions v. TY*, the Supreme Court of Victoria affirmed the confidentiality of a juvenile's identity, notwithstanding public demands for the offender's identification, reiterating that rehabilitation should remain the foremost priority in juvenile justice.²⁴ The court highlighted that any exception must fulfil an extraordinary purpose,

²⁰ See Barry C. Feld, *The Transformation of the Juvenile Court — Part II: Race and the "Crack Down" on Youth Crime*, 84 MINN. L. REV. 327, 348–49 (1999).

²¹ See Donna Bishop & Charles Frazier, *Consequences of Transfer for Juvenile Offenders*, 23 CRIME & JUST. 227, 259–61 (1998).

²² Office of Juvenile Justice & Delinquency Prevention, *Juvenile Justice Reform Initiatives in the States: 1994–1996* (1997), <https://www.ojjdp.ojp.gov>.

²³ Children, Youth and Families Act 2005 (Vic) s 534 (Austl.); see also Youth Justice Act 2005 (NT) s 50 (Austl.).

²⁴ *DPP v. TY*, [2007] VSC 143 (Austl.); see also Bernadette Saunders & Chris Goddard, *Mandatory Reporting and Child Protection: Evidence and Consequences*, 29(3) AUSTL. & N.Z. J. CRIMINOLOGY 229, 236 (2007).

and that mere public interest or media scrutiny does not justify disclosure.

3.4 India's Position in Contrast

India's strategy under Section 74(1) of the JJ Act 2015, although well-meaning in its aim to maintain confidentiality, is deficient in uniformity, clarity, and structured judicial guidance compared to the aforementioned jurisdictions. In contrast to the UK, India does not offer a comprehensive list of statutory factors for courts to evaluate prior to lifting anonymity. Unlike the U.S., there is an absence of an appellate oversight mechanism or a provision for automatic record sealing unless mandated by a court. Furthermore, unlike Australia, India has not delineated clear thresholds for what qualifies as "exceptional circumstances" that would justify disclosure.

This comparative legal void raises substantial concerns regarding judicial inconsistency, susceptibility to public and media influence, and the lack of protections against potential misuse. In the absence of appellate guidelines or procedural prerequisites such as the requirement for expert psychological assessments, evaluations of child welfare, or a documented rationale. The Indian legal framework assigns critical decisions regarding juvenile identity to broad judicial discretion. As a result, the rights of children under Article 21 of the Constitution, which ensures dignity and privacy, may be at risk.

In light of these issues, there is an immediate necessity for India to implement a more structured legal framework, guided by international best practices. Codifying the "best interest of the child" principle, establishing procedural safeguards, and instituting appellate review could contribute to ensuring that identity disclosure is an infrequent exception rather than a matter of judicial discretion.

4. Criminological Insights and Risks of Identity Disclosure

The intersection of criminology and juvenile justice provides valuable insights that challenge the public disclosure of a child's identity. Scholars, mental health experts, and advocates for children's rights have repeatedly warned about the profound and lasting consequences of exposing juvenile offenders to public scrutiny. Various theoretical frameworks in criminology, such as labelling theory, social control theory, and developmental criminology, highlight that revealing a juvenile's identity goes beyond mere legal implications. It serves as a criminogenic

factor that often hinders the fundamental goal of the juvenile justice system, which is rehabilitation.

4.1 Labelling Theory and Deviant Identity Formation

Labelling theory, introduced by sociologists such as Howard Becker, asserts that deviance is not an inherent characteristic of an action but rather arises from the reactions of society to that action.²⁵ When a child is publicly identified as an offender, they often receive labels such as criminal, dangerous, or incorrigible. Once a child internalizes this label, it can profoundly affect their self-identity and interactions with others, creating a continuous cycle of deviance. The more a child experiences exclusion or marginalization from peers, teachers, or the broader community, the less likely they are to successfully reintegrate into mainstream society.²⁶

A multitude of empirical investigations have substantiated this theory within the context of juveniles. For instance, it was observed that juveniles whose identities and images were made public exhibited an increased propensity for reoffending, especially in settings where they faced a lack of social acceptance or economic opportunities following the disclosure.²⁷

4.2 Stigmatization and Its Social Consequences

Beyond theoretical frameworks, the actual effects of revealing one's identity are both significant and profoundly damaging. The public identification of young individuals can lead to enduring stigmatization, which severely limits their opportunities for education, employment, and housing essential components of rehabilitation and social reintegration.²⁸ Educational institutions may decline to readmit recognized juvenile offenders, employers may be reluctant to hire them, and landlords may refuse to provide housing. This type of structural discrimination fosters an environment of alienation, driving juveniles back into delinquent behaviour.

Furthermore, the negative impacts of these issues are not experienced equally across all

²⁵ HOWARD S. BECKER, *OUTSIDERS: STUDIES IN THE SOCIOLOGY OF DEVIANCE* 9–11 (Free Press 1963).

²⁶ EDWIN M. LEMERT, *SOCIAL PATHOLOGY: A SYSTEMATIC APPROACH TO THE THEORY OF SOCIOPATHIC BEHAVIOR* 45–52 (McGraw-Hill 1951).

²⁷ Jeffrey Fagan, *The Comparative Advantage of Juvenile vs. Criminal Court Sanctions on Recidivism among Adolescent Felony Offenders*, 18 *LAW & POL'Y* 77, 91–92 (1996).

²⁸ BARRY KRISBERG, *THE JUVENILE JUSTICE SYSTEM: DELINQUENCY, PROCESSING, AND THE LAW* 141–43 (SAGE 2018); see also FRANKLIN ZIMRING, *AMERICAN JUVENILE JUSTICE* 104–07 (Oxford Univ. Press 2005).

demographics. Young people from marginalized communities or those who come from socio-economically disadvantaged backgrounds often find themselves more vulnerable to intense public scrutiny and systemic exclusion. This heightened exposure not only increases their likelihood of becoming involved in criminal activities but also raises the chances of them reoffending after initial encounters with the justice system.

4.3 Psychological and Developmental Harm

Psychological research strongly warns against exposing children to public humiliation. Children whose identities are revealed frequently experience increased levels of anxiety, depression, and post-traumatic stress disorder.²⁹ A longitudinal study carried out in the United States discovered that juveniles who were publicly exposed through media coverage displayed significantly more behavioural issues, lower school attendance, and a higher likelihood of withdrawing from social interactions.³⁰

In contrast to adult offenders, children are still in the process of developing their cognitive, emotional, and moral abilities. Disclosing their identities during this critical developmental phase can lead to toxic shame, a psychological condition in which the child begins to perceive themselves as fundamentally flawed rather than as someone who has simply made an error.³¹

4.4 Retribution vs. Rehabilitation

The public revelation of juvenile identities often arises not from genuine concern for the child or public safety, but rather from societal pressures for retribution, especially in cases of high-profile or egregious offenses. Media sensationalism and public indignation can compel authorities to “name and shame” even when it conflicts with the foundational principles of the juvenile justice system.³² Nevertheless, this retributive stance undermines the rehabilitative spirit embedded in Indian juvenile law and international human rights standards.

The Juvenile Justice (Care and Protection of Children) Act, 2015, despite its punitive aspects in certain areas, still upholds the essential principle that children in conflict with the law should

²⁹ Jennifer L. Woolard et al., *Juveniles within Adult Correctional Settings: Legal Pathways and Developmental Considerations*, 4 INT’L J. FORENSIC MENTAL HEALTH 1, 5 (2005).

³⁰ National Center for Juvenile Justice, *OJJDP Juvenile Justice Bulletin: Offenders in Juvenile Court* (2019), <https://www.ncjj.org>.

³¹ JOHN BRAITHWAITE, *CRIME, SHAME AND REINTEGRATION* 55–56 (Cambridge Univ. Press 1989).

³² Ved Kumari, *The Myth of Juvenile Justice in India: Juvenile or Adult?*, 57 JILI 244, 248 (2015).

be regarded as individuals requiring care, protection, and rehabilitation. This aligns with Article 39(e) and (f) of the Indian Constitution and Article 40 of the UNCRC, which advocate for the protection of children from abuse and treatment that diminishes their dignity or development.³³

5. CONCLUSION AND SUGGESTIONS

This article has conducted a critical analysis of the evolving Indian jurisprudence regarding identity disclosure and has underscored the legal void created by the absence of specific criteria to assess the "best interest of the child" as stipulated in Section 74(1). By employing a comparative perspective, it has illustrated that jurisdictions such as the UK, USA, and Australia adopt more structured, rights-oriented, and cautious methodologies concerning juvenile confidentiality. These frameworks prioritize judicial restraint, developmental comprehension, and public accountability, all while upholding the dignity of the child.

The criminological and psychological aspects further bolster the argument for restraint. Empirical research and theoretical perspectives derived from labelling theory, developmental psychology, and trauma-informed care indicate that the public identification of juveniles leads to harmful outcomes, including heightened recidivism, mental health issues, and social exclusion. Such results stand in stark contrast to the declared aims of the JJ Act and the constitutional provisions under Article 15(3) and Article 39(e)–(f) of the Indian Constitution. In this context, the article suggests a reassessment of institutional responses by enhancing and reforming the current Juvenile Justice Board (JJB). By integrating mandatory psychological evaluations, child rights specialists, participatory hearings, and reviewable reasoned orders, the JJB can evolve into the primary venue for responsibly adjudicating requests for identity disclosure.

In light of the increasing apprehension regarding the discretionary and potentially inconsistent application of Section 74(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015, several commentators have proposed the establishment of distinct tribunals or oversight entities to assess whether the identity of a child in conflict with the law should be revealed.

³³ India Const. art. 39(e)–(f); United Nations Convention on the Rights of the Child, art. 40, Nov. 20, 1989, 1577 U.N.T.S. 3.

Nevertheless, although this suggestion has its advantages, it also poses the risk of fragmenting jurisdiction, causing delays in urgent decisions, and placing additional burdens on the juvenile justice system through extra procedural layers.

This article introduces a practical and child-centred approach by promoting an enhanced and expanded role for the Juvenile Justice Board (JJB). The JJB is a legal body that is already responsible for examining cases involving children who find themselves in conflict with the law. Rather than creating an entirely new system, we can strengthen the existing capabilities of the JJB. This can be achieved by implementing specific procedural and substantive safeguards that ensure decisions about disclosing a child's identity are made with the utmost care, legality, and consistency.

The following are some of the prominent suggestions in this context.

5.1 Required Psychological Evaluations

Prior to making any determination regarding the potential disclosure of a child's identity, the JJB is obligated to obtain an independent psychological assessment of the child. This evaluation, performed by a qualified child psychologist or clinical social worker, must address the child's mental condition, emotional development, ability to comprehend consequences, and the risk of psychological damage that may arise from public exposure. This procedure is consistent with the "best interest of the child" principle as outlined in both Indian legislation and international agreements like the UNCRC, thereby offering a scientific foundation for the decision-making process.

5.2 Inclusion of Child Rights Expert and Counsellor

The current composition of the JJB consists of a Principal Magistrate and two social workers, with the stipulation that at least one of these social workers must be female.³⁴ To enhance the robustness of its decisions regarding identity disclosure, it is suggested that an independent child rights expert and a child counsellor be temporarily included in the Board's discussions on these issues. Their involvement would introduce multidisciplinary insights into the decision-making process and assist in contextualizing the child's socio-emotional background, history of trauma, and potential for rehabilitation.

³⁴ The Juvenile, *supra* note 6, § 4(2).

5.3 Child's Participation and Voice

It is essential that the procedure integrates the child's participation in a manner that is appropriate for their developmental stage. The JJB must ensure that the child is made aware of the purpose and consequences of the proceedings and is permitted to convey their opinions, either directly or through a legal aid lawyer or support individual. This aligns with Article 12 of the UN Convention on the Rights of the Child, which affirms the right of children to be heard in all matters that affect them, and has been acknowledged as a component of the evolving juvenile jurisprudence in India.³⁵

5.4 Reasoned and Reviewable Orders

To promote transparency and accountability, any decision permitting identity disclosure must be supported by a comprehensive, written, and reasoned order that details the rationale, evidentiary foundation, and psychological insights that inform the decision. Furthermore, the Children's Court should possess the authority to review or amend such orders either on its own initiative or at the request of the child, their guardian, or a child rights organization. This dual-layered review system would serve as a safeguard against arbitrary or media-influenced decisions.

5.5 Advantages of an Integrative Approach

This framework maintains the adjudicatory process within the current structure of the JJB, thus preventing the establishment of parallel tribunals or conflicting authorities. It also incorporates interdisciplinary safeguards directly into the decision-making process of the JJB, ensuring that decisions are not only legally valid but also informed by psychological considerations and centred on the child. This approach reconciles the necessity for procedural efficiency with the principles of human dignity, child rights, and the avoidance of stigmatization.

In conclusion, instead of resorting to punitive or symbolic justice through identity disclosure, this model enables the JJB to render thoughtful, individualized decisions based on expertise, evidence, and empathy, key characteristics of a rehabilitative juvenile justice system.

The confidentiality of juvenile identities transcends mere procedural safeguards; it serves as a fundamental principle of the juvenile justice philosophy, which is anchored in compassion,

³⁵ United Nations Convention on the Rights of the Child art. 12, Nov. 20, 1989, 1577 U.N.T.S. 3.

rehabilitation, and reintegration. In a system aimed at correction rather than condemnation, the non-disclosure of identity functions as a significant mechanism to protect children from stigma, marginalization, and the enduring repercussions of their early misdeeds. The Juvenile Justice (Care and Protection of Children) Act, 2015, introduces a discretionary clause under Section 74(1) that permits exceptions to this confidentiality. Nevertheless, without a definitive statutory framework, such discretion risks becoming arbitrary, inconsistent, or even punitive.

Confidentiality in the juvenile justice system is not intended to hide wrongdoing; instead, it is focused on protecting a child's chance for rehabilitation and ensuring that a single act of delinquency does not dictate the course of their entire life.

Upholding confidentiality should not be viewed as a mere act of leniency; instead, it signifies a strong commitment to constitutional principles, international obligations, and the ideals of restorative justice. In its efforts to find a balance between ensuring public safety and safeguarding the welfare of children, India must ensure that its policies are firmly rooted in the belief that every child possesses the capacity for change. Furthermore, society has a corresponding duty to create an environment that allows for this transformation, free from the harsh gaze of public scrutiny.

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