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THE 1st MRINALINI DEVI MEMORIAL NATIONAL MOOT COURT COMPETITION, 2017

BEFORE THE HONOURABLE HIGH COURT OF BANGLA

WRIT JURISDICTION UNDER ARTICLE 226

W.P. (Crl.) No. 124 of 2015

In the Matter of

PEOPLES' CONSCIENCE... PETITIONER

v.

UNION OF INDICA & ANR... RESPONDENT

MOST RESPECTFULLY SUBMITTED BEFORE THE HONOURABLE CHIEF JUSTICE AND HIS COMPANION JUSTICES OF THE HIGH COURT OF BANGLA

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LIST OF ABBREVATIONS

&	And
AIR	All India Report
Art.	Article
DPSP	Directive Principle of State Policy
Govt.	Government
Hon’ble	Honourable
CRC	Convention of the Right of Child 1989
JJA	Juvenile Justice (Care and Protection of Children) Act 2015
Ltd.	Limited
MACR	Minimum Age of Criminal Responsibility
Pg.	Page
Pun.	Punjab
SC	Supreme Court
SCC	Supreme Court Cases
SCR	Supreme Court Reports
Sec.	Section
U.P.	Uttar Pradesh
UDHR	Universal Declaration of Human Rights
UOI	Union of India
U.P.	Uttar Pradesh
V.	Versus
W.B.	West Bengal
W.P.	Writ Petition

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3.	Anjum Abdul Razak Memon vs. State of Maharashtra	(2013) 13 SCC 1
4.	Bansi Ram v. Jitaram	A 1964 Pu 231
5.	Bhoop Ram v. State of Uttar Pradesh	AIR 1939 SC 1329
6.	Bishnudas Behra v. State of Orissa	1997 CrLJ 2626
7.	Bishwant Ghosh v State	AIR 1957 Cal. 589; (1957) CrLJ 1114
8.	Brij Mohan Singh v. Priya Brat Narain Sinha	A 1965 SC 282
9.	Chandra v. State of Chhattisgarh and anr.	AIR 2002 SC 748
10.	Chidda Ram V. State	1992 CrLJ 4073, 4075 (Del)
11.	Dadu Vs. State of Maharashtra	(2000) 8 SCC 437
12.	Dholieder Naik v. State	2002 CrLJ (NOC) 113; 2001 (1) Ori LR 122
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14.	Dr. Subramaniyan Swamy v. Raju & Ors.	(2014) 8 SCC 390-H
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17.	H Subbarao V. LIC	A 1976 Knt 231
18.	Hiralal v. state of Haryana	1994 CrLJ 2471 (P&H)
19.	Hrishikesh v. Sushil	A 1957 C 211
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34.	Ram Murthi v. State of Haryana	A 1970 SC 1020
35.	Ram Prasad Sahu v. State of Bihar	AIR 1980 SC 83
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STATEMENT OF JURISDICTION

The Petitioner has filed this writ petition under Article 226 of the Constitution of Indica. The Hon'ble High Court of Bangla has the jurisdiction to adjudicate the instant case under Art.226 of the Constitution of Indica as there are questions of great significance of the Constitution involved.

STATEMENT OF FACTS

1. On the First day of March 2015, a young girl, aged about nineteen (19) years was returning from her tuition classes, situated around three (3) kilometers away from her parental home, in Golpur District of State Bangla. She was forcibly stopped by a group of five (5) persons, and was brutally assaulted sexually, and thereafter was bathed in country liquor and set ablaze.

2. The girl received fatal burns of the third degree, and succumbed to her wounds on March 3rd, 2015. Based on her dying declaration, all five (5) persons were apprehended in connection with the crime. One of them, identified for the purpose of the present case as Rana, was below eighteen (18) years of age on the date of commission of the crime, and is still a Juvenile as per meaning given in Juvenile Justice Act, 2000.

3.The juvenile's case was referred for inquiry to the Juvenile Justice Board. The other accused were tried in a regular sessions court and have been found guilty, inter alia, of the offences under Section 376D and Section 302 of the Indican Penal Code, 1860 (for short "the Penal Code"). The learned trial court has sentenced them to death. Their appeal against the aforesaid conviction and the sentence imposed has since been dismissed and the High Court of Bangla has confirmed the death penalty.

4. Before the Juvenile Justice Board to whom the case of Rana was referred for inquiry, the Petitioners (Peoples' Conscience - a Non-Profit Organization) had filed applications for their impleadment to enable them to 'prosecute' the juvenile alongside the public prosecutor. The petitioners also claimed that, on a proper interpretation of the Act, the juvenile was not entitled to the benefits under the Act but was liable to be tried under the penal law of the land in a regular criminal court along with the other accused.

5. According to the petitioners, after an elaborate hearing, the Board had fixed the case on July 25th, 2015 for pronouncement of order on the question of maintainability of the application filed by the petitioners and also on their prayer for impleadment. However, the Board had expressed its inability to decide the same and had directed the petitioners to seek an authoritative pronouncement on the said issue(s) from the Hon'ble High Court.

6. Accordingly, the petitioners instituted a writ proceeding before the Hon'ble High Court of Bangla, which was registered as Writ Petition (Crl.) No. 124 of 2015, seeking reliefs

regarding the interpretation of certain provisions of the Act and also the constitutionality of the blanket immunity to Juveniles and the blanket ban upon the Criminal courts to try Juveniles. The petitioners also pray that the Constitutional sanction of an enactment shall override the International Convention to which Indica is signatory.

7. The group at the outset, clarified that they are neither challenging the provisions of Section 2(k) and 2(l) of the Act nor is he invoking the jurisdiction of the Court to strike down any other provision of the Act or for interference of the Court to reduce the minimum age of Juveniles fixed under the Act as eighteen (18) years.

8. The provisions of the International Commitments entered into by Indica obliges it to set up a particular framework to deal with Juvenile offenders and such obligations can be more comprehensively met.

9. Accordingly, the High Court framed the issues and the case is put for hearings before the Hon'ble High Court of Bangla.

ISSUES FOR CONSIDERATION

ISSUE 1

WHETHER THE JUVENILITY WILL DEPEND UPON THE NATURE OF OFFENCE COMMITTED AS IN THE EXISTING SCENARIO MOST OF THE JUVENILES ARE ENGAGED IN HORRENDOUS AND HEINOUS CRIMES LIKE RAPE, MURDER AND DRUG – PEDDLING, ETC.?

ISSUE 2

CAN THE CONSTITUTIONAL SANCTION OF AN ENACTMENT HAVE AN OVERRIDING EFFECT TO AN INTERNATIONAL CONVENTION AND/OR STATUTE, OF WHICH INDICA IS A SIGNATORY?

ISSUE 3

WHETHER OSSIFICATION TEST SHALL BE PREFERRED OVER MATRICULATION CERTIFICATE AS AN APPROPRIATE METHOD TO DETERMINE THE AGE OF A JUVENILE?

SUMMARY OF ARGUMENTS

ISSUE 1: WHETHER THE JUVENILITY WILL DEPEND UPON THE NATURE OF OFFENCE COMMITTED AS IN THE EXISTING SCENARIO MOST OF THE JUVENILES ARE ENGAGED IN HORRENDOUS AND HEINOUS CRIMES LIKE RAPE, MURDER AND DRUG – PEDDLING, ETC.?

It is humbly submitted before this Hon'ble Court that the juvenility will depend upon the nature of offence committed. Statistics relating to violent crimes by juveniles against women are very troubling and the crime rate suggests that the number of rapes committed by juveniles has doubled over the past decade. The methods followed in various countries can also be taken in to consideration which reveals that juvenility depends upon the nature of offence committed.

ISSUE 2: CAN THE CONSTITUTIONAL SANCTION OF AN ENACTMENT HAVE AN OVERRIDING EFFECT TO AN INTERNATIONAL CONVENTION AND/OR STATUTE, OF WHICH INDICA IS A SIGNATORY?

It is humbly submitted before this Hon'ble High Court of Bangla that the Constitutional Law shall have an overriding effect over the International Conventions and that the Juvenile Justice (Care and Protection) Act, 2000 must be interpreted in accordance the Constitution of Indica. The Act which fixes the age of a Juvenile as 18 years is violative of Article 14 and 21 of the Constitution. Even international covenants cannot have dominance over the internal law system and thus the Constitution has a higher Prevalence over International Conventions or Statutes.

ISSUE 3: WHETHER OSSIFICATION TEST SHALL BE PREFERRED OVER MATRICULATION CERTIFICATE AS AN APPROPRIATE METHOD TO DETERMINE THE AGE OF A JUVENILE?

It is humbly submitted before this Hon'ble court that ossification tests as well as other medical examination methods be validated over the matriculation certificates to determine the age of a juvenile offender. The medical evidence must be given the weightage and the manner and nature of the crime committed by a 'minor' accused must be examined carefully to abort any attempt to take the justice system for a ride by him or his guardian. Further, there are also instances where the matriculation certificates are forged and misused.

WRITTEN SUBMISSIONS

ISSUE 1: WHETHER THE JUVENILITY WILL DEPEND UPON THE NATURE OF OFFENCE COMMITTED AS IN THE EXISTING SCENARIO MOST OF THE JUVENILES ARE ENGAGED IN HORRENDOUS AND HEINOUS CRIMES LIKE RAPE, MURDER AND DRUG – PEDDLING, ETC.?

It is humbly submitted before the Hon'ble High Court of Bangla that the juvenility will not only depend upon the chronological age of a juvenile who commits horrendous and heinous crimes like murder, rape, drug peddling; but on various other factors like mental maturity, physical status of juvenile, capacity of the criminal behavior and nature of the offence committed by the juvenile etc.

1.1. JUVENILITY DEPENDS UPON THE NATURE OF OFFENCE COMMITTED AND MENTAL AGE.

The judiciary and legislature in a state of quandary as to at what point of life of a person should be considered to be mentally upright to understand an act and its consequences. With cases of deplorable acts by juveniles against humanity itself, with special reference to heinous crimes like rape, murder which ultimately results into death of the victim, a necessary dilemma arises that whether the age of juvenile should depend upon the chronological age of the juvenile or the nature of offence committed when it is brutal and inhuman in nature.

Justice means a proportion and appropriate punishment. Punishment is a means to attain the end of peaceful and civilized society. Indian penal system provides for punishments ranging from monetary fine to death sentence. Punishments involve simple and rigorous imprisonments and even imprisonment for life. A rider attached here is the quantum of punishment has to be decided by the Court after pondering over the facts and circumstances of the case, mental and physical status of the convict, age of the convict and other relevant factors. Likewise punishment given to delinquent juvenile shall depend on the offence committed by the juvenile, mental and physical status and other relevant factors. Majorly, the gravity of the crime, the inherent characteristics of brutality and depravity is considered to be a parameter of the culpability of the perpetrator. Hence, it would not be appropriate to regard a specific age as a measure for mental discretion, as it would vary from each individual to the

other. It is not a war against juveniles but a battle against the immeasurable loss to human life, personal security and wasted human resources[1].

In ***Singh vs. State of Jharkhand***[2] the court held that, "the modern approach is to consider that a child can live up to the moral and psychological components of criminal responsibility, that is a child, by virtue of his or her individual discernment and understanding can be held responsible for antisocial behavior." Thus juvenility should be treated on the basis of the understanding capacity of the criminal behavior and the nature of offence committed by the juvenile.

Sec. 15[3] states that "the Board may, if it is satisfied that having regard to the nature of the offence and the circumstances of the case, it is expedient so to do, for reasons to be recorded, reduce the period of stay to such period as it thinks fit". This provides a clear view that the nature of offence committed has a very significant role in deciding the punishment to be provided for a delinquent juvenile. Hence, it is prudent to understand, not only in reduction of punishment, but also in order to enhance the punishment to a juvenile involving in horrendous and heinous offences, the nature of offence committed has to be taken in to consideration.

Sec. 16[4] states juvenile who has attained 16 years of age and **committed serious offence** shall be treated separately. This clearly portraits, that the nature of offence committed plays a vital role and has got a paramount importance in deciding the punishment for juveniles.

However, the **NCRB**[5] statistics relating to violent crimes by juveniles against women are very troubling. "Crime in India 2011" suggests that the number of rapes committed by juveniles has more than doubled over the past decade from 399 rapes in 2001 to 858 rapes in 2010. "Crime in India 2012" records that the total number of rapes committed by juveniles more than doubled from 485 in 2002 to 1149 in 2011. This has to be taken a serious note as the crimes committed by the juveniles are increasing in the graph due to the non deterrent nature of the Act and hence, nature of offence has to be weighed carefully while deciding the juvenility in order to decrease the crimes committed by juveniles, which are grave and serious in nature.

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[1] Juveniles should be tried as adults, Christine Watkins, Green haven Press,2008.
[2] Singh v. State of Jharkhand (2005) 6 SCC (J) 1.
[3] Juvenile Justice (Care and Protection of Children) Act, 2000 (Act No. 56 of 2000).
[4] Ibid.
[5] National Crime Records Bureau.

Juvenile Justice Board should be vested with the discretion to impose punishment beyond three years, as limited by Section 15 of the Act, in cases where a child, having full knowledge of the consequences of his/her actions, commits a heinous offence punishable either with life imprisonment or death. Such a child does not deserve to be treated under Juvenile Justice (Care and Protection of Children) Act, 2000 and be allowed to re-mingle with the society, particularly when the identity of the child is to be kept secret under Sections 19 and 21 of the Act. In many cases children between the ages of sixteen to eighteen years were, in fact, being exploited by adults to commit heinous offences who knows very well that the punishment thereat would not exceed three years which is an advantageous position to the offenders.

In ***Ram Prasad Sahu's***[6] case Supreme Court held that a child offender can be convicted for committing rape and an attempt to commit rape. Where a child is not eligible to be punished, but is capable of committing rape or murder it is against the principle of justice and principle of proportionality of punishment.

1.2. JUVENILITY UNDER JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000.

Section 15 and **Section 16** of the Juvenile Justice (Care and Protection of Children) Act, 2000, children, as defined in the above Act, is not only in the position of being advantageous to the juvenile delinquents, but are also being used by criminals for their own ends.

It is hereby sought to make a distinction in regard to the definition of children as defined in Sections **2(k) and 2(l)** of the Juvenile Justice (Care and Protection of Children) Act, 2000. The same has to be on the basis of level of maturity of the child, who, if capable of understanding the consequences of his actions, has to be dealt according to the severity of the crime. Accordingly, it is insisted that the provisions of **Sections 15 and 16** of the Act needs to be reconsidered and appropriate orders are required to be passed in regard to the level of punishment in respect of heinous offences committed by children below the age of eighteen years, such as murder, rape, dacoit, etc. It is humbly submitted that allowing perpetrators of such crimes to get off with a sentence of three years at the maximum, is not justified, and a correctional course is required to be undertaken in that regard.

The expression 'child' has been defined in various ways in different countries all over the world. Accordingly, the definition of a child in **Section 2(k)** of the Act depends on the

[6] Ram Prasad Sahu v. State of Bihar AIR 1980 SC 83.

existing laws in Indica defining a child. Provisions of the Child Labour (Prohibition and Regulation) Act, 1986, as an example, indicate that children up to the age of fourteen years were treated differently from children between the ages of fourteen to eighteen, for the purposes of employment in hazardous industries. Similarly juveniles committing serious offences have to be treated separately from juveniles committing petty and less serious offences. In regard to heinous crimes committed by children below the age of eighteen years, who are capable of understanding the consequences of their acts are eligible for proportional punishment. Therefore the provisions which provide blanket immunity to the juvenile delinquents, irrespective to the offence committed by them is, without reasonable nexus, irrational, arbitrary, and thereby ultra vires.

While admitting the salubrious and benevolent and progressive character of the legislation in dealing with children in need of care and protection and with children in conflict with law, it is contended that a distinction is required to be made in respect of children with a propensity to commit heinous crimes, who are a threat to a peaceful social order. In ***Essa @ Anjum Abdul Razak Memon vs. State of Maharashtra***[7] it was held that the purport and effect of **Section 1(4)** of the Act must be understood in a limited manner.

It is unconstitutional to place all juveniles, irrespective of the gravity of the offences, in one bracket**. Section 2(l)** of the Juvenile Justice (Care and Protection of Children) Act, 2000, ought not to have placed all children in conflict with law within the same bracket, and the same is ultra vires and infringes **Article 21** of the Constitution as it is against the right to justice.

Sec.6 of the Act states that "The powers conferred on the Board by or under this Act may also be exercised by the High Court and Court of session, when the proceeding comes before them in appeal, revision or otherwise. The word 'otherwise' has a broader scope in it which gives jurisdiction to other courts other than the Board to try the case.

In ***Dr. Subramanian Swamy & Ors. v. Raju & Anr*** [8]**.,** the Apex Court upheld the treating of persons "under 18 as a separate category for the purposes of differential treatment so far as commission of offences are concerned" under the Juvenile Justice Act 2000.

[7] Anjum Abdul Razak Memon vs. State of Maharashtra (2013) 13 SCC 1.
[8] Dr. Subramaniyan Swamy v. Raju & Ors (2014) 8 SCC 390.

Having regard to the object behind the enactment, the Act has to be read down to understand that the true test of 'juvenility' is in not the age but in the level of mental maturity of the offender. This would save the Act from unconstitutionality and also further its purpose. The Act is not intended to apply to serious or heinous crimes committed by a juvenile. The provisions of **Sections 82 and 83** of the Indian Penal Code have been placed to contend that while a child below 7 cannot be held to be criminally liable, the criminality of those between 7 and 12 years has to be judged by the level of their mental maturity. The same principle would apply to all children beyond 12 and up to 18 years also. This is how the two statutes i.e. Indian Penal Code and the Act has to be harmoniously understood.

According to **Rule 12(2)** of Juvenile Justice (Care and Protection of Children) Act, 2000, on production of a person, the Board is to decide the juvenility or otherwise, Prima facie, on the basis of physical appearance or documents, if available. This clearly indicates that physical appearance plays a vital role in deciding the juvenility and not only the age proof submitted which is very well prone to forgery.

The data collected by the National Crime Records Bureau establishes that crimes committed by children in the age group of 16-18 years have increased, especially in certain categories of heinous offences. Numerous changes and proper interpretation is required in the existing Juvenile Justice (Care and Protection of Children) Act, 2000 to address the above mentioned issues[9].

1.3. INTERNATIONAL PERSPECTIVE ON DETERMINATION OF JUVENILITY.

Indica is signatory to **United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (Beijing Rules), The Convention of the Rights of the Child, 1990 (CRC); &. The United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990 (Havana Rules)**, and also ratified CRC which ultimately aims to protect the rights of children and to punish the delinquent juvenile with proportionality and also does not prohibit the member countries to allow juveniles to be tried under regular criminal justice system in certain circumstances.

Since the increase in violent crimes committed by **U.S.,** several States has adopted a 'get tough' approach in response. The jurisdiction of juvenile courts is automatically waived when

[9] Standing Committee Report on JJ Bill, 2015, Available at: http://www.prsindia.org/uploads/media/Juvenile%20Justice/SC%20report-%20Juvenile%20justice.pdf Retrieved on: 13-01-2017

a juvenile above a certain age, usually 13 or 15, commits a violent or other serious crime, and the case is automatically transferred to adult court.

Similarly, in the **U.K.,** persons under age 18 are tried by a 'Youth Court' which is a special type of magistrate's court for those aged 10-18 years. However**,** for serious crimes like murder or rape, the case starts in Youth Court but is transferred to a Crown Court which is the same as a Sessions Court. The Crown Court can sentence the child for offences of murder committed when the offender was a youth as well as for 'grave crimes' including sexual assault and sentence the child to 'indeterminate detention for public protection.'

Determination of Juvenility if based only on age and not also on gravity of the offence committed, it will rather act as a sign of failure in ensuring public protection. Leading into the future, we may lose, indirectly destroy, lives if we refuse to punish them anymore. Since 1993, more than 43 countries have passed laws making it easier for juvenile delinquents to be tried as adults[10].

In New York, a research was made among 1400 individuals aged 11-24 years, the findings from the assessment revealed that the performance of 11-13 years old differs from 14-15 years old and that of 14-15 years old differs from 16-17 old, but interestingly performance and thinking of 16-17 year old did not differ from 18-24 old.[11] This shows that a juvenile under 18 years has enough capability to possess mental maturity to be treated at par with adults.

Not only State laws, but even international conventions do not prohibit such actions in special circumstances. **The Convention of the Rights of the Child, 1990 (CRC**) and **United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (Beijing Rules)** do not prohibit subjecting children/juveniles to the regular criminal justice system under certain circumstances.

Rule 17 of the Beijing Rules[12], in turn, provides that the reaction shall be in proportion to the circumstances and the gravity of the offence as well as the circumstances and needs of the juvenile as well as the needs of society. Furthermore, personal liberty may be deprived if the juvenile is adjudicated guilty of a serious offence involving violence against another person

[10] Juveniles should be tried as adults, Christine Watkins, Green haven Press,2008.
[11] Human Resource Watch, The rest of their lives 'life without parole for child offenders in U.S, Chapter V; The difference between youth and adults, New York: HRW.2005.
[12] United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (Beijing Rules).

or persistence in committing other serious offences. Therefore Indica's international legal obligations do not prohibit the state from amending the Act[13] to provide that persons between the age of 16-18 who are accused of serious, horrendous and heinous offences like rape and murder should be treated based on, the gravity of offence committed, and not on, their chronological age.

Art.4 of Beijing Rules[14] states that the minimum age of criminal responsibility differs widely owing to history and culture. The modern approach would be, to consider whether a child can live up to the moral and psychological components of criminal responsibility; that is, whether a child, by virtue of her or his individual discernment and understanding, can be held responsible for what is essentially an antisocial behavior. As the culture and practices in Indica has witnessed several changes, fixing an age to determine the juvenility will not do well in meeting the ends of justice as straight-jacket formula cannot be applied in juvenile cases.

Article 12 of **The Convention of the Rights of the Child, 1990 (CRC)** States Parties shall assure to the child, who is capable of forming his or her own views, the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

In ***Eddings V. Oklahoma***[15] where a 16 year old was sentenced to death for killing a highway patrol officer, the unstable family life and emotional disturbances was not considered, only the gravity and seriousness of the offence was an important mitigating factor in deciding the culpability of the offender.

Merely going through a differential process for juvenile offenders is not enough. It is obvious that the social contract underlying a lenient regime requires equal attention to be paid to the design and implementation of a proper determination of juvenility. Society will only continue shielding young offenders, guilty of great brutality from the rigors of adult justice by having their age as a protective shield. Thus, it is humbly submitted before this Hon'ble court that the juvenility of a child in conflict with law should be determined based on the offence committed and mental maturity, and not only upon the chronological age of the juvenile.

[13] Juvenile Justice (Care and Protection of Children) Act, 2000 (Act No. 56 of 2000).
[14] Ibid.
[15] Eddings V. Oklahoma 455 U.S. 104 (1982).

ISSUE 2: WHETHER THE CONSTITUTIONAL SANCTION OF AN ENACTMENT HAVE AN OVERRIDING EFFECT TO AN INTERNATIONAL CONVENTION AND/OR STATUTE, OF WHICH INDICA IS A SIGNATORY?

It is humbly submitted before this Hon'ble High Court of Bangla that the Constitutional Law shall have an overriding effect over the International Conventions and that the Juvenile Justice (Care and Protection) Act, 2000 must be interpreted according to the Constitution of Indica.

2.1. CONSTITUTIONAL VALIDITY OF THE ACT

A heinous crime is an action that is not just illegal, but it is also considered hateful or reprehensible. When the juvenile commits a crime, he shall not be tried by the ordinary Criminal courts but by the Juvenile Board. In India the age of Juvenile is fixed as 18 years. Therefore any child under the age of 18 years who commits "any" offence shall be tried by the Juvenile Justice Board only and not the ordinary criminal courts. However the Petitioner contends that such blanket immunity is violative of the **Article 14 and 21** of Constitution of Indica.

2.1.1. Violates Article 14 And 21 of Constituion Of Indica

Statistics show that the number of juvenile crimes went up from 35,465 in 2012 to 42,566 in 2014 under the IPC. 2014 saw 841 murders committed by juveniles. Similarly 1989 rapes in the year were committed by juveniles[16].There is a growth in the number of juveniles committing heinous offences.

The Act[17] is violative of **Article 14** of the constitution because, a juvenile who commits a less serious offence as well as a juvenile who commits a more grievous or heinous crimes are given the same protection and treatment. Therefore the unlikes are treated alike which is against the constitutional principle of right to equality where reasonable classification must be made and likes must be treated alike.

The current scenario in the society of Indica suggests that the state has to apply the Deterrent theory of punishment in cases of heinous crimes in order to reduce the growth of such

[16]Available at: http://indianexpress.com/article/india/india-news-india/juvenile-crime-share-static-govts-own-data-contradicts-minister-manekas-claim/, Retrieved on: 17/01/2017.
[17]Juvenile Justice (Care and Protection) Act, 2000.

offences by the Juveniles and state has to classify the Juvenile offenders based on the nature of the crime and should not impose a blanket immunity over all the juvenile offenders.

Such blanket immunity also violates **Article 21** of the victims of such offences as Right to Life also includes Right to Justice. When one Juvenile commits a less serious offence inflicting lesser damage upon the victim and another Juvenile commits a heinous crime taking away the life of the victim are treated alike, it is prejudicial to the victim in the latter case who has suffered more. Thus in order to grant justice to the victims of the crime too there must be a classification made between the Juveniles.

Article 21 of the Constitution, every citizen has a fundamental right to live in dignity and peace, without being subjected to violence by other members of society and that by shielding juveniles, who were fully capable of understanding the consequences of their actions, from the sentences, as could be awarded under the Indican Penal Code, as far as adults are concerned, the State was creating a class of citizens who were not only prone to criminal activity, but in whose cases restoration or rehabilitation was not possible. It is therefore submitted that the provisions of **Sections 15 and 16** of the Juvenile Justice (Care and Protection of Children) Act, 2000, violated the rights guaranteed to a citizen under **Article 21** of the Constitution and were, therefore, liable to be struck down.

It is unconstitutional to place all juveniles, irrespective of the gravity of the offences, in one bracket. **Section 2(l)** of the Juvenile Justice (Care and Protection of Children) Act, 2000, ought not to have placed all children in conflict with law within the same bracket, and the same is ultra vires Article 21 of the Constitution. Referring to the report of the National Crime Records Bureau (NCRB) for the years 2001 to 2011, it can be submitted that between 2001 and 2011, the involvement of juveniles in cognizable crimes was on the rise and it is a well-established medical- psychological fact that the level of understanding of a 16 year-old was at par with that of adults.

The ban on jurisdiction of criminal courts by **Section 7**[18] of the Act is unconstitutional in as much as it virtually ousts the criminal justice system from dealing with any offence committed by a juvenile. Parliament cannot make a law to oust the judicial function of the courts or even judicial discretion in a matter which falls within the jurisdiction of the courts. Reliance in this regard is placed on the judgments of this Court in the case of ***Mithu v. State***

[18] Juvenile Justice (Care and Protection of Children) Act, 2000.

of Punjab[19] and ***Dadu Vs. State of Maharashtra***[20]. It is argued that what the Act contemplates in place of a regular criminal trial is a non- adversarial inquiry against the juvenile where the prime focus is not on the crime committed but on the reasons that had led the juvenile to such conduct. The maximum power of 'punishment', on proof of guilt, is to send the juvenile to a special home for three years. The entire scheme under the Act being substantially different from what is provided by the Code of Criminal Procedure for investigation of offences and for trial and punishment of offenders, it is submitted that the Act offends a core constitutional value namely, the existence of a criminal justice system.

The Act would result in over-classification if all juveniles, irrespective of the level of mental maturity, are to be grouped in one class and on the further ground that the Act replaces the criminal justice system in the country and therefore derogates a basic feature of the Constitution.

Therefore it is humbly submitted that the Parliament has exceeded its mandate by blindly adopting eighteen as the upper limit in categorizing a juvenile or a child, in accordance with the **Beijing Rules, 1985, and the U.N. Convention, 1989,** without taking into account the socio-cultural economic conditions and the legal system for administration of criminal justice in India. The Juvenile Justice (Care and Protection of Children) Act, 2000, is required to operate in conformity with the provisions of the Constitution of India.

2.1.2. Art 13: Laws inconsistent with Fundamental Rights:

All rules, regulation, ordinance, Bye-laws notification, customs and usage are "*law*", within the meaning of Art 13 of the constitution and if they are inconsistent with or contrary to any of the provision they can be declared *ultra-virus* by the SC and by HC.

Article 13(2) is the crucial constitutional provision, the state may not make any law which takes away or abridges the Fundamental rights and a law contravening a Fundamental right is void. If any such law violates any Fundamental right, becomes void *ab intio* that is, from its inception. The effect of **Article 13 (2**) is that, no Fundamental right can be infringed. The court performs the arduous task of declaring a law unconstitutional if it infringes a Fundamental right. Thus, in the exercise of its protective role of the judiciary that is protecting the Fundamental right from being violated by statute. A statute is declared unconstitutional and void if it comes in conflicts with a Fundamental right.

[19] Mithu v. State of Punjab 1983 AIR 473
[20] Dadu Vs. State of Maharashtra (2000) 8 SCC 437

In the ***Fundamental right case***[21] if the provision of the status is found to be violative of any of the article of the constitution which is the touch stone, the SC and HC are empowered to strike down the said provision.

It is therefore humbly submitted before this Hon'ble court that the blanket ban on criminal courts to try juveniles are unconstitutional under **Art.13** as it is inconsistent with the Fundamental Rights guaranteed under the Constitution.

2.2. CONSTITUTION SHALL HAVE AN OVERRIDING EFFECT OVER INTERNATIONAL CONVENTIONS/STATUTES

It is humbly submitted that International Law is a weak law; it cannot have prevalence over the Law of the Land that is the Constitution which is the basis of all the laws in the country. The Country Indica follows the Dualist approach in connection with International Law. Therefore International law is not a part of the internal legal system. It cannot have dominance over the internal law system and thus the Constitution has a higher prevalence over International Conventions or Statutes. National courts must apply national law in case of conflict with international law.

It is submitted that No privileges or immunities can be conferred by a treaty without supporting legislation. Such supporting legislation must be constitutionally valid. There can be no question that nations must march with the international community and the municipal law must respect rules of international law even as nations respect international opinion[22].

The International conventions also provide for trying the children below the age of 18 and those committing serious offences as normal offenders. **Article 40 (3) CRC** states that children at or above the MACR at the time of the commission of an offence (or infringement of the penal law) but younger than 18 years can be formally charged and subject to penal law procedures. But these procedures, including the final outcome, must be in full compliance with the principles and provisions of CRC as elaborated in the present general comment. In para 34 of the report of Committee formed under CRC, The Committee wishes to express its concern about the practice of allowing exceptions to a MACR which permit the use of a lower minimum age of criminal responsibility in cases where the child, for example, is accused of committing a serious offence or where the child is considered mature enough to be

[21] Keshavananda Bharathi v. State of Kerala (1973) 4 SCC 225.
[22] Pratap Singh vs. State of Jharkhand and Another, (2005) 3 SCC 551.

held criminally responsible. The Committee strongly recommends that States parties set a MACR that does not allow, by way of exception, the use of a lower age.

The "National Commission to Review the Working of the Constitution" expressed regarding the validity of implementation of International Laws in the following terms: "Judiciary has no specific role in treaty-making as such but if and when a question arises whether a treaty concluded by the Union violates any of the Constitutional provisions, judiciary come into the picture. It needs no emphasis that whether it is the Union Executive or the Parliament, they cannot enter into any treaty or take any action towards its implementation which transgresses any of the constitutional limitations."

The courts should be inclined towards a harmonious interpretation of international conventional law (treaties, conventions etc) with municipal law. But an important question arises "in medias res" that International conventional do not operate "in vacuo" and hence if it is to operate through Domestic Law, then there are bound to be conflicts between the same at times. An answer to this question has been provided by the Supreme Court when it lays down that "When there is a clear conflict between the law of India and a treaty... It is the national law that will prevail."

Krishna Iyer, J. in a decision of the Kerala High Court, ***Xavier v. Canara Bank Ltd*** [23]., was influenced by **Article 11** of the **International Covenant on Civil and Political Rights, 1966**, in interpreting the CPC to minimize imprisonment for non-payment of civil debts. But at the same time, he also emphasized that international treaties cannot override the law of the land to do away with such imprisonment altogether.

Constitutional law can no longer be thought of in isolation from International law. Therefore utmost circumspection is desired of the courts while incorporating a treaty provision into Domestic law and while doing so they are ever duty bound to test it against the "suprema lex" that is the Constitution of Indica.

The combined reading of **Articles 51(c), 73, 253** read with entries 10 to 21 of Seventh Schedule and **Article 372** and judicial interpretation reveal that, unless and until Parliament enacts a law implementing international treaty (treaties involving conferring or curtailing private rights, cession of territory), such treaty provisions cannot be enforced per se in Indica. Further if such treaty provisions are consistent with Indian law or there is void in the

[23] Xavier v. Canara Bank Ltd 1969 K.L.T 927

domestic legal system then they can be read into, to do justice, and if there is conflict between the two then domestic law prevail over international law.

In the instant case though the International Conventions are ratified by the way of Juvenile Justice (Care and Protection) Act, 2000, so far as the provisions of the Act that impose a blanket immunity to the Juveniles irrespective of the nature of offence committed and the blanket ban imposed upon the Criminal Courts of Indica to try juveniles are concerned they are violative of the Constitution and the Criminal Justice System and therefore it is humbly prayed before this Hon'ble Court to interpret the provisions of the Act in light of the Constitutional principles and according to the objects of the Juvenile Justice system and hold that the International law cannot override the Constitutional sanction of an enactment.

ISSUE 3: WHETHER OSSIFICATION TEST SHALL BE PREFERRED OVER MATRICULATION CERTIFICATE AS AN APPROPRIATE METHOD TO DETERMINE THE AGE OF A JUVENILE?

It is humbly submitted before this Hon'ble court that ossification test shall be preferred over matriculation certificate as an appropriate method to determine the age of a juvenile. Sexual assault on females is a global health & human right issue. The problem has legal as well as medical related bearing. The ages of relevance to criminal liability ranges between 14 and 18 years in most countries. In proving those types of crimes, age estimation is most important. In accordance with the updated recommendations from experts worldwide, a physical examination with determination of anthropometric measures, inspection of signs of sexual maturation, dental examination and X- ray examination are carried out to determine the age of a person. It is not advisable to rely upon matriculation certificates and other such documents to determine the age as they are highly subjected to forgery.

3.1. OSSIFICATION TEST IS SURER GROUND FOR DETERMINATION OF AGE

Ossification is the process of formation of new bone by cells called *osteoblasts*. As per scientific evidence, by the age of 25 years nearly all bones are completely ossified in humans. Ossification test is done on the basis of fusion of joints in the human body between birth and age 25. If all joints are fused the person must be older than 25yrs of age. As per experts, ossification a more reliable method of determining age than ascertaining the age on mere appearance basis. In the present state of development of medical science and knowledge, we must proceed on the evidence of age furnished by Ossification Test.[24] The test of Ossification of bones has a greater value in determining the age and the x-ray examination is absolutely necessary.[25] In ***Alekh Prasad v State***[26]**,** it was held that ossification test maybe accepted as a surer ground for determination of age.

In ***Om Prakash V. State of Rajasthan***,[27] it was held that in a circumstance where the trial court itself could not arrive at a conclusive finding regarding the age of the accused, the opinion of the medical experts based on ossification test will have to be given precedence over the shaky evidence based on school records. It was further opined that while considering the relevance and value of the medical evidence, the doctor's estimation of age although may

[24] Bishwant Ghosh v State AIR 1957 Cal. 589; (1957) CrLJ 1114.
[25] Laimayum Tonjou v Maniour Administration AIR 1962 Manipur 5; (1962)1 CrLJ 49.
[26] Alekh Prasad v State (1964) 2 CrLJ 102.
[27] Om Prakash V. State of Rajasthan (2012) 5 SCC 20.

not be a sturdy substance for proof and can be an opinion as well, such opinion based on scientific medical test like ossification and radiological examination will have to be treated as a strong evidence having corroborative value while determining the age of the alleged juvenile accused. In ***Ramdeo Chauhan Vs. State of Assam,***[28] it was decided that opinion of an expert cannot be sidelined on the grounds that it is just an opinion especially in the realm where the Court gropes in the dark to find out what would possibly have been the age of an accused. In the absence of all other acceptable material, if such opinion points to a reasonable possibility regarding the range of his age, it has certainly to be considered.

Under **Article 20(3),** Ossification Test is valid as it helps to reveal the facts relating to the age of the accused .In ***Smt. Selvi and Ors v. State by Koramangala Police Station***,[29] the Court observed that the field of criminology has expanded rapidly during the last few years, and the demand for supplemental methods of detecting deception and improving the efficiency of interrogation have increased concomitantly. Narco analysis for criminal interrogation is a valuable technique, which would profoundly affect both the innocent and the guilty and thereby hasten the cause of justice. Further observed that enough protections exist to which recourse can be had by accused if and when the investigating agency seeks to introduce into evidence the information or statement obtained under Narco-analysis Test, if the same is found inculpatory or confession. That apart, statement or information by accused in the said test may even show their innocence or may lead to discovery of a fact or object material in the crime. If so, it is not at all hit by Article 20(3).

3.2 DETERMINATION OF AGE BY MEDICAL TESTS IS PERMITTED UNDER JUVENILE JUSTICE LAW OF INDICA

Juvenile Justice (Care and Protection of Children), Act, 2000 is the statute that is mainly concerned with the juvenile justice system in Indica. Rules under the Juvenile Justice Act, 2000 is also to be administered by the States for better implementation and administration of the provisions of the said Act in its true spirit and substance. **Section 49** of the Act deals with presumption and determination of age of a Juvenile. According to the provision, where it appears to a competent authority that person brought before it under any of the provisions of this Act (otherwise than for the purpose of giving evidence) is a juvenile or the child, the competent authority shall make due inquiry so as to the age of that person and for that

[28] Ramdeo Chauhan V. State of Assam (2001) 5 SCC 714.
[29] Selvi and Ors v. State by Koramangala Police Station 2004 (7) KarLJ 501.

purpose shall take such evidence as may be necessary and shall record a finding whether the person is a juvenile or the child or not, stating his age as nearly as may be. **Sub Section (2)** of the provision further states that 'no order of a competent authority shall be deemed to have become invalid merely by any subsequent proof that the person in respect of whom the order has been made is not a juvenile or the child, and the age recorded by the competent authority to be the age of person so brought before it, shall for the purpose of this Act, be deemed to be the true age of that person'. **Section 7A** of the Act, deals with the procedure to be followed when claim of juvenility is raised before any court. It states that whenever a claim of juvenility is raised before any court or a court is of the opinion that an accused person was a juvenile on the date of commission of the offence, the court shall make an inquiry, take such evidence as may be necessary so as to determine the age of such person, and shall record a finding whether the person is a juvenile or a child or not, stating his age as nearly as may be. Further **Rule 12** of the Juvenile Justice Rules also deals with the procedure to determine the age of a juvenile. In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the court or the Board or, as the case may be, the Committee by seeking evidence by obtaining (i) the matriculation or equivalent certificates, if available; and in the absence whereof; (ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof; (iii) the birth certificate given by a corporation or a municipal authority or a panchayat; And in the absence of either (i), (ii) or (iii) of clauses above stated, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. While passing orders, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (i), (ii), (iii) or in the absence whereof, the medical opinion shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law. Hence, the interpretation of the provision reveals that the law of the country itself provides for relying upon medical opinion in determining age.

In ***Pradeep Kumar vs. State of U.P.***[30], a medical report was called for by the Hon'ble High Court which disclosed the date of birth of the accused and was acceptable on the basis of various tests conducted by the medical authorities. In ***Manjyoti v. State*** [31] the ossification test showed that accused-petitioner Manjyoti was not a juvenile and the Courts rightly come to

[30] Pradeep Kumar vs. State of U.P. 1995 Supp (4) SCC 419.
[31] Manjyoti v. State 2002(108) CRLJ 2777 P&H.

the conclusion that no reliance could be placed on the birth entry in question and on the basis of the said birth entry, the accused-petitioner could not be declared as a juvenile. Further in ***Rajinder Chandra v. State of Chhattisgarh and anr***.[32] the Hon'ble Supreme Court validated the report of ossification test and radiological examination in determining the age of juvenile. Apart from the cases where the appeals have been made by the parties to an issue to consider the medical opinion to determine the age of a juvenile or otherwise, there are also instances where the courts themselves have ordered for production of medical reports on the grounds of radiology examination and ossification test. The case of ***Ram Suresh Singh Vs. Prabhat Singh alias Chhotu Singh & Anr***[33] reveals such an instance. The learned Magistrate was not willing to consider the shaky school certificate submitted by the appellant which revealed the age as 16 years. The Magistrate thus appointed a Medical Board. The Medical Board, in its report inter alia, upon taking ossification test, estimated his age to be within 20 to 22 years. The Principal Magistrate, Juvenile Justice Board Patna vide an order held that on the date of occurrence, age of appellant was more than 20 years.

3.3. ADMISSIBILITY OF MEDICAL EVIDENCE

Medical evidence relating to age is an expression of opinion based on clinical examination. The doctors will have reasons in support of their conclusion and explain why they came to that conclusion by examination of teeth, height, and weight etc.[34] Though it cannot be said that the opinion of medical expert as to age on the basis of medical science is not admissible yet, in the absence of any explanatory statement from the doctor as to what factors individually or cumulatively were significant and why the opinion cannot carry much weight.[35] Hence it is to be understood that medical evidence of ossification test report need not have to be relied up on blindly and is given *reasonable consideration* on the explanatory statements given by the medical experts.

In ***Dilip v State of Madhya Pradesh***[36], the medical witness has stated that the age of prosecutrix on the day of the occurrence was between 16-18 years with a margin of 3 years on either side due to a variety of reasons. The High Court held that due to margin stated by the medical witness, it couldn't be stated that medical evidence militated against the other consistent evidence regarding the age of prosecutrix. Although the doctors cannot speak

[32] Rajinder Chandra v. State of Chhattisgarh and anr. AIR 2002 SC 748.
[33] Ram Suresh Singh Vs. Prabhat Singh alias Chhotu Singh & Anr 2010 (1) RCR (Criminal) 245.
[34] Modi's Medical Jurisprudence
[35] Somgir alias Mangalpuri Karibharathi V State of Gujarat 1996 Guj LR 378
[36] DIlip v State of Madhya Pradesh 1987 CrLJ 212; 1986 Cur CrJ (MP) 249

positively to a year or so, their evidence is of value as showing that the age attributed to the plaintiff by other evidence wouldn't be medically probable. Further in ***Narullah v Emperor***[37] it was held that the evidence of a medical officer has a greater value than that of an ordinary witness. The case of ***State of Himachal Pradesh v Mango Ram***[38] is an instance where the opinion of doctors as to the age of prosecutrix was upheld over the other faulty and unsupported evidences. In ***Krishna Kant v. State of Uttar Pradesh***[39] the medical reports of various tests conducted for determining the age were accepted by the Court.

Section 45 of the Indican Evidence Act deals with relevancy of opinion of experts. Under this provision expert evidence is admissible when the court has to form an opinion upon matters of science and skill. Ossification test is performed by medical experts and the report of the same as submitted by the experts is of relevance in accordance with this provision. However a mere opinion of doctor about the age of a person without ossification test is of no consequence.[40] To substantiate the medical report on ossification the affidavit or oral testimony of the doctor can also be taken.[41]

3.4. NON CONCLUSIVENESS OF BIRTH CERTIFICATES AND SCHOOL RECORDS

Under **Section 35** of The Indian Evidence Act, entry in birth register made by a public officer in discharge of his official duty is held admissible. But all the material particulars in birth register or school records may not be a conclusive proof by itself.[42] The entry regarding date of birth in the register of births is a *prima facie* piece of evidence but it is not conclusive in nature.[43] It was held in ***H. Subbaroa v. LIC***[44] that entry of date of birth under Registration of Births and Deaths Act, 1969 is not conclusive evidence. Further in ***Dholieder Naik v. State***[45] it was held that even though the entry in birth register can be considered as conclusive evidence, court has to base its decision upon physical features and other evidences and ossification test invariably need to be carried out wherever possible and is a sure test for ascertaining age.

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[37] Narullah v Emperor AIR 1934 Oudh 32; 35 CrLJ 498
[38] State of Himachal Pradesh v Mango Ram AIR 2000 SC 2798; (2000) 7 SCC 224
[39] Krishna Kant v. State of UP AIR 1994 CrLJ 148
[40] Hiralal v. state of Haryana 1994 CrLJ 2471 (P&H)
[41] Pratlad T R v. Dyes and Chemicals Co. A 1960 SC 1006.
[42] Paramagonda V. Bangarewwa 2003 AIHC 1184 (1186) (Kant).
[43] Sarkar's Law of Evidence P.895.
[44] H Subbarao V. LIC, A 1976 Knt 231.
[45] Dholieder Naik v. State 2002 CrLJ (NOC) 113; 2001 (1) Ori LR 122.

Section 35 of The Indian Evidence Act also validates the admissibility of school certificates and matriculation certificates as evidence.[46] However, it is also not conclusive evidence of age of a person and cannot be regarded as the sole clinching factor.[47] Further, the age stated in the School Admission Register as to the age of a student cannot be treated to be correct since the guardians understate the age of their children than the real one at the time of admission in school.[48] It is very common to understate the age when entering a school in order that the child may not be too old for Government Service.[49] Moreover in case of private schools no presumption of authenticity can be raised with regard to the document proving age particularly when it is not maintained in the regular course of business.[50] Such entries can be given only little value especially when there is nothing to show on whose statement the entry was made.[51] In ***Sunil Kumar v. State of Uttar Pradesh***[52] as per photocopy of school certificate used by accused, he was juvenile. But as per original certificate proved by principal of the Institution, the accused was found to be major. It was held that order rejecting application for dealing accused as juvenile was proper.

While determining the age, the court had to ward itself so that unscrupulous should not get itself declared as juvenile on the basis of a wrong certificate. Court should take in account all the attending factors including opinion of the doctor, school register as well as physical features of the delinquent. Any single factor was not sufficient to clinch the issue. Juvenile Justice Board had taken into account all the factors including opinion of the medical board as well as physical features of the delinquent.[53]

Hence, it is humbly submitted before this Hon'ble court that ossification tests as well as other medical examination methods be validated over the matriculation certificates to determine the age of a juvenile offender. The medical evidence must be given the weight-age and the manner and nature of the crime committed by a 'minor' accused must be examined carefully to abort any attempt to take the justice system for a ride by him or his guardian.

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[46] Liladhar v. Mabibi A 1934 N 44; Hrishikesh v. Sushil A 1957 C 211.
[47] Chidda Ram V. State 1992 CrLJ 4073, 4075 (Del); Bishnudas Behra v. State of Orissa 1997 CrLJ 2626.
[48] Brij Mohan Singh v. Priya Narain Sinha A 1965 SC 282; Ram Murthi v. State of Haryana A 1970 SC 1020.
[49] Md Hassan v. Safdar 14L 473; Bansi Ram v. Jitaram A 1964 Pu 231.
[50] Sahib Singh v. State 1991 CrLJ 687, 689 (DEL).
[51] Janaki v. Jyothish A 1941 C 41; Jagannath v. Motiram Ac 1951 Pu 377.
[52] Sunil Kumar v. State of Uttar Pradesh 2009 CrLJ 3497 (All).
[53] Anil Yadav v. State of Bihar 2008 (72) AIC 940 (Pat).

PRAYER

In the light of the issues raised, arguments advanced and authorities cited, may this Hon'ble court be pleased to:

1. Lay down an authoritative interpretation of Sections 2(I) and 2(k) of the Act that the criterion of eighteen (18) years set out therein does not comprehend cases grave offences in general and of heinous crimes against women in particular that shakes the root of humanity in general.
2. Hold that the definition of offences under Section 2(p) of the Act be categorized as per grievousness of the crime committed and the threat of public safety and order.
3. Hold that Section 28 of the Act be interpreted in terms of its definition, i.e., alternative punishment and serious offences having minimum punishment of seven years imprisonment and above be brought outside its purview and the same should be tried by an ordinary criminal court.
4. Direct striking down as unconstitutional and void the Juvenile Justice (Care and Protection of Children) Act, 2000 (Act No. 56 of 2000) to the extent it puts a blanket ban on the power of the criminal courts to try a Juvenile offender for offences committed under the Indican Penal Code,1860; and
5. Incorporate the International concept of age of criminal responsibility and dilute the blanket immunity provided to the juvenile offender on the basis of age along with the Direction that the Respondent be tried forthwith by the competent criminal court.

AND /OR

Pass any order that it deems fit in the interest of Justice, Equity and Good Conscience. And for this, the petitioner as in duty bound, shall humbly pray.

COUNSELS FOR THE PETITIONER