

Presentation title:

## Incorrigible offenders or victims of the system? - A feminist critique of rehabilitation under the Juvenile Justice Act 2015

**Speaker:** Suneha Kandpal (Tata Institute of Social Sciences, India)

**Co-author:** Ruchi Sinha (Tata Institute of Social Sciences, India)

In India, a separate Juvenile Justice Act (JJ Act) was formulated to address the needs and rehabilitation of children in conflict with the law (CCL). The law intends that the benefits of its provisions be available to all CCLs irrespective of the nature of the offence allegedly committed by them. The Act is guided by the principles of the best interest of the 'child.' However, post-Nirbhaya's (2012) case, there has been growing demand to amend most progressive child protection legislations to severely penalise the CCLs involved in the most heinous crimes. Thus, from the 'best interest of the child' to 'criminalise the child' under the guise of protecting women from sexual violence is the new norm. The system, as a result, primarily focuses on the crime committed, mirroring the punitive adult system. This punitive culture of control for risk reduction portends the tentacles of neoliberal - governmentality taking precedence over a restorative justice approach that reconciles victims' need for justice and accountability with the rehabilitation of CCL. This paper explores juvenile sex offending from a feminist legal perspective. It elucidates the 'construct of sex' as a by-product of power, control and asserting one's sexuality over the other viewed as less powerful. This hetero-normative and patriarchal view of understanding sexual offences only in terms of sex is challenged. It elucidates why the flawed systemic practice of targeting the CCLs as causes has to be addressed by acknowledging the social and institutional failure to reform masculine norms. Thus, the JJ system as a gendered system constructs and reinforces stereotypes of masculinity and male CCLs against addressing the institutional and societal norms that sustain sexual violence.