

## CHANGED FACE OF JUVENILE JUSTICE ACT, AN EVALUATION OF RECENT CHANGES

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### **Abstract**

*The purpose of juvenile justice is to protect and expand young people's constitutional rights. It's the branch of law concerned with juvenile offenders, neglected kids, and abandoned kids. Its focus is on rehabilitation rather than punishment, unlike adult criminal justice. International norms stress the significance of both prevention and rehabilitation for minors who are in dispute with the law and have been accused of criminal behaviour.*

*Any child claimed as, charged of, or acknowledged as having allegedly broken the criminal justice system has the "right to be treated in a manner consistent with promotion of a promotion of the children's sense of dignity and worth, as stated in these guidelines." In India, Article 15 of the Constitution ensures that children's rights are prioritised via the execution of certain laws and policies. This mandate has far-reaching implications for India's juvenile justice system. The policy is grounded on constitutional safeguards such as the equality guarantee, the right to life and liberty for oneself, and the right to be free from exploitation.*

**Keywords:** Juvenile Justice, human rights, guardians, rehabilitation, policy, jurisprudence, protection of Children

### **INTRODUCTION**

A Juvenile is a minor who has not yet reached the age of majority in his or her jurisdiction, at which point the law treats them as criminally responsible adults. The Latin word juvenis, meaning "Youth," is where the concept of juvenile justice originated; hence, a juvenile court system is one that is designed specifically for minors. To be considered a "juvenile" under the Juvenile Justice (Care & Protection of Children) Act 2015, a person must be "under the age of eighteen. Children who are in conflict with the law are those who have been accused or found guilty of a crime and who were under the age of eighteen at the time the crime was committed." Children who are in need of protection and care include those who have been subjected to abuse, exploitation, neglect, or violence and are not being cared for by a parent or legal guardian.<sup>1</sup>

A kid's outlook and actions will be influenced by his or her social environment since the youngster is a member of society. Children's attitudes and actions are certain to be influenced by socioeconomic factors including poverty, employment, exposure to it and witnessing violence, abuse, inequities, and shifting values. Juvenile delinquency is caused by a multitude of causes, including those in the social, economic, and human realms. Risk increase, family threat, mental health risk, and drug addiction risk are all possible classifications for the elements that contribute to adolescent delinquency. Factors unique to the adolescent's physical, mental, and emotional makeup are known as "individual risk factors."

Family risk factors are those that apply to the juvenile's parents and other relatives who have a role in the adolescent's upbringing. These include being raised by grandparents or other relatives (in the absence of parents) who may not have a strong emotional connection to the adolescent or meet all of his or her needs. Precursors of specific mental health disorders often manifest in antisocial conduct in young people, and this includes risk factors for mental health. Access to and usage of drugs and other illicit substances are two examples of what experts call "risk factors" for substance dependence.

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<sup>1</sup> S. 2(35) of JJ Act



Here, Matrix 1 further highlights the many potential dangers and potential causes of adolescent delinquency. It's worth noting that "kid in dispute with the law" is used in the Juvenile Justice Act of 2000 rather than "juvenile delinquent."<sup>2</sup>

**Matrix 1:** Factors Contributing to Juvenile Delinquency: According to the National Crime Records Bureau, although the number of cases involving young people in conflict with the law has increased steadily over the past decade, the proportion of juveniles charged with an IPC offence was 1.0% in 2005 and 1.1% in 2015. Matrix 2 shows this to be true. In 2015, there were a total of 41,385 minor arrestees, 40,468 of whom were male and 917 of them were female. As a result, there are more guys than girls who get in trouble with the law. In 2015, there were 1.45 times as many females as males arrested for crimes under the Indian Criminal Code.<sup>3</sup>

**Matrix 2:** Crime in India 2015, the National Crime Records Bureau, the Ministry of Home Affairs, Government of India) Juvenile offenders in India, 2005-2015. Matrix 3 shows that contrary to common assumption, rape is not the most common crime committed by minors who are in violation of the law. The category of "crime" had the greatest increase in 2015 filings involving minors.

- a) 'stealing' (19.2%),
- b) breaking and entering (8.3%),
- c) 'rape' (5.4%)
- d) crime of stealing someone away (5.2%)
- e) injuring someone due to "road rage" or "reckless driving" (4.9%).

There have been 31,396 instances of minors in dispute with the law, with 43.0% of those cases falling under these five criminal categories.

**Matrix 3:** Rates of Serious Crime Committed by Young People in Violation of the Law in 2015 The National Crime Records Bureau, a division of the Indian Ministry of Home Affairs provides this data about crime in India for the year 2015.

#### **There is requirement for a separate Criminal Justice System for Juveniles**

The annals of humankind attest to the reality that juvenile offenders have been tried and incarcerated alongside their adult counterparts throughout history. A new awareness has emerged in the past century, and with it, a juvenile justice system that is distinct from the adult system. Many Indians, despite the presence of a juvenile justice system, do not fully grasp the reasons why juvenile offenders cannot be tried as adults, tried in adult courts, subjected to adult punishments, and incarcerated in adult facilities. When a child is accused of committing a particularly terrible crime, the public often complains that the juvenile court system is too soft on offenders and calls for harsher penalties to serve as a deterrent and provide some measure of justice to the victim. Misinformation about the goals of the juvenile court system leads to these kinds of reactions and demands. These have led to harsher punishments for young criminals. Having a juvenile justice system apart from the adult system is supported by several grounds.<sup>4</sup>

There are several arguments in support of a juvenile justice system that is distinct from the adult system.

- a) "It is a tenet of the law that putting unequal people on the same level and treating them the same way would produce inequality, not equality. Children's situations vary from those of adults."
- b) "One of the most defenceless segments of society, children are often exploited and abused by adults in their care and the general public. So, they need a humanitarian approach to justice rather than a law and order or retributive one."
- c) It is a violation of children's human rights since millions of them are forced to fend themselves in the streets, where they are often mistreated, forced to labour and beg, and even exposed to violence. They need immediate Governmental assistance in the form of treatment and security. Abuse, exploitation, and neglect doled out by culture to the affected kid are important contributors

<sup>2</sup> Prakash Haveripet (2013)

<sup>3</sup> 2016, National Crime Bureau Records

<sup>4</sup> Platt A.M. (1977)



to the aforementioned youngsters getting into contact with the law. A compassionate, rehabilitative, and reparative attitude to children is one way in which society "repairs" the damage done.

d) Placing minors in prison alongside adults won't help them change or become productive members of society.

e) Because of their young age, children should be handled differently from grownups who are believed to grasp the implications of the things they undertake if such acts constitute penal offences.

In the words of India's highest court, the justice systems for adults and juveniles vary in the ways described in the following bullet points<sup>5</sup>:

a) "FIR and charge-sheet in behalf of young offenders is issued only in 'severe cases', when adult sentence exceeds 7 years."

b) "A youngster in dispute with the law also isn't arrested, but apprehended, only in the case of charges of a severe offence. If detained, the police must promptly put such child under the care of a Guidance Counselor, whose responsibility is to deliver the juvenile before the Board. Hence, the police do not maintain pre-trial custody of the kid."

c) Before, during, or following a Board investigation, the minor may not be kept in a prison or police lockup. Juveniles who are in trouble with the law are often granted bond.

d) When a sentence has been served, the offender is no longer subject to the oversight of the adult criminal justice system. The JJ system creates post-trial channels is for juvenile to earn an honest income, as part of its mission to reform & rehabilitate the offender.

**The Juvenile Justice Status before 1773:** the Hindu scriptures i.e. Manusmriti, and Sharia, the Islamic scriptures, both require parents to provide for and safeguard their children. If they are unable to do so, other members of the society are expected to step in and do so. "A person who finds an abandoned kid and has reasonable fear for the child's safety has an obligation under Islamic law to care for the child." A comparison of the sanctions for the same crimes committed by minors in the Manu and the Sharia reveals striking differences.<sup>6</sup> If a youngster was detected littering in public, for instance, he would be required to clean up the area while an adult would be responsible for paying the fine. The crucifixion of minors is expressly forbidden under Islamic law. Children were not held totally accountable for their activities as adults were, and they were given extra care to ensure their survival, as seen by the provisions inside the traditional scriptures.

**Juvenile Justice position Before 1950-2000 :** By 1960, several states had created their own systems and laws specifically for juveniles, with wildly varying definitions, procedural requirements, and levels of execution. The Children Act 1960 was passed in 1960 and is directly managed by the Union government. It applies to Union Territories as well. The Children Act of 1960 was drafted as an example for the different state laws and eventually served as the blueprint for the Juvenile Justice Act of 1986, which was enacted at the federal level. The Supreme Court's ruling in the Sheela Barse case was instrumental in prompting the passage of the unified legislation on juvenile justice by declaring that juvenile detainees had a right to special treatment and subsequently recommending that the law be enacted by Parliament. "In making India's juvenile justice law, Parliament relied on its authority under Article 253 of the Constitution, ensuring that it followed the U.n Standard Minimum Regulations for the Administering of Juvenile Justice (Beijing Regulations 1985) and other international obligations that India had ratified".<sup>7</sup>

According to the legislation enacted in 1986, juvenile delinquents are minors who have committed offences that would be considered felonies if committed by an adult. Juveniles are tried in special tribunals that apply the same due process standards as those for adults, "with the caveat that their trials must be conducted in secrecy and be as non-judicial as possible. Convicted juvenile offenders may be subject to a fine or probation for up to three years", but not to the death penalty or incarceration. The 1986 Act's primary objective was to harmonise domestic legislation with the 1985

<sup>5</sup>Dr. Subramanian Swamy and Others vs. Raju (2014) 8 SCC 390

<sup>6</sup> Arlene Manoharan and Swagata Raha

<sup>7</sup> 1986 AIR 1986 SC 1773



UN Standard. This goal was not entirely met, however, and in 2000 a new legislation was drafted and signed into law as a result.

**Status of Juvenile Justice 2000-2015:** On April 1, 2001, the Juvenile Justice (Care & Protection of Children) Act 2000 became law after being enacted in December 2000. To better safeguard, care for, rehabilitate, and educate the juvenile, as well as provide them access to education and employment prospects, this was revised in 2002 and again in 2006. 2015 saw the passing of new legislation.

**Lacunae Highlighted and the Need for Amendments:**

- According to a study conducted by NCPDR, just 1.5% of children's homes surveyed complied with the requirements of the Juvenile Justice Act, and 29% exhibited significant management flaws.
- Children are being housed in unclean circumstances, and not a single CCI in the nation was determined to be in full compliance with the requirements of the JJ Act.
- All publicly, privately, or jointly operated CCIs, as well as those funded in whole or in part by the government, the private sector, or foreign governments, are subject to the CWC.
- There is inadequate supervision and monitoring of state child protection units, and new children's homes may be formed without the approval of the DM.

**Most Recent Changes in Juvenile Justice Act**

On 20<sup>th</sup> November, 1989, “the United Nations General Assembly passed the Convention just on Rights of the Child. The Juvenile Justice (Care and Protection of Children) Act, 2000 was enacted in India to replace the original Juvenile Justice Act, 1986. Two further amendments to this Act occurred in 2006 and 2011. These modifications were developed to fix the holes and shortcomings in the original implementation. Finally, the juvenile justice bill of 2015 replaced the Juvenile Court Act of 2000 because of the need for a more robust and effective court system centred on restorative measures.” Each of the 22 judicial districts in the UT now has a “Juvenile Justice Board, Child Welfare Committee, District Child Protection Unit, and Special Juvenile Police Unit thanks to ICPS.” The Act prohibited the imprisonment or abuse of any child under the age of 18 and emphasised a more welcoming attitude towards minors.

To further protect children's rights, the Union Cabinet in February 2021 authorised new modifications to the Juvenile Justice Act of 2015 that would add provisions to the Child Protection system. The district administrations were given more responsibility for carrying out the Act's provisions. It gave district magistrates the authority to oversee the departments in charge of enforcing the JJ Act.

In order to expedite case resolution and improve transparency, the JJ Act was updated to allow District Magistrates and Additional District Magistrates to make adoption decisions under Section 61. The District Magistrates shall independently assess the performance of the District Child Welfare Committees, Juvenile Court Boards, Child Welfare Units, and Child Care Institutes, conduct criminal record checks on CWC members and other personnel, and monitor the protocols and practises of the CCIs.

The reforms are a positive development towards a more robust system for protecting children in India and the Union Territory of Jammu and Kashmir. In order to successfully prevent child crime and see this purpose through, district administrations must also play their part.

**Verma Committee Analysis<sup>8</sup> Presentation**

The Verma committee claims that before holding a kid accountable for a crime, society has a duty to ensure that the child is provided with the rights guaranteed by the constitution. The provision under Section 16 and clause 19(3) is not only problematic, but also the most vital to basic rights guaranteed by the constitution, and it is in direct contrast with the overall goal and philosophy. U.S. research shows that after released from adult jail, eighty percent of juvenile offenders would commit more crimes. It's not rehabilitative, but more like rehabilitative with damaging to punishing. There are now 472 million children in the United States, however just 1.2% of youngsters have committed a crime. Our society's vast majority of juvenile delinquents come from low-income backgrounds, such as homelessness, illiteracy, and minority status; these groups are disproportionately affected by this act. In 2013, 77.5% of children were born into homes with a monthly income of less than 4000 Rs/-,

<sup>8</sup> <https://prsindia.org/policy/report%20against%20women>.



making them among the poorest in the world. Moreover, only 15% of children in this age group attended high school. Articles 14, 15, and 21 of the Constitution protect children from discrimination and guarantee that they get a fair education.

Article 21 of the right to equality, etc., is likewise violated by Clause 7 of the new Act. It also fails the fairness requirement of Article 21 and the one month allocated to the JJB for preliminary investigation, therefore it violates the procedural component of arbitrariness as well. In a nutshell, it violates the Indian constitution on the basis of the assumption of guilt. In addition, this practise is contrary to the Indian Juvenile Administration Regulations of 1985. Moreover, there is no protection for sex offenders or female minors in conflict.

No efficient system for coordinating monitoring exists. Lastly, I'd want to stress that anybody under the age of 18 should be kept out of jail and shielded from the normal criminal justice system. If a kid is in dispute with the law, they should get the care, education, and counselling they need to resolve the problem. Instead of creating a void in the system via harsh punishment, the state must reintegrate with society through the rehabilitation system. We must save the children and not destroy them by treating them as a target.

### CONCLUSION

A kid has several rights that were proposed in the 1989 International Treaty on the Rights of the Child. They include the right to life, the right to privacy in the development of one's identity, the right to freely express one's opinions, the freedom to access information, and many more. Countries that sign the Convention commit to upholding the rights it outlines. Articles 14, 15, and 21 of our constitution specifically protect children's rights. Juveniles have unique protections under both international law and the Indian Constitution. Recent reforms to juvenile legislation have expanded opportunities for improvement for young people. The rules pertaining to minors have become more varied. A slew of statutes, including the Child Labor Act and the Factories Act. As time and civilization progress, so do the laws that govern it.

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