



Rights of 'Child in need of Care and Protection' under the Juvenile Justice Act.

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Abstract

This essay focuses on the Juvenile Justice Act of 2015's rights for "Children in Need of Care and Protection." Only those under the age of 18 are affected, including juveniles and children. In India, the emphasis of the juvenile justice system is mainly on preserving and defending children's rights. The number of crimes perpetrated by minors has been rising steadily. The government has gradually created a distinct statute to address the issue of minors. History must be consulted in order to comprehend the juvenile system's current status in India. This essay examines the protocols for handling youngsters who require care and protection. Analyzing India's unique approach to treating young people has been attempted. International gatherings have been held to discuss the juvenile justice system's concept. This essay addressed the issue of how young offenders are handled. The landmark case of Nirbhaya, which was incredibly harsh and abhorrent in character, has revolutionized the juvenile system as a result of the 2015 revisions to the Care and Protection of Children Act. This law was created to safeguard vulnerable children and uphold the principles of natural justice, which state that all individuals and organizations acting in judicial capacities must uphold fundamental procedural fairness standards, such as the right to an impartial hearing and the right to review.

ARTICLE

"Since its inception, youth lawfulness has been opposed to the idea that children and adolescents, due to their relative immaturity, are less able to restrain their desires, understand the seriousness of the crimes they commit, and anticipate the repercussions of their actions"

INTRODUCTION (Juvenile Justice Act)

The word "juvenile" comes from the Latin word "juvenis," which means "a person who is below the age of 18." Juvenile justice hence refers to the justice of the juveniles. In the majority of the world's nations, anyone younger than 18 is regarded as a juvenile. In its simplest form, juvenile justice refers to the legal system utilized for juvenile offenders. The criminal acts committed by such young people are not prosecuted as regular offences; instead, they fall under a unique legislation with distinct processes. According to reports, the number

of occurrences involving juveniles has been steadily rising. Typically, these crimes occur in underdeveloped nations. Children's rights are crucial even though they are capable of committing very serious offenses. In place to monitor the behavior of young criminals and attempt to change them. Additionally, there is a juvenile justice board that goes into great length about this. There are many cases where variables impacting adolescent delinquency are the primary cause of the increase in the number of nature crimes.

The term "kid in need of care and protection" is *“A child who has been caught breaking the law is now included in the definition, as are children whose parents or guardians are unable to care for them, who are in immediate danger of getting married before they are of legal age, who live with a person who has challenged or made threats to harm, exploit, abuse, or overlook the child or to break any law, or who live with someone who has threatened or made threats to harm, exploit, abuse, or neglect the child”*.

Section 2(13) of the juvenile justice act 2015 signifies a child who is in conflict with the law and asserted or found to have convicted an offence and not finished the 18 years of age on the date of the delegation of such an offence.¹

The main regulations are the Juvenile Justice (Care and Protection of Children) Rules, 2016. The Beijing Rules, also known as the UN Standard Minimum Rules for the Administration of Juvenile Justice, and the Indian Constitution both serve as extent points. Every child protection concern stems from the 1989 United Nations Convention on the Rights of the Child (UNCRC).

The Beijing Rules, also referred to as the United Nations Minimum Rules for Administration of Juvenile Justice of 1985, were adopted by UN Member States in Beijing in 1985 and set forth the guidelines, general principles, and rules governing the investigation, prosecution,

decision-making, delivery, non-institutional treatment, and institutional treatment of juvenile offenders. These principles provide an explanation of two key ideas.

Rule 2.2 of the Beijing Rules mentioned²

- *A juvenile is a child or young person who, under the governing legal systems, may be dealt with an offence in a manner that is different from an adult.*
- *An offence is any behavior (act or omission) that is punishable by law under the respective legal systems.*
- *A juvenile offender is a child or young person who is alleged to have committed or who has been found to have committed an offence*

Methodology

This Research Paper is based on the secondary method like journals, Articles, Websites, Statistical Information, Books, etc.

Objectives

- Understanding a juvenile's traits and the conditions that lead to criminal activity will help you recognize any systemic adjustments that are required.
- To understand the criminal laws that pertain to minors;
- To be aware of the juvenile justice act of 2015's "Child in need of care and protection" rights.

Juvenile Justice in India

A juvenile felon is a minor who has been found guilty or convicted of a crime that is punishable by law. Such a juvenile is known as a Child in Conflict with Law under the juvenile justice (Care and Protection of Children) Act, 2015 (CCL). The term "juvenile" has a vague, unimportant connotation that necessitates further examination. A child under the age of seven is not regarded to have committed an offence and is not subject to legal punishment, according to Section 82 of the Indian Penal Code. Therefore, it is unquestionably true that a youngster who performs such an act is not a criminal. A child who commits such an act is therefore unquestionably not a criminal. Therefore, a youngster that is younger than seven years old cannot be considered a juvenile. Juvenile misconduct is any behavior committed by minors that is abnormal to society and is not punishable by the Indian Penal Code. An offense is any act that is punishable under a different legal system. No reprobate youngster (wrongdoing) in the Indian juvenile justice system is required to face the legal processes for their conduct reformation.

The Legal effect in the Juvenile Justice

Juvenile justice is significantly impacted by the IPC and CrPC in how it addresses crimes committed by children. The Juvenile Justice Act, 2015 contains rules that establish the Juvenile Justice Board's overall organization, as well as the qualifications for membership and the circumstances under which it may be dissolved, as we have seen in the aforementioned arguments. But the IPC and CrPC can also contribute significantly to the resolution of juvenile cases thanks to the effective application of criminal law provisions. *The Indian Penal Code* (IPC), 1860 defines a child's punishment based on their age. "Nothing constitutes an offense which is done by a child under the age of seven," states Section 82 of the IPC. Section 83 of IPC clearly states that "*Nothing is an offence which is done by a child who is above seven years of age and under the age of 12 who has not attained sufficient maturity to understand the consequences of their actions. These both sections of IPC give a better view of the Juvenile justice board.*"³

*"In the context of the CrPC, Section 27 of the Code of Criminal Procedure discusses the jurisdiction of minors. Section 27 of the Criminal Procedure Code (CrPC) states that any offence committed by a person under the age of 16 that carries a sentence other than death or imprisonment will be dealt with by the law, which offers treatment, education, the instillation of moral principles, and rehabilitation for minors who have been convicted of an offence."*⁴

³ *The Indian Penal Code 1860*

⁴ *The Code of Criminal Procedure 1973*

The Juvenile Justice Board finds it challenging to give decisions since there are so few cases involving anticipatory bail for children, which makes the process take longer than it would for adults.

International Scenario:

The concept of "instructing profligate young in institutional treatment" was initially proposed by Pope Clement XI in 1704. Elizabeth Fry subsequently founded a special facility for young offenders. The Industrial Schools Act and the Reformatory Schools Act were subsequently introduced to the British statute book. Under the Juvenile Offenders Act, the first juvenile court was formed in Chicago in 1899. The first juvenile court was established in England in 1905. Additionally, the first probationary laws were passed in 1878 in Massachusetts, the United States, and 1887 in England. The issue of juvenile delinquency was thoroughly explored during the second and sixth UN Congresses on the prevention of crime and the treatment of offenders in 1960 and 1980, respectively. They came to the conclusion that the administration of juvenile justice should follow a set of minimum standards. It was therefore agreed that more care should be taken to prevent juvenile delinquency. *The same area was discussed at Beijing in 1985 which examined the Standard Minimum Rules for the Administration of Juvenile Justice. In 1989, the UN Convention on Rights of the Child (CRC) draws attention to four sets of Civil, Political, Social, Economic and Cultural rights of every child. The Convention provides the legal basis for initiating action to ensure the rights of children in society.*⁵

Indian Scenario

India has a long history of treating young offenders differently. The Code of Hammurabi, which was written in 1790 BC, established that families were in charge of the supervision and upkeep of their children and that youngsters were to be treated differently from adults. In 1843, during the colonial era, Lord Cornwallis founded the first "Ragged School," a center for disadvantaged kids. Social and industrial turmoil characterized the years between 1850 and 1919. *The Apprentices Act, 1850, was chronologically the first law which required that children between the ages of 10-18 convicted in Courts, to be provided vocational training as part of their rehabilitation process. Even the Indian Penal Code (1960) exempts children under the age of seven years from criminal responsibility*⁶. Children between the ages of seven and twelve are likewise exempt from it since they have not yet developed the maturity to comprehend the repercussions of their crime. The Reformatory School Act, 1876 and 1897, was the following significant piece of legislation for the treatment of juvenile offenders. According to the Act, the court may place delinquents in a reformatory school for a time period of two to seven years, but after they turn eighteen, the court will not keep them there.

Children who committed crimes received special treatment under the Criminal Procedure Act of 1898. Offenders up to the age of twenty-one were eligible for probation for good behavior

⁵ Beijing Regulations from 1985, United Nations Regulations for the Protection of Juveniles Deprived of their Liberty 1990.

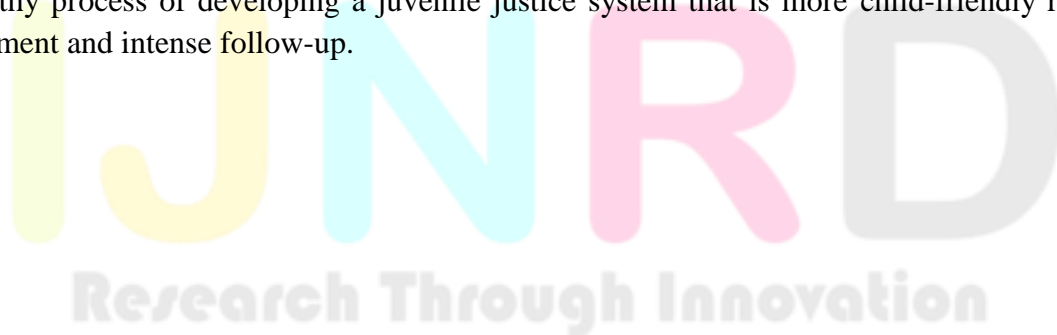
⁶ The Apprentices Act, 1850, No.5, Acts of parliament, 1850 (India).

under the Code. The Indian Jail Committee then presented the Indian Children Act (1919- 1920). The provinces of Madras, Bengal, and Bombay each passed their own children's acts in 1920, 1922, and 1924, respectively; each individual provincial government makes the decision to implement unique legislation for juveniles in their own domains. These statutes included clauses that called for the creation of a dedicated system for the care of children.

The roles that aftercare organizations play are equally important. A juvenile in difficulty with the law or a youngster in need of care and protection who has spent their time in a special home or children's home but whose rehabilitation process has not yet been entirely completed should go to an after-care organization. The objective is rehabilitation, and the mechanism is aftercare. The integration of these children into society and encouragement to lead normal lives will be facilitated by an aftercare institution. A 2006 revision to the Act that placed a heavy emphasis on accelerating the implementation of the Justice for Juvenile and Model Rules 2007 regulations has further strengthened the effectiveness of this welfare legislation.

The Model Rules under the Juvenile Justice Act provide that the State Government shall provide for training for personnel of each category of staff in keeping with their statutory responsibilities and specific job requirements. Based on the resolution passed in the conference of Chief Justice of India 2009, several High Courts constituted "Juvenile Justice Committees" to be headed by sitting judges of High Courts. Juvenile Justice Act was further amended in 2011 and some provisions laid down in the Act were deleted as these provisions were discriminatory to the persons affected from leprosy.⁷

The Ministry of Law and Justice is now reviewing the Draft Bill while the Government of India reconsiders making additional modifications. Despite the fact that children have many legal protections in India, many people hold the opinion that there is a constant risk of child rights abuses in the juvenile court system. Growing public support for police intervention for the welfare of neglected children has contributed significantly to the perception that police should treat children who need special care more seriously. The appropriate application of the law is not well understood in our country. Those "in dispute with the law" are treated like criminals, while children "in need of care and protection" are still housed in institutions that are not properly run. A "child-friendly" police system must be ensured once more through frequent sensitivity training. The lengthy process of developing a juvenile justice system that is more child-friendly requires a long-term commitment and intense follow-up.



JUVENILE JUSTICE SYSTEM ABETTING CRIMES BY MINORS?

In India, the number of juvenile offenders has increased dramatically over the past ten years despite the prevalence of cautious child behavior. According to the most recent National Crime Records Bureau, 1.2% of all crimes recorded to police in 2012 were committed by adolescents. Between 2001 and 2011, the number of crimes committed by minors rose by 85%.

According to NCRB, police in India accused 27,936 minors of participating in crimes like murder, rape, and rioting in 2012. Data from the NCRB show that in 2012, 66.6% of individuals who appeared before juvenile justice boards were between the ages of 16 and 18. Data from the NCRB show that there were 485 adolescents implicated in rape cases in 2002, and that number rose to 1,175 in 2012. But the troubling reality is that criminal activity has also been declining. Even worse, young people are committing horrific crimes like rape and murder rather than just minor offenses. The law has many limitations, making it difficult for the police to deal with young offenders.

Juvenile delinquency

Coleman defined delinquency as *"the conduct of teenagers under the age of 18 that is not acceptable to society and is often considered as calling for some type of admonishment punishment or corrective activities" in 1981. The definition of juvenile delinquency is "activity by a juvenile marked by antisocial behavior that is beyond parental control and is thus subject to legal punishment"*⁸.

Juvenile delinquency, which is behavior that is socially unacceptable when perpetrated by minors or juveniles, is a social ill. The juveniles are held in detention centers and juvenile jails. Then, numerous corrective actions are conducted in an effort to alter their behavior and provide them with a positive direction. In correlation with both population growth and cultural complexity, delinquency is seen to be rising.

Reckless (1956) defined the phrase as "violating the criminal code and pursuing specific patterns of behavior unapproved for children and youth teenagers."

Trojannovicz divided juvenile offenders into five groups in *"Juvenile Delinquency: Concept and Control"*. *Gang-organized and collective delinquency, aggressive, antisocial boys, unintentional offenders, intermittent delinquency, and professional delinquency are among them.*⁹

⁸ 11th Edition of the Merriam-Webster Collegiate Dictionary, published in 2014

⁹ *Juvenile Delinquency: Concept and Control*, Prentice Hall, New Jersey, 1973, RC Trojannovicz.

The same crimes that adults can commit can also be committed by juveniles. The actions of the perpetrator are regarded as delinquent since they are committed by a juvenile. Juvenile delinquency mostly falls into three categories:

However, children's lives in India are significantly impacted by poverty. One of the key causes of children's tendency for criminal behavior is this. When a child is poor, they are forced to commit crimes. Those who are arrested and convicted come from low socioeconomic backgrounds in large numbers. Due of their lack of resources, the police and other law enforcement agencies are tough with them. Wealthier people are viewed as being very helpful in the administrative processes of law enforcement. Poverty encourages antisocial behavior in many different ways. Homelessness and poverty are frequently seen to lead to unsatisfactory interpersonal interactions. This is accurate because poor physical and mental health are associated with malnutrition in the poor.

In the documents produced by the Office of Juvenile Justice and Delinquency Prevention, these three categories of delinquency are listed (OJJDP). Various authors have provided different categorizations of juvenile delinquency and of delinquents. Following are a few key classifications:

Eaton and Polk divided juvenile offences into the following categories in "Measuring Delinquency":

- Infractions that are not serious, such driving violations;
- For serious traffic offences like car theft, Ferdinand offered the following two types of young offenders in his work, *"The Offence Patterns and Family Structure of Urban, Village, and Rural Delinquents"*:
- The criminal behavior of psychotic offenders and offenders with character disorders, who come from dysfunctional homes and were raised in harsh environments, is the result of powerful unconscious desires.

Causes of Juvenile Crimes:

There are numerous different factors that contribute to juvenile offences; there is no single reason. Basically, there are three different categories of juvenile delinquency causes:

- Delinquency may have biological causes, including issues with speech and hearing, irritability, excessive strength, etc.
- Social and environmental factors
- Mobility: Moving to a strange new location gives people the chance to commit crime there.
- Cultural issues: "Cultural conflicts between the natives and immigrants" cause criminal behavior to drastically grow.
- family history:
- Family composition: The characteristics and organization of the family play a significant role in shaping the personality of the children. A functionally sufficient family fosters the development, self-assurance, and capacity to face reality.

The impact of social media on young brains nowadays is worse than positive. An increasing number of people worry that social media which surely educate, instruct, and entertain have grown in popularity contaminating source in a child's psyche. They frequently offer startling details of the incident, including the sorts and the

weapons' tactics and children follow this. Either carrying out the criminal act while harboring retaliatory thoughts they often teach their friends the same things. Motion Movies depict fascinating crimes and frequently depict there are methods for getting rid of the law. The first the violent movies and television shows, as well as vulgarity.

Principles of Juvenile Justice Act, 2015

The Act of 2000 has been modified to take into account recent societal trends and international agreements. The guidelines are:

- the child's wellness and growth
- maturity;
- the child's innocence, dignity, and worth; and
- equality; privacy; and non-discrimination
- The fresh start and natural justice principle

RECENT AMENDMENTS IN INDIA

Since the Nirbhaya case, many people are now aware that there is a special justice system in place for minors. The functioning of JJS is still mostly unknown. People were sentimental in response to the Nirbhaya incident and showed their dislike for the court's ruling. For the youngster engaged in the Nirbhaya tragedy, they requested the death penalty.¹⁰

Some Heinous Crimes Committed by Juveniles – 2012-2013

- 16th December - juvenile and his associates abducted, raped and murdered Nirbhaya in a moving bus in Mahipalpur.
- Five kids who escaped on November 29, 2013, were in the group. Killings occur from a city juvenile home amid rioting and destruction. A jeweler's wife leaves in Mayur Vihar with 50 kg of the house's 10 lakh rupees in cash and silver jewelry.
- Nirbhaya allegedly kidnapped and raped a toddler on December 16, 2012, and two minors are accused of raping a toddler in Nangloi on October 17, 2015.
- On December 24, 2015, a police officer was killed when three shooters—borderline juveniles—opened fire indiscriminately in a room inside the Karkardooma court complex.
- On February 24, 2016, a 17-year-old kid who had been discharged from a juvenile facility for "good behavior" strangled an elderly woman in BK Dutt Colony in south Delhi.
- On March 24, 2016, four minors were discovered to have been engaged in the death by beating of a doctor in Vikaspuri.
- On April 6, 2016, two young people are accused of shooting an Uber driver in the Mundka area.

There were 35,465 minors detained in 2012 under the Indian Penal Code. 75% of the juveniles detained in 2014 were older than 16 years old. In 2014, a total of 42,566 cases (under the Indian Penal Code) were filed against minors, as opposed to the 28,51,563 total cases that were filed in the nation during that year.¹¹

According to a February government report to the Rajya Sabha, juvenile offences have surged by more than 47% over the last five years. 2014 alone saw 33,981 homicides, of which 841 (2.5%) were committed by children. Furthermore, out of the 36,735 rapes, 1,989 (5.4%) of them were committed by children.

In the first half of 2015, about 1,200 young people were detained for a variety of offences. The National Crime Records Bureau reports that the number of juvenile delinquent cases increased by 18% in 2014, with 2,876 juveniles being followed in 1,946 criminal cases as opposed to 2,140 being tracked in 1,590 cases.

In 2013, the year of the Nirbhaya event, there were 163 reports of juveniles being involved in rape, a 158% increase from the 63 occurrences the year before. 163 minors were arrested for rape and 76 were arrested for murder during the year.

The total number of offenses committed by juvenile offenders increased by 30% in 2013. 2013 saw 928 burglaries and snatchings as opposed to 523 the previous year.¹²

*Sex crimes account for more than 50% of adolescent crimes. 8,676 incidents of rape or assault on women by juvenile offenders occurred between 2012 and 2014. Teenage rape cases increased by 70% during this time, while assault cases increased by 160%. Non-adults pose a serious threat to women's safety today.*¹³

PREVENTION

It is generally accepted that the greatest strategy for preventing juvenile criminality is early-phase intervention. The Juvenile Justice Act of 2015 must be effectively implemented in order to control delinquency, and this requires complete public knowledge, appropriate professional orientation, and training for law enforcement agencies. Government should place more focus on practical, alluring, and long-term beneficial programs for youth so that they are inspired to become contributing members of society. As a result, individuals regain their self-confidence, which is typically lost due to society's cruel attitude. The police and other institutions that are a part of the system may take a more reformatory approach than a purely criminal one. Instead of punishing the offenders, the goal can be to reform them.

Juvenile delinquency is a social disease that needs to be treated in order for the child or adolescent to reintegrate into society. It is necessary to correct the social maladjustment. Juvenile delinquency is mostly caused by a lack of necessities, which young people attempt to address by engaging in antisocial behavior. Therefore, whether a child is a delinquent or not, efforts should be taken to address their basic needs in a way that is socially acceptable. Children that are misbehaving should receive more attention. The major goal should be to satisfy his or her desires for status, power, and approval. It is important to read each case in isolation while keeping in mind the unique issues and factors that led to the commission of such criminal crimes. Only then it will be able to rehabilitate, realign, the person in society.

Procedure in relation to children in conflict with the law

From the time the police take up a child involved in a legal dispute until the time the child is released from a juvenile detention facility, the child is entitled to a number of protections.

Following are some of the procedures for dealing with children in dispute with the law that are described in

Sections 10 to 26 of the 2015 Juvenile Justice Act.

Section 10: Arresting the individual who is allegedly breaking the law.

- A child may be taken into custody for committing an offence. They hold the rights listed below at the time of apprehension.
- They may not be held in a jail or lock-up run by the police. Prior to the production before the Board, they should be kept in secure custody.
- By adhering to the Principle of Child-Friendly Atmosphere, secure custody can be arranged in any police station.

All of them are criminal offences. There is no clear structure for juvenile criminality in the acts and rules, which instead advocate for minors' rights and methods of reformation. Juvenile delinquents or misconduct are young people who engage in antisocial activity and cause harm to society. These offences foster an environment that encourages young people to commit infractions or crimes. Juvenile offences will increase as juvenile misconduct increases. Juvenile violations will decrease as juvenile criminality decreases. Misconduct is the most likely reason why juvenile laws are broken.

PROCEDURE:

- *Not send a child to a police officer lock-up and not delay the child being transferred to the Child Welfare Police Officer from the nearest police station. The police officer may under sub-section (2) of section 12 of the Act send the person apprehended to an observation home only for such period till he is produced before the Board i.e. within twenty-four hours of his being apprehended and appropriate orders are obtained as per rule 9 of these rules.*¹⁴
- Avoid using force or compulsion on children by not handcuffing, attaching chains to their ankles, or otherwise enforcing them.
- If a First Information Report (FIR) is filed, the kid should be given a copy of it, and if not, a copy of the police report should be given to the child's parent or legal guardian. This information should be delivered to the child as soon as possible and directly.
- Provide appropriate medical assistance, assistance from an interpreter or a special educator, or any other assistance which the child may require.
- He shall only be questioned in the Special Juvenile Police Unit, on child-friendly property, or in a child-friendly area of the police station that does not create the impression of a police station or that the kid is being subjected to a custodial interrogation. The child's parent or guardian may be present while the police interrogate the child.
- Do not demand the child sign any documents.
- Inform the District Legal Services Authority that the kid has received free legal representation.

Narotam Singh v. The State of Punjab, AIR 1978 SC 1542

*The juvenile who is dependent on alcohol or drugs that cause behavioral changes in a person must be referred to an Integrated Rehabilitation Centre for Addicts or comparable facilities run by the State Government for mentally ill individuals for the duration of inpatient treatment for such juveniles. The provision of health and medical facilities is described in Sections 34 and 35 of the Juvenile Justice Rules 2016 (JJRs).*¹⁵

At all stages of the proceedings, efforts shall be made to give juveniles with the support they require, including housing, education or vocational training, employment, or any other beneficial and practical aid, in order to facilitate the rehabilitation process.

In the case of *Kulai Ibrahim v. State of Coimbatore* “the Court held that the juvenile at any point of time during the trial has the right to raise the question of juvenility even after the disposal of the case under proviso of section 9 of Juvenile Justice Act, 2015¹⁶”.

In the case of *Bhoop Ram v. State of UP* “the Supreme Court followed the decision of *Jayendra v. State of UP* and it was also held that the time of the commission of an offence is sufficient to determine the age of a person¹⁷”.

GAPS IN THE LAW

Although the law is very progressive, there are certain legal gaps. Although the concepts of rehabilitation, restoration, and reformation are worthy ones, not everyone can benefit from them. Is the method used the best one to handle the challenges given the juvenile's background? The regulations of other countries can also be taken into account and addressed for this. JJB needs to investigate the issues and make a decision. The following list of juvenile crimes calls for special attention:

- Juvenile sex offenders: Sexual offenders are individuals whose arousal is dynamic and not fixed. This causes them to commit terrible crimes. There are no particular provisions for a crime of this gravity.
- Juvenile repeat offenders: Some teenagers find it difficult to change their ways and continue committing crimes because they are caught in a cycle of crime. These offences are not included in the clearly written law, which makes effective remedies impossible.
- Girls who commit violent crimes: There are also girls who engage in violent crimes like prostitution and offences related to prostitution. The females are typically subjected to physical and mental torture. They are severely impacted by these abuses. However, there have been occasions where females have committed crimes that carry a life sentence as the maximum penalty, and the law has mostly been mute about it. The girls are placed in reform homes, but despite JJB's provisions, they struggle to reintegrate into society.
- Victims of major criminal offences are not mentioned by the juvenile justice system, even though these victims may be children. In contrast to the juvenile criminals, the victims are not subject to the same limitations. Additionally, the law ought to address this problem. They typically do not receive legal, psychological, or financial support. This is one of the main problems with the juvenile justice system.
- In contrast to other crimes, this social evil is tied to our society's flaws and maladjustments. The idea that stricter legislation will reduce crime is unfounded. The

idea that adolescent offenders need more than just the strict application of the law is gradually gaining support among a wider segment of society.

Relation of National Human Rights Commission and Juvenile Justice System

The National Human Rights Commission (NHRC), an organization that deals with human rights, has consistently worked to better the position of children who are involved in legal issues. They performed research on juvenile justice systems around the world using the criteria outlined in the Juvenile Justice Act of 2000, and found that they were typically in disrepair. In addition, they held conferences to discuss ways to

solve the issues. The NHRC considerably bettered the situation of young offenders in India. The very least rights and liberties that governments must maintain are established by these fundamental principles, also referred to as human rights. They are built on respect for each person's worth and dignity and are therefore applicable to every human being, no matter where they are regardless of race, color, gender, language, religion, opinions, origins, wealth, or birth status. The first international agreement that incorporates all civil, cultural, economic, political, and social rights for all people is the Convention on the Rights of the Child. Due to the fact that children frequently require specialized care and protection that adults do not, world leaders determined in 1989 that children deserved their own convention. All children have the same rights. All rights are interconnected and of equal importance. *The Convention stresses these principles and refers to the responsibility of children to respect the rights of others, especially their parents. By the same token, children's understanding of the issues raised in the Convention will vary depending on the age of the child. Helping children to understand their rights does not mean parents should push them to make choices with consequences they are too young to handle. The Convention expressly recognizes that parents have the most important role in bringing up children*¹⁸. All international agreements pertaining to human rights mention children's rights, and the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC) also have provisions specifically addressing the punishment of young people who disobey the law. Advocates for juvenile justice might use terminology from the human rights movement to support laws and procedures that stress the humanity and dignity that should be given to all children. Both the ICCPR and CRC forbid the execution of those who are less than 18 years old.

¹⁸<https://www.legalserviceindia.com/articles/>

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Constitutional Provisions

As already indicated, the Indian Constitution's provisions for care and protection of children in parts III and IV, which are fundamental rights and directive principles of state policy, respectively, stimulate the reform of the juvenile justice system. Several crucial pieces in this regard are:

- Article 15 makes special protections for women and children.
- According to Article 21-A, children between the ages of 6 and 14 are entitled to free and compulsory education.
- Articles 23 and 24 respectively forbid forced labor and human trafficking.
- Under Article 39(e), the state protects children from engaging in occupations that are inappropriate for their age and physical ability.
- Opportunities and facilities for children's growth, as well as safeguards against child abuse and abandonment, are outlined in Article 39(f).
- Articles 45 and 47 address raising the nutritional and living standards of children under the age of six and early childhood care and education, respectively.

The fact that there is currently a separate juvenile justice system is widely known (following the Nirbhaya case). The workings of JJS are still mostly unknown. People developed resentments for the court's decision after the Nirbhaya incident and displayed them. For the juvenile engaged in the Nirbhaya case, they demanded the death penalty. In the midst of a commotion, parliament enacted the new law (Juvenile Justice Care and Protection of Children 2015). For children who have been found guilty of breaking the law, it is a comprehensive provision. It addresses the topic of kids that need care and safety. This law was passed with consideration for the UN Convention on the Rights of the Child and other important international accords. The Indian government accepted the Convention on the Rights of the Child on December 11th, 1992. (CRC). The Indian Constitution grants the government power and directs it to uphold the legal obligations and fundamental rights of its inhabitants. The constitutionally mandated concept was one the state intended to uphold. The state must treat children with kindness and in accordance with their best interests, as required by international accords and constitutional principles. But there is a significant public demand for harsher punishment for young people who commit adult crimes, including as serious offences like murder, rape, robbery, and dacoit. Such youngsters should be disciplined in mature fashion.

The Juvenile Justice Amendment Bill, 2021

“The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2021, which seeks to amend the Juvenile Justice Act, 2015, was passed in the Lok Sabha on March 15, 2021. The proposed legislation was strongly endorsed by both the decision party and those who were opposed to it and was presented by Ms. Smriti Zubin Irani, the minister of women and child development. On July 28th, 2021, the Rajya Sabha approves the Child Protection Law amendments. The amendment seeks to strengthen the protection of children, particularly those who need legal certainty and those who have a difficult time complying with the law. According to the Act, a child is only adopted once the common court issues an adoption request. According to the Bill, local judges, including extra-local officers, will issue such adoption orders instead of the court. The focus of this measure has been on issues like child adoption and serious felonies reported by minors. The Act of 2015 includes provisions for children who are in legal trouble and need care and protection¹⁹.”

The National Commission for the Protection of Child Rights (NCPCR) reviewed the Child Care Institutions (CCIs) in 2020 and found that 90% of them are managed by non-governmental organizations (NGOs). Additionally, it was found that despite the Act's 2015 Amendment, CCIs were not enrolled. According to the data, acquiring assets was more crucial for these family considerations than having children return home. The idea of conducting estimates that will strengthen the forums for child protection was therefore introduced to

the Law. On July 28, 2021, the juvenile justice modification bill was adopted by the Rajya Sabha. After being opposed and postponed by Ms. Smirti Zubin Irani of the Ministry of Women and Child Development, who also had a lot of support from the opposition parties, it was finally given backing in March. The bill makes changes to the Juvenile Justice (Care and Protection of Children) Act, 2015. Children who are in legal difficulty and need care and protection are covered by the Act of 2015. The Bill attempts to offer measures for enhancing the system for protecting children.

Recommendations

- Bureaucrats are given additional responsibility with the new bill that the public authority has proposed. As a result of the Child Care Protection Units' dissatisfaction with the way juvenile laws are being implemented, teenagers commit more crimes than ever before, the adoption process is complicated, and the framework is unclear, among other things. To properly safeguard children from the adult judicial system, the new statute set up separate offences. The District Magistrates receive extra authority as a result, despite the fact that they already have a heavy workload. The Juvenile Justice Board, Child Care Institutions (CCIs), and District Juvenile Care Boards all require the DMs to screen applicants and work for them.
- To achieve the best results, the new bill should have been taken into account. Make it advantageous for the child's care and insurance as well.
- *Both the victims and the juvenile offenders need to receive appropriate counselling. Judges no longer provide counselling, and it is neither effective nor practical. The same should be done with a court-appointed counsellor, and a record of it must be kept.*²⁰
- The victims of a juvenile's crime must be treated with respect, and efforts should be made to erase the horrific event from the victims' memories.
- The sexual offenders need to receive tender care, and their recovery needs to be handled properly.
- As required by law, young offenders who have resided in reform homes for a considerable amount of time must be made to integrate into society.
- Models of nations with lower rates of juvenile crime can also be adopted.
- *The law must be strictly upheld because reports indicate that some states do not adhere to certain provisions of the law due to a lack of funding or because of other problems, such as how remand homes feed the fire by turning petty thieves into seasoned criminals by the time they are released. Consequently, it becomes imperative to adhere to the guidelines established by the act*²¹.



Conclusion

The guidelines should be followed by all parties involved when performing tasks involving children. Due to inadequate coordination and infrastructure, social legislation in India is consistently found to be ineffective. Different dwellings suggested do not have a homey atmosphere. It is necessary to turn to these JJS clogs. The juvenile justice system is founded on the notions of social welfare and children's rights. The JJS's main priorities are reformation and rehabilitation. The goal is to give the kid the chance to grow as a person. In the end, the objective is to go forward and establish a highly egalitarian society. The country's future resources are its children. They need to go from having a bad personality to having a good one. We must, however, bridge the substantial gap between theory and practice by taking into account the prior experience. We must create an effective juvenile justice administration during this process. The dreams included in the new legislation must be brought to life. The notion that juvenile offenders require our society's compassion and understanding rather than the strict application of the law is rapidly getting more and more support. The Juvenile Justice Act cannot be reduced to juvenile delinquencies by its proper implementation alone, as is stated quite clearly. It is imperative to inform the general public about the disease afflicting our society. Young individuals who engage in criminal activity are both the victims and the perpetrators of this damaged society. Juvenile delinquency can be prevented early on if the proper measures are taken at home and in school. It is mostly the job of parents and teachers to develop and shape a child's mind. It's crucial to take the necessary steps rather than labeling juvenile offenders as delinquents in order to offer them an opportunity to make amends. Several inferences can be drawn from this analysis. The primary area of focus of the study is the juvenile justice system.

