

**JUVENILE JUSTICE AMENDMENT BILL, 2021**

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The juvenile system is inserted into the system of law to prevent crimes committed by young people of a certain age limit. These laws will not only prevent the crimes but also punish the accused as per their age and aim for their rehabilitation. This is a fair system that differentiates adults from young children and understands that punishing such children for their crimes as in cases of adults is unfair and unreasonable. Keeping in mind the age of such accused child and the severity of the crime committed, different punishments for different crimes will be awarded which results in rehabilitation. The USA is the first country to realize the need for Juvenile Courts in 1899. The Juvenile Justice system is evolved with time from the Children Act, of 1960 to the recent 2021 bill, and today it is more efficient to reach its goals. The Juvenile Justice, 1986 which repealed the 1960 Act, followed by the Juvenile Justice Act, 2000, 2015 are a few laws on the topic. In current times, there are many factors like economic conditions of their family, surroundings they grow, personal experiences and peer pressures, etc., that affect a child negatively to commit a crime. Analyzing these factors a child will be prevented from committing another offense by inculcating a sense of responsibility and turning their minds positively.

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**ANALYSIS**

Recently in 2021 March, there was a proposal put forward before the Lok Sabha regarding the amending Juvenile Justice (Care and Protection of Children) Act, 2015. This proposal was brought in front of the parliament by the Minister of women and Child Development, Ms. Smriti Irani. The basic motive behind the enactment of this act was to provide security and care and to protect the children from committing any crime. This act tries to protect children from turning out to be habitual criminals. The term “Juvenile” means a minor i.e., a person who is a minor while committing any crime is considered a Juvenile under this act. Children are the assets of our country and its future. Through these acts, the government tries its best to focus on its growth and development. And this amendment is one such attempt in furtherance and thus introduced in Lok Sabha initially and also in Rajya Sabha recently. The Act aims to take

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appropriate measures for those children who committed a crime or for those who conflict with the law and the others in need as well. severe crimes committed by minors/juveniles and Child adoption are among the topics covered in this Bill. The purpose of the 2015 Act was to overcome the odds in understanding the preceding Juvenile Justice Act.

The recently proposed amendment wants to update the existing laws and has a broader viewpoint. It includes those juveniles who need assurance under the law just like the children who conflict with the law. The Act states that the adoption of a minor is last on the allocation of an adoption request by the common court. The Bill, being made with a broader view, states that despite the court, the area judge and also extra locale officer will issue the adoption orders. This bill laid its special focus on the areas like intolerable offenses submitted by minors and child adoption. The JJ Act, 2015 includes the arrangements observed with the children in conflict with the law and with those children needing care and protection as well. The new amendment bill is proposed in the light to fortify the juvenile's protection amendment. Through this article, we will further discuss the Juvenile Justice Act, 2015 along with the recently proposed amendments in the parliament. Before getting into the details of the amendments and the need for them, it's important to the basic act of 2015. The initial act of Juvenile Justice was enacted in 1986. It was later replaced with the amendment passed in the parliament in the year 2000 and enacted in 2001 April. However, with the changing time, the law needs to be updated as per the requirements. Therefore, again in 2015 the J.J. (care and protection of children) Act, 2001 was amended. The said act was made with a broader view than ever before. Quite a few new branches were added to the said act. It was made mandatory for the competent authorities to serve justice under the supervision of the Indian constitution.

The act also requires the Juvenile committee members along with the members of the child welfare committee to get trained for two months at the beginning of their appointment. This condition is stated in section 4 and section 27 of the act, 2015. The training should be given in the children's court as per section 15 of the act. Section 19 states that after the training, the recipient of the preliminary assessment from such board will be finalized to be eligible as a member. The 2015 act Recently, in 2021 March another proposal for the amendment was put forward before the parliament with quite a few changes within it. In the J.J. Act, 2015, one of the important parts is that it states no capital punishment or life imprisonment should be awarded to the Juvenile (a minor) who conflicts with the laws. It should not be done especially without undertaking the release of any such offense either preceding act or under section 21 of

the IPC provision. It also proposed a child welfare committee for every district for child welfare and their security and so on in chapter V and section 27 of the said act. Before the commencement of the act, the minor age of a juvenile is 16 years in the case of boys and 18 years for girls. However, this was changed to 18 years for both boys and girls. The act proposed that there should be a community of social service instead of punishing the children with fines or any imprisonment as per section 4. This is one of the most positive thoughts of change that was brought through this act of 2015. And in the same act, many new definitions were added for the words like abandoned, orphaned, surrendered children, etc. Alongside that, the difference between normal, grave, and heinous offenses was explained. The present act holds a complete chapter (chapter VIII) talking about adoption. It states that a divorced person or any single person can adopt a child but it restricts a single man from adopting a girl child. It states that Section 2(12) states that the person is considered to be a juvenile if he is not 18 or above years of age. This law concluded that a child must be designated a Juvenile if he is a minor and the term "child in conflict with law" means that if any person who is below 18 years of age, commits an act that is not legal in the eyes of law or simply a crime, he/she will be designated as the child in conflict with the law as per section 2(13). Children commit crimes due to many reasons like their poverty, lack of education, and background as well. They being at a tender age, get influenced by many aspects surrounding them. In this case, education is more important to them because it brings a sense of responsibility, and maturity and changes their viewpoint to observe things and understand better. For this, educational workshops and counseling sessions will be conducted for the children to improve their sense of reasoning.

The current amendment is the need of the hour after the incidents like the Nirbhaya Rape Case which is also called the Delhi Gang rape. In this particular, the accused people include a minor who was convicted under the Juvenile Justice Act, 2000 as a juvenile for the period of 3 years as per the act. This attracted a lot of criticism because of the seriousness of the crime happened. Setting up 18 years as a criterion to have adulthood was questioned. The questions raised followed by the agitations in the whole nation after the release of the minor guy in the Nirbhaya case led to a Juvenile Justice bill, in 2014. And the following main amendments were made:

The world crime was classified into three genera under the juvenile justice act i.e., petty offense, serious offense, and Heinous offense. If a minor who is of 16 years of age commits a heinous crime, then the offender will be treated as an adult and the Juvenile Justice Act shall not protect them in that case. If any person forces or compels the juvenile to consume alcohol

or any intoxication liquor or any drug, such person will be liable for up to 7 years of imprisonment and a fine of up to 1Lakh rupees.

As per the recent NCRB data, 2019, the crimes committed by minors or juveniles had increased to 29287 from 28677 in 2018. Recently in 2020, NCPRC surveyed Child Care Institutions and discovered that 90% of these institutions were run by NGOs and more than 39% of these institutions were not registered. According to the research, these institutions were earning more finances and not focusing on the welfare of the children. All these cases show the need for an amendment.

### **WHAT ARE THE FACTORS THAT RESULT IN CRIMES BY JUVENILES?**

**Family system:** When the child does not get the required love, affection, and care from his/her family, they tend to do such crimes as they will not be in a situation to understand the difference between right and wrong. To avoid the same, apart from love and affection from the family, parental control over the activities of their children is the most important factor.

**Economic needs:** Due to poverty and the poor financial condition of the family, a child can opt for unlawful ways like theft to satisfy their desires and needs. This may also turn into a habitual activity if not addressed in time.

**Surroundings:** When a person is surrounded by negative or wrongful people, there is a high probability to get influenced by them. Such influence may drive a person to do wrongful acts to maintain the standards of his friends or any other people. In case a person is surrounded by an anti-social part of society or such people, it will result in his or her involvement in such activities as well.

**Adolescence:** All the changes that a child goes through during their puberty, physically, emotionally, socially, and psychologically will create instability within them and make them prone to commit such offenses. When they get restricted by the family and society to do certain acts, they choose the wrong way to do the same. In such cases, there is a high probability that they end up doing something unlawful. At the age of puberty, due to many other reasons like societal norms and differentiation, children develop an anti-social mindset which may drive them to commit any offense to satisfy their intentions and motives and to fulfill their needs.

**Modern lives:** When a person tries to fit in the modern lifestyle and such changes, they will have to evolve from their actual personality to fit in that. In current times, teenagers are more prone to be a victim or accused of any crimes. To match the standards and to opt for modern lifestyles, they even dare to commit crimes with the inability to understand what is right and wrong.

**Sex-related offense:** Rapes committed by minor boys is not a fact to be surprised by these days. This may happen due to their personal experiences or due to any of the above-mentioned factors. For example, when a person faces sexual assault or harassment in the early stages of their lives, that will affect them in two ways where they might decide to fight against such crimes or they might also develop objectionable behavior and tend to commit the same against another.

### **JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) AMENDMENT BILL, 2021**

As so far discussed, this bill is the proposal to amend the 2015 act. As stated already, this proposal is the need of the hour as per the statistics report by NCRB. Even after amending the 2001 act in the year 2015 with major developments, the working of the child care institutions was not in any way better or improved. In furtherance of these persisting issues, the parliament came up with an idea of this proposed bill initially before Lok Sabha in March 2021 and then to the Rajya Sabha in July 2021. However, it is now pending to receive the final approval to become an act.

### **THE CHANGES INTRODUCED BY THE 2021 AMENDMENT BILL ARE AS FOLLOWS:**

**Serious offenses:** In the new bill, it is classified into two different categories to simplify and have a broader view. They are classified into Heinous offenses and Serious offenses.

**Heinous Offences:** Heinous Offences are the most serious crimes committed by children. The punishment for the same will not be less than seven years under section 2(33) of IPC. These types of crimes include sexual molestation, murder or assault, or anything as such.

**Serious Offences:** These offenses are way less severe than the heinous crimes. The punishment for this will not be less than three years and will not extend to seven years according to section

2(54) of IPC. This amendment is proposed in the bill of 2021 to clear the uncertainties present and to assure that juveniles get justice differently from adults. <sup>1</sup>

**Adoption:** In the new bill, the powers were given to the District Magistrate along with the Deputy District Magistrates to authorize the adoption mechanism. In the previous act, the adoption mechanism issued by the courts confines the child to the adoptive parents.

**Appeal:** In case the party to the adoption conflicts with something, they have a choice to approach the divisional official to settle the issues. However, the solution should be declared under thirty days post the request passed by the District Magistrate and also by the Additional District Magistrate. This will help to speed up the adoption procedure established.

**Designated courts:** These courts are the exception. They are specifically set up as the children's court. Before this amendment, the crimes which are punishable by seven or more years are tried in the children's court and the offenses which attract a way lesser punishment than seven years are tried under the Judicial Magistrates. However, this is now put to change and in the new bill, everything is clubbed into one and to be tried in the Children's court exclusively.

**Child Welfare Committee (CWCs):** The 2021 Bill put forward the proposal that no person shall be pronounced as an individual from the committee. However, there is an exception that if they have been engaged with any efficient records of human or child rights for an offense along with moral baseness has been removed or exempted from administrations of any local or state governments or any other administration of child care.

**Termination of members:** the process of termination was updated in the new bill. It is known that the appointment of the member will be finalized by the board of members. This membership can be terminated by the state government if these so-called members ignore or show any negligence in the procedure of the CWCs. The bill adds direct management on Child Care Institutions as it was found that the funds are used for personal benefits and not benefitting the children. Hence, the new bill aims to ensure proper functioning this time. Soon after the approval from the competent authorities, the bill will turn out to act and aim for better welfare of children and justice will be ensured to everyone through this law.

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<sup>1</sup> Pranjali Singh, <https://blog.ipleaders.in/the-juvenile-justice-amendment-bill-2021-to-reinforce-the-provisions-for-the-protection-and-adoption-of-children/>



## CASE LAWS

In *Shilpa Mittal vs. State of NCT of Delhi*<sup>2</sup>, there was a question before the Hon'ble court whether a child can be tried as an adult in law or not. In this particular case, the child was a minor who is above 16 years but below 18 years at the time of committing the crime. However, the J.J. Board had directed to hold the child liable as an adult because of the seriousness of the crime. The same thing was challenged in the HC as it was not as per the J.J. Act, 2015 (under section 2(33)). However, the High Court upheld the judgment due to which the appeal was made to the Hon'ble Supreme Court. And the judgment reads in favor of the child. As the offense is classified as a serious offense, in this case, the SC held that the parliament should deal with it first as issues like this should not be dealt with the proper procedure which is not yet present in this case.

In *Dr. Subhramaniam Swamy And Ors vs Raju The Member Juvenile Justice*,<sup>3</sup> the session court had given the death sentence to one of the five offenders. But the petitioners were not happy with the judgment and held that all the offenders including minors should be punished equally. They appealed to the High Court and then to the Supreme Court as well. Both the Hon'ble Courts rejected the appeal of the petitioners stating that minors cannot be treated and punished in the same way as adults.

## CONCLUSION

The recent amendment to the law is a betterment of the previous laws. It was made with a better understanding of current requirements. Despite these laws, crimes by juveniles are not curtailed and are still persistent to date. From the early stages of such crimes to the recent gang rape by minors in July 2022, we still see increasing crime rates. To curtail the crime rate in a better way, the laws should get stricter and should be implemented with better sanctions to create some sort of fear in the juveniles to commit the crime. This might result in lesser crimes and a better society further.

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<sup>2</sup> [Shilpa Mittal vs. State of NCT of Delhi](#), AIR 2020 SC 405.

<sup>3</sup> *Dr. Subhramaniam Swamy And Ors vs Raju The Member Juvenile Justice*, (CrI.) No.1953 of 2013.