

AN OVERVIEW OF JUVENILE JUSTICE: IT'S WORKING AND REGULATIONS IN INDIA

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ABSTRACT

*The Juvenile Justice Act is also known as **the Care and Protection of Children Act**, enacted in 2015 by the Indian parliament. After so many debates, remonstrance and opposition from child rights organizations and some lawmakers. All the circumstances and procedures directed to the passage of this Act are provided in this legal note. This Act provides beneficial provisions, the addition of new definitions i.e. orphaned, abandoned, and surrendered children, offences committed against children and child care registration in institutions. The argument practice of “transferring” children, the ages of children between 16 to 18 who have been charged with the criminal justice system, and all offences are very hateful. And this makes suggestions for improving the law’s application and reforms.*

INTRODUCTION

The Juvenile Justice Act was published in **January 2016** and commenced on **15 January 2016** by the standing committee report. This Act was enacted on **7 May 2015** by the **Lok Sabha** when **aftermath of the Delhi Rape Case of December 2012 (Nirbhaya case)¹** in which a **minor was found guilty**. and **22 December 2015** by the **Rajya Sabha**. this act talks about the needs of children and their care and protection by catering to their basic needs through the proper care

According to the Juvenile Justice Act, 2015 adoption of the child has become a permanent adoption and is ordered by the civil court. District magistrates and other courts are also issued the concept of child adoption, including some district magistrates. Juvenile Justice Act 2015 divides juvenile offences into three categories. i.e. delinquent offence, serious offence and youthful offence. This act defines children who are minors or not adults (children who have not completed eighteen years of age) then the upper age limit for juveniles is 18. But this act

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¹ Nirbhaya case: sci.gov.in

allows children whose age between 16 to 18 years old and accused of dangerous crimes to be tried as adults under **IPC**.

Definition of child and juvenile under the Juvenile Justice Act (care and Protection of Children Act)2015²:

This act talks about the care and protection of children and it was enacted in 2015. This Act was replaced with the previous Act which is known as Juvenile Justice Act,1986. Juvenile Justice Act 2015 deals with children who need care and protection and their basic needs. It deals with adoption also.

According to the Juvenile Justice Act, 2015 The person who has not completed their age of eighteen years.

This act also defines **child** under **section 2 (12)** of the Act.

According to the Indian Penal Code, **section 82** talks about the Act of a child under seven years of age is not an offense. Nothing is an offence that is done by a child under seven years of age.

Amendments and history³ of the juvenile justice Act:

This bill was allowed by the juvenile justice board and the members of the board were psychologists and social workers. They decided the age group of criminals (i.e. 16 to 18 years) and whether they should be treated as adults or not. This bill was introduced by the Hague Convention in 1993.

In 1850 there was the enactment of the first law which was applied for adults and children but it was trained that children rather than punishment and they should live in the correction home (rehabilitation). The first juvenile court was founded in the U.S. IN 1899. In India, the first juvenile court was established in Bombay in 1920. Before 1920 there was no age limit mentioned in this act after the amendment there was an age limit to a child means a boy was 16 years of age and a girl was 18 years was age limit as a juvenile.

The history of the juvenile justice system, when the Indian constitution wanted to protect not only a fundamental right but also fundamental duties through the DPSP and independence

² https://www.indiacode.nic.in/handle/123456789/2148?sam_handle=123456789/1362

³ <https://legalvidhiya.com/history-of-juvenile-justice/>

India, was to defend the children and minor offenders. They are concerned about children and understand that they need care and protection.

For the protection of children, they enacted the Act which was known as the Children Act 1960. But this Act needs some changes. The government established the Juvenile Justice Act and replaced the Children Act.

Offence and punishment⁴:

Under this act, offence is explained in three categories i.e.

- 1) delinquent offence
 - 2) serious offence
 - 3) youthful offence.
- 1) **delinquent offence:** The act which is done by the juvenile, if the same act made by the adult is considered a punishable criminal offence. Delinquent crimes are included against property, persons, drugs and offences against society. This is a major crime. These are petty crimes by juveniles. Which has a punishment of 7 years of imprisonment under any existing law. Any petty offence or serious offence that has 3 to 7 years of imprisonment under the act.
- 2) **serious offence:** serious offences are described in the act whose punishment is 3 to 7 years imprisonment and more than 7 years. The bill adds that serious offences are those for which punishment is more than 7 years of imprisonment under the juvenile justice council and minimum punishment is not prescribed and not less than 7 years. **Indian penal code** defines serious crime/offence under section 2(54). i.e. those crimes/offences whose punishment is between three to seven years of imprisonment under the Indian penal code.
- 3) **youthful offence:** Children who have been punished to youth detention are sent to a young offenders institution and the punishment for that offence two years, for those children whose is aged 16 to 17 years and for those children aged is 12 to 15 and the punishment period for those maximum one year. And the penalty for damages on stolen something like property. E.g. gold chain, phone, pocket. etc.

⁴ Offence and punishment further can be refer this <https://blog.ipleaders.in/section-15-of-juvenile-justice-act-2015/>

In the form of punishment, the juvenile has to undertake a rehabilitation process, while they are in the process of rehabilitation they help the juvenile to have mental stability by conducting various programs like providing education, exercise and also work on their physical and mental health of juvenile by conducting the sports activity, social skills and anger management, etc.

CASE LAWS

“Sheela Barse V. Union of India (1986)”⁵

In this case, a petition was filed asking the court to release children under 16 years of age kept in jails in different states. Information related to the number of existing juvenile courts, shelters, and schools, along with other information related to those children in the prison. In response, the Supreme Court issued notice to the respective respondents and directed the Judicial Magistrates in districts to visit and inspect all jails, shelter homes, observation homes, etc. in their districts and make a report that must be submitted to the court within a week. The major issue in this case was whether the children under 16 years of age who are kept in jails are treated badly and abused or not.

The Supreme Court observed that it is a settled principle in law that children must not be confined to prisons like adult criminals, as it would have harmful effects on them that would affect their growth and development.

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“Pratap Singh V. State of Jharkhand (2005)”⁶

The appellant was arrested in this case for being involved in causing the death of the deceased by poisoning. When he was produced in court, he was 18 years of age, and it was alleged that he was a juvenile when the crime was committed. The case was then transferred to the juvenile court, where his certificates were examined, and it was held that he was a minor on the date the crime was committed and hence released on bail. The other party was unsatisfied with the decision, and an appeal was made to the Additional Session Judge, wherein it was held that to determine the age of a juvenile, the date of production in court is to be considered rather than the date on which the crime was committed.

⁵ Sheela barse v. UOI - <https://indiankanoon.org/doc/525548/>

⁶ [https://blog.ipleaders.in/landmark-juvenile-supreme-court-cases-in-india/#Sheela_Barse_v_Union_of_India_1986~:text=of%20jail%20manuals.-,Pratap%20Singh%20v.%20State%20of%20Jharkhand%20\(2005\)%C2%A0,-The%20appellant%20was](https://blog.ipleaders.in/landmark-juvenile-supreme-court-cases-in-india/#Sheela_Barse_v_Union_of_India_1986~:text=of%20jail%20manuals.-,Pratap%20Singh%20v.%20State%20of%20Jharkhand%20(2005)%C2%A0,-The%20appellant%20was)

This decision was affirmed by the High Court of Jharkhand, which stated that the school certificate is the best evidence in this regard. However, the Supreme Court held the date of occurrence of crimes as the criteria to determine the age of juvenility rather than the date on which such a person was produced before the Court.

Another issue before the Court was determining the applicability of the Juvenile Justice Act (Care and Protection of Children), 2000. The present case was filed under the Juvenile Justice Act of 1986, but by the time it reached the Supreme Court, the 2000 Act had replaced it. Relying on the case of Upendra Kumar v. State of Bihar (2004), wherein it was observed that the purpose of the Act was to help every juvenile, it was held that the 2000 Act will apply to the cases pending in any court or authority under the 1986 Act, and those that were still pending when the 2000 Act was enforced and in which the person had not completed the age of 18 years as of 1.4.2001 would be decided according to the 2000 Act.

The Hon'ble Supreme Court also explained the importance of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985, also known as the Beijing Rules. These rules apply to every juvenile without any discrimination, irrespective of their nationality, caste, race, or religion.

CONCLUSION

The Juvenile Justice Act is also known as the Care and Protection Act 2015. Which gives the right to care and protection to children who need help from the government and our judicial system. This act provides rehabilitation for their mental stability. They conduct various programs for their mental and physical health and knowledge.

Children and the young generation are important to the growing culture and country. This is the reason to focus and grow the law on children and the government take action on it the juvenile justice act 2015 is one of the best legislatures which works on the juvenile and welfare of children.

Judicial machinery in India works for the law and justice system in India and the above-mentioned cases help to make laws and jurisdiction on juveniles. The Juvenile Justice Act helps a lot to make peace and help those children who need care and protection from the government. This act determines the juvenility of the children.