

# Evolution Of Juvenile Justice Laws In India: Protecting Minor's Rights And The Challenge Of Criminal Responsibility.

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**Citation:** Debarati Indu (2024), Evolution Of Juvenile Justice Laws In India: Protecting Minor's Rights And The Challenge Of Criminal Responsibility, *Educational Administration: Theory And Practice*, 30(1), 784 - 787  
Doi: 10.53555/kuey.v30i1.5496

## ARTICLE INFO

Received: 14-04- 2024

Accepted: 03-05- 2024

## ABSTRACT

The protection of Children rights is a fundamental goal of lawmakers, as demonstrated in various Indian laws, including the Indian Contract Act, 1872, and the Indian Penal Code. These laws aim to safeguard the interests of minors who lack the maturity to make informed decisions. The Indian Constitution also assigns the State the responsibility of ensuring the well-being of children. Over the years, India has witnessed the evolution of juvenile justice laws, with significant changes in the Juvenile Justice Acts of 1986, 2000, and 2015. The latest amendment in 2021 lowered the age of criminal responsibility for serious crimes, a decision based on questionable data and lacking empirical evidence. This change may disproportionately affect socially and economically disadvantaged children, and there are concerns about the lack of clarity in defining 'heinous crimes.' The Act's provisions raise issues of procedural fairness and the presumption of innocence. Despite these challenges, the primary focus of the juvenile justice system should remain on rehabilitation rather than punishment, as reflected in the Constitution and court rulings. The effectiveness of rehabilitation efforts in India remains a question, as many child care facilities struggle to meet the requirements of the Juvenile Justice Act, 2015.

**Keywords:** Juvenile justice laws, Juvenile Justice Acts, criminal responsibility, serious crimes, children welfare.

## Introduction:

The general goal of lawmakers is to protect the rights of minors. The majority of laws have a predisposition in favor of minors, such as the Indian Contract Act, 1872. The rationale behind this approach is that since minors lack the maturity to consider their own interests, it is the responsibility of the law to protect those interests and prevent anyone from abusing their status as a minor. This phenomenon is also evident in section 82 of the Indian Penal Code, which declares that no action taken by a child younger than seven years old is considered unlawful. Children under the age of twelve who lack the mental maturity to assess the ramifications of their actions are protected by Section 83. In a similar vein, this Act has also been drafted to try to safeguard the rights of minors and meet their requirements. The Indian Constitution assigns the State the authority and responsibility to guarantee that every child's fundamental needs are satisfied and that their human rights are upheld under article(s) 15(3), 39(e)(f), 45, and 47. Several conventions to which India is a party require States to act in a way that protects the child's best interests. As a result, the child's interests have been taken into consideration when developing the laws.

## A) History and Evolution of Juvenile Laws in India.

A review of earlier juvenile justice laws is necessary in order to conduct a thorough investigation and accurate analysis of the current laws in effect.

**1. The Juvenile Justice Act, 1986:** The introduction of this Act was an attempt to standardize India's juvenile justice system. Before the creation of this Act, every State had its own set of rules and regulations governing the system, which caused a great deal of ambiguity and deception in the law's genuine application throughout the entire nation. With regard to providing juveniles with appropriate care, protection, and rehabilitation, the Act

aimed to address the issue of juvenile delinquency and increase the engagement of social services. One of the most significant issues, though, was that there was no separation between children who had broken the law and those who needed care and protection from the State. As a result, the Act was wildly insufficient, despite the fact that it did bring about uniformity by replacing about twenty-five state-specific Children Acts.

**2. *Juvenile Justice (Care and Protection of Children) Act, 2000:*** It was thought necessary to examine how the juvenile justice system operated in order to fill up the gaps created by the 1986 legislation. Numerous agencies' efforts to implement the 1986 Act's goals were largely ineffective and contained many loose ends. In order to achieve the aim of creating a suitable juvenile justice system in India, the Juvenile Justice Act was re-enacted in 2000. Numerous noteworthy modifications were implemented to the current system architecture. First, under the prior Act, a juvenile may only be a boy or a girl if they were sixteen or older. The new rules raised both of their ages to eighteen, in accordance with international agreements like Article 1 of the UN Convention on the Rights of the Child. The separation of children in legal trouble from youngsters in need of care and protection was another major topic covered by the new Act. This procedure led to the creation of a juvenile criminal justice system that was distinct from the adult criminal justice system. The separation of children in legal trouble from youngsters in need of care and protection was another major topic covered by the new Act. This procedure led to the creation of a juvenile criminal justice system that was distinct from the adult criminal justice system. The decision to consider the date of offense conduct when assessing a person's juvenility was another significant development. This was the result of the Supreme Court's historic decision in the *Arnit Das v. State of Bihar* case, which cleared up a lot of unclear issues. In 2007, a comprehensive set of model regulations was enacted, grounded in the best interests of the child premise. The guidelines were a big improvement since they protected the child's privacy and gave young offenders the idea of a "fresh start."

**3. *Juvenile Justice (Care and Protection of Children) Act, 2015:*** In order to "consolidate and amend the law relating to children alleged and found in conflict with law and children in need of care and protection by catering to their basic needs through proper, care, protection, and development," the Juvenile Justice (Care and Protection of Children) Act, 2015 was put into effect. Since the Act's implementation on January 15, 2016, its treatment of minors who are in legal trouble has drawn a great deal of criticism, attack, and intense scrutiny. The requirements centre on using a child-friendly process for case resolution and adjudication. Additionally, it aims to provide kids a second chance at life by assisting with their rehabilitation and social reintegration in the best interests of the children. Many problems, including child abuse, poor facilities, and a lack of competent care and protection in these juvenile institutions, surfaced during the execution of the previous Act, according to the Statement to the Objects and Reasons to the Bill. Due to the rising number of crimes committed by individuals between the ages of 16 and 18, as reported by the National Crime Records Bureau, the previous Act had to be reevaluated and deemed to be inadequate. The Secretary of the Ministry for Women and Child Development emphasized that minors will get reformatory measures and that the juvenile justice system was founded on the idea of restorative justice.

Before getting into critical aspects of the Act, it is necessary to have a quick run-through some of the salient provisions of the Act.

Section 3 highlights the numerous general legal principles that must be observed in the administration of the Act.

Some of the most important ones are the following: the presumption of innocence principle, which holds that all children are innocent of any criminal intent; the principles of natural justice; the principles of repatriation and restoration; the principles of dignity and worth; the best interest; and the non-waiver of rights. The most significant modification made by this Act is the reduction of the age of criminal responsibility for minors who commit serious crimes from 18 to 16. The purpose of this clause is to discourage juvenile criminals. It's unclear what the action will actually accomplish or whether science supports it. Before, equal treatment was extended to all children under the age of eighteen. A major change from the previous statute is that the Act now allows a child between the ages of 16 and 18 to be tried as an adult for serious offenses if discovered by investigating agencies after turning 21.

According to the Act, a child must appear before the Juvenile Justice Board (JJB) within twenty-four hours of being taken into custody by the investigative agencies on charges of breaking the law. A JJB is made up of two social workers, one of whom is a woman, and a Metropolitan Magistrate. The Board's responsibility is to guarantee that the child's rights are upheld at every stage of the procedure and that the kid and their parent or legal guardian are regularly updated on developments.

The Board is charged under section(s) 14 and 15 with conducting an initial investigation into the nature of the offense and handling the matter by acting in accordance with applicable provisions of section(s) 17 and 18. Section 15 addresses the evaluation that must take place when a kid older than sixteen commits heinous offenses. The child's "mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence" are the subjects of an investigation by the Board. The Board may determine that it is necessary to have an adult trial for the child and move the case to the Children's Court if the child is found guilty of a serious offense. The Bill was referred to the Parliamentary Standing Committee on Human Resource Development for review and report following its introduction in the

Lok Sabha. On February 25, 2015, the Committee presented its 264th report to the Lok Sabha regarding the Juvenile Justice Bill, 2014.

**Analysis of the Amendment of Juvenile Justice Act of 2021:** The standing committee report asserts that the government duly carried out the procedure of consulting with and soliciting feedback from stakeholders. A deeper look, however, indicates that the Ministry has not given adequate thought to significant issues like those relating to laws regarding minors in conflict of law and the overall justification for abolishing the Act of 2000. The Committee conveyed its disappointment and shock that the Ministry had not considered the input and worries that interested parties had provided throughout the bill's formulation. The NCRB data on the increase in crimes committed by minors in this age range is one of the justifications given for lowering the age of juveniles for serious crimes from 18 to 16. The Ministry applied and interpreted this data without realizing the gaps that are clearly present in it. Based on available data, juveniles in India account for a pitiful 1.2% of all crimes committed. Furthermore, during the years when the Act was being crafted, this percentage had remained quite constant. In 2012, there were 6747 youngsters booked for violent crimes; in 2013, that number slightly increased to 6854. In contrast, the last census statistics revealed that there were over 6.5 crore children in the 16–18 age group. Furthermore, a deeper review of the data reveals that about half of the instances are actually love affairs that are prosecuted as rapes, and a third of the cases are related to a lack of sex education. A possible reason behind the government's decision to enact the new law may have been an increase of public and media pressure after to the 2012 Delhi rape incident. There is a lack of empirical evidence to substantiate the claim that incarcerating children for heinous offenses will yield a favourable effect in terms of deterring subsequent juvenile offenders. Indeed, research conducted in the United States has demonstrated that subjecting a child to a twenty-year prison sentence does not yield any discernible benefits. In 2012, the United States Department of Justice disclosed that the practice of subjecting minors to trial under the adult criminal justice system did not effectively serve as a deterrent. It is imperative to acknowledge that the proposed legislation will predominantly affect the socially and economically disadvantaged segments of society. Specifically, it will inflict hardship upon impoverished and undereducated children who lack access to quality education and opportunities. These children often encounter discrimination and instability, which can ultimately contribute to their involvement in criminal activities from a young age. Psychologists claim that the susceptibility of young, adolescent minds to deviate from the correct course is considerable, however conversely, it is as feasible to guide them back into the appropriate trajectory. There exists extensive scientific documentation regarding the incomplete development, heightened volatility, and impulsivity observed in the brains of early adolescents within the age bracket of 16 to 18 years. It is imperative to consider these findings while analysing the data pertaining to crime rates. The resolution resides within the realm of education rather than punitive measures. In the case of *Mumtaz Ahmed Nasir Khan v. State of Maharashtra*, the Bombay High Court ruled that the primary objective of the juvenile justice system is to focus on rehabilitation rather than punishment. The Court expressed the view that the assessment of a kid's propensity to commit the offense should not be the sole focus, as the objective of the system is to protect and rehabilitate the child, rather than seeking retribution.

One of the primary challenges encountered by this Act pertains to the lack of a clearly defined scope for the term 'heinous crime'. According to the Indian Penal Code, heinous crimes encompass offenses that carry a minimum sentence of seven years or longer imprisonment. The Justice S. Verma Committee report expressed opposition to the proposal of lowering the age of minors from 18 to 16 in instances involving severe offenses. The study referenced the Convention on the Rights of the Child, which stipulates that individuals under the age of eighteen should not be subjected to life imprisonment. The age range of 16–18 is considered a crucial period characterized by significant physiological and hormonal transformations, necessitating heightened safeguards for adolescents. Hence, it is unnecessary to expose minors to the adult criminal justice system, as this practice also contravenes the provisions outlined in Article(s) 14 and 15(3) of the Indian Constitution.

The researcher has identified a third challenge pertaining to the legal provision that allows individuals above the age of 21 to be prosecuted as adults for major offenses they committed during their juvenile years. The aforementioned rule is in contravention of Articles 14 and 20 of the Constitution, and might be seen ethically questionable as it seeks to hold the juvenile accountable for the shortcomings of the investigative institutions. Section 15 of the Act reveals yet another conspicuous transgression of natural justice. This clause mandates the Juvenile Justice Board (JJB) to carry out an evaluation of the juvenile's potential to engage in criminal behaviour. It is imperative to comprehend that the wording employed in this part presupposes the culpability of the kid from the outset, irrespective of the actual commission of the offense. This situation seems to involve a scenario where sentencing is imposed prior to establishing guilt, which contradicts the principle of procedural fairness. Procedural fairness is a fundamental aspect of due process, as established in the legal case of *Maneka Gandhi v. Union of India*. This practice creates a prejudiced stance against the child right from the beginning. The act's administration is in violation of the principles of presumption of innocence and best interests that should be upheld. Another criticism of the decision of the government to repeal the 2000 JJ Act is that the Supreme Court of India, in cases of *Salil Bali v. Union of India* and *Subramaniam Swamy v. Raju*, had upheld the constitutionality of the Act, mandating that all children in conflict with law be dealt with equally irrespective of the gravity of their offence.

### **Conclusion:**

The Juvenile Justice (Care and Protection) Act of 2015 serves as the framework for the juvenile justice system in India. The juvenile justice system should have the last say in choices regarding case management, punishments, and therapies since it is an institution tasked with ensuring the security and reformation of young people. According to NCRB, a study of all child care facilities in India was conducted in 2018–19, and it was discovered that 100% of them were unable to comprehend the requirements of the Juvenile Justice Act, 2015. This raises the question of whether India's limited effectiveness in rehabilitation and reformation efforts is a contributing factor to its less active role in promoting child welfare.

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