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## JUVENILE JUSTICE ACT REHABILITATION VS PUNISHMENT

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Introduction:- The Justice Act represents India's legal and moral commitment to deal with children in conflict with law through a framework that recognises their vulnerability, capacity for reform, and need for care rather than retribution. Rooted in constitutional values, international conventions such as the United Nations Convention on the Rights of the Child, and evolving understandings of child psychology, the Act seeks to balance the objectives of child protection, social reintegration, and public safety. However, this balance has consistently generated debate, particularly around the question of whether juveniles who commit offences, especially serious and heinous crimes should be subjected primarily to rehabilitative measures or punitive sanctions akin to those imposed on adults. The Juvenile Justice Act thus becomes a contested legal space where the ideals of reformatory justice intersect with societal demands for deterrence and accountability.

The rehabilitative philosophy underlying the Juvenile Justice Act is premised on the belief that children, due to their age and developmental stage, lack full mental maturity and are therefore more amenable to reform. The Act emphasises care, protection, treatment, education, and social reintegration as core objectives, reflecting the view that juvenile delinquency is often a consequence of socio-economic deprivation, family breakdown, abuse, or neglect rather than inherent criminal intent. Institutions such as Observation Homes, Special Homes, and the role of the Juvenile Justice Board are designed to provide a child-friendly and non-adversarial environment, ensuring that the child's best interests remain central. This approach aligns with the reformatory theory of punishment, which prioritises correction and reintegration over retribution.

At the same time, the growing incidence of serious offences involving juveniles has intensified public concern and prompted a shift towards a more punitive orientation within the legal framework. to the Juvenile Justice Act, particularly the provisions allowing juveniles aged sixteen to eighteen to be tried as adults for heinous offences after a preliminary assessment, signify a departure from the purely rehabilitative model. This development reflects the influence of the deterrent and retributive theories of punishment, driven by societal pressure to ensure justice for victims and maintain public confidence in the criminal

justice system. The coexistence of these conflicting philosophies within the same statute raises critical questions about consistency, fairness, and the long-term impact on juvenile offenders.

An analysis of the Juvenile Justice Act through the lens of rehabilitation versus punishment is therefore essential to understand whether the Act successfully fulfils its intended purpose or whether it risks the very principles upon which it is founded. Such an analysis requires an examination of the Act's legislative intent, judicial interpretation, and practical implementation, as well as its conformity with

constitutional mandates and international child rights standards. By critically evaluating the tension between reformative and punitive approaches, this study seeks to assess whether the current juvenile justice framework in India adequately protects children's rights while responding effectively to the demands of justice, social order, and public safety.

History of Juvenile Justice In India

### **The apprentice act 1850:-**

The Apprentices Act of 1850 is the first significant endeavor by the Indian government towards the establishment of the juvenile justice system. This was the first effort by the Indian government towards the rehabilitation and reform of juvenile delinquents as opposed to treating them as adults in the criminal system. The government sought to divert the attention and energy of kids who were involved in petty crimes towards apprenticeship and vocational rather than putting them in jail. The objective was quite obvious: to reform and rehabilitate juvenile delinquents and turn them into useful citizens of the country.

However, the scope and extent of the Act were quite narrow, as it targeted boys and failed to establish the juvenile rehabilitation system as a whole. The Act extended to children between the age of 10 and 18 and allowed them to be apprenticed to a master for vocational training for up to seven years, but not beyond the age of 21. The apprenticeship agreement had to be in writing and include the age of the child and the trade to be taught, and it must be registered with the District Magistrate. The master is required to provide the child with food, clothing, and shelter and other necessities. However, the Act also allowed "moderate chastisement" as part of the training, which is akin to the authority that a father has over his child.

### **Reformatory schools Act 1876:-**

The Reformatory Schools Act, 1876 was enacted because the government understood that young boys who committed crimes should not be treated like adult criminals. It was considered

unjust and detrimental to send children to prison along with adult criminals. The primary objective of the Act was to transfer boys below the age of sixteen years from mainstream prisons to separate institutions named Reformatory Schools. These institutions were not only designed for punishment but also for reform. They offered education, industrial training, and moral instruction to young delinquents so that they could better themselves and become law-abiding citizens. The Act provided several key to young offenders. According to Section 7, a court could sentence a young offender to a Reformatory School for a term of two to seven years instead of an imprisonment or other severe punishment. This indicated that the need for reform was more important than the need for punishment.

According to Section 8, even if a boy below the age of sixteen had already been sentenced to jail, a Magistrate had the authority to direct that the boy be sent to a Reformatory School. Section 5 stated that these schools must provide proper living conditions, including separate sleeping quarters at night, cleanliness, proper food, clothing, bedding, medical attention, and industrial training. These were better than the usual prison conditions. Section 10 provided that no boy shall be retained in a Reformatory School after the age of eighteen years, thus safeguarding them against being detained for too long. Section 13 enabled the Superintendent to grant a license to the young offender to reside and work under the care of a trustworthy employer, thus assisting him in leading a normal life. Finally, Section 17 empowered the Superintendent to act as a guardian and to place the boy as an apprentice. If the boy was apprenticed, the rest of the sentence was remitted. The Act was more inclined towards reform and rehabilitation than punishment.

### **Reformatory School Act 1897:-**

In 1889, the Government of India was made aware of a problem in the law. The law did not provide for a young offender to be transferred

to a Reformatory School in a province other than that in which he was convicted and sentenced. It was because of this problem that the Government decided to send a circular letter to the Local Governments and Administrations, asking for their views. They were also asked to suggest any other amendments that might be required in the law regarding Reformatory Schools, based on their experience.

The Government gave careful consideration to the responses they received. They also took into account the recommendations the Prison Conference in 1892, the suggestions of the Chief Commissioner of Burma, and the information regarding the reformatory systems in the Colony of Victoria and the Straits Settlements. Although the particular problem regarding the transfer of offenders from one province to another had been removed by Act 7 of 1894, which amended the Prisoners Act, 1871, it became apparent that many other amendments were still required in the Reformatory Schools Act of 1876.

Therefore, the Government decided that instead of making small changes, it would be better to repeal the old Act and pass a new one. The purpose was to remove the existing weaknesses in the law and include all the improvements that were considered necessary. For this reason, a new Bill was prepared and introduced.

#### Important points:-

- Under Section 31, a court could discharge an offender after a "due admonition" or deliver them to a parent or guardian upon the execution of a good behaviour bond for up to 12 months
- Schools were required to provide industrial training to help inmates gain marketable skills for their eventual release.
- The State Government was empowered to establish and maintain Reformatory Schools or certify existing schools that

met specific standards for sanitation, industrial training, and medical care.

- No person could be detained in a Reformatory School once they were found to have attained the age of 18

#### Children Act 1920:-

In 1919-1920, the Indian Jail Committee significant recommendations regarding the treatment of children in the judicial system. The Committee observed that "many children become offenders mainly because of lack of proper training and bad upbringing. They should, therefore, not be sent to prison like ordinary offenders. They should be sent to special institutions which are specially designed to train and reform them." The Committee explicitly stated that "sending children under 14 years and young persons between 14 and 16 years to prison is contrary to public policy." The Committee recommended that the rules applicable in England, which were already embodied in the Madras Children Act, should be applicable to the whole of India. The report further recommended that child offenders should be handled separately from adult offenders. The report stated that children should not be held in normal prisons, and there should be special schools for children who are reformable. The report also recommended that there should be special courts for children.

Following these recommendations, the Madras Children Act was enacted in 1920. Later, other acts were also enacted in other provinces, including the Bengal Children Act of 1922 and the Bombay Children Act of 1924. Until this point, the emphasis of these acts was on the welfare of the child, whether the child was delinquent or simply neglected.

#### important points of this act

- Courts were given the power to rescue children living in "unfit environments" (like those being exploited or wandering) and place them in safe custody

- The acts introduced probation officers to supervise children and help them reintegrate into society
- Instead of jail, children were sent to "Remand Homes" while waiting for their trial
- For the first time, the law that children were not kept in adult prisons or tried alongside seasoned criminals

#### **Children act 1960:-**

By 1960 most Indian states had formulated their own separate laws and regulations regarding the handling of juveniles. Later in the case of Sheela Barse v. Union of India the Supreme Court realized the need for a uniform law regarding children in the entire country. The Court advised that a new law on this issue should be enacted by Parliament.

Prior to this, the Central Government had already enacted the Children Act 1960 which was applicable only to Union Territories and was enforced by the Union Government. This Act was intended to act as a prototype for the states.

Later, on the basis of this preparation, the Juvenile Justice Act, 1986 was enacted by Parliament, which became a uniform law for the entire country.

This Act explicitly stated that children should not be sent to jail under any circumstances. The Act was not for punishment but for the care and protection of children. It targeted their education, training, maintenance, and rehabilitation so that they could better their lives. But this Act was valid only in the Union Territories.

This Act also introduced a three-fold system of institutions for children. Firstly, Observation Homes were formed children were sent for a temporary period until their cases were heard in the juvenile court. Secondly Children's Homes were designed for children who were neglected, orphaned or abandoned and required care and protection. Thirdly Special Schools were formed

for children who had committed offenses, and they were provided with proper guidance and support so that they could reform themselves rather than being punished.

#### **important Points of this act :-**

- The Act introduced two distinct bodies to handle children based on their situation: Child Welfare Boards for "neglected" children and Children's Courts for "delinquent" children (those who committed an offence)
- A major specification was the total ban on sentencing a child to death or imprisonment. It mandated that children should not be kept in police stations or adult jails, instead requiring they be sent to observation homes or "places of safety"

#### **The Juvenile justice act 1986:-**

Careful observation of the current Children Acts in practice reveals that more care and attention must be devoted to children who are facing serious problems in their lives. Children are found to be in circumstances where they are not properly adjusted to society. Some of them may be involved in delinquent activities, while others may be neglected, abandoned, or exposed to dangerous surroundings. These children need special care, guidance, protection, and support so that they can develop into responsible and healthy. The conventional justice system applied to adults is not applicable to children. The courts for adults are primarily concerned with punishment and formal legal processes. However, children are still young and developing. They may commit errors due to poverty, lack of education, disrupted families, poor associations, or adverse social surroundings. Thus, they should not be treated like adults. Instead of punishment, the justice system for children should emphasize more on correction, care, protection, counseling, and rehabilitation. The overriding objective should be to help the child improve and a better member of society. It is also necessary

that there be one system for the whole country. This is because different states having different systems can lead to confusion and inequality. A system for the whole country will ensure that all children, irrespective of their location, have equal rights and are treated in a similar manner. This system should be strong enough to face new challenges that emerge due to changes in society, culture, and the economy. As society changes, new challenges emerge for children, and the law should be updated and flexible enough to face these challenges in the correct manner.

It is also not possible for the government to handle all the responsibilities associated with children in difficult situations. There is a need for increased participation of informal systems and community-based welfare organizations. These can include non-governmental organizations (NGOs), social workers, community groups, teachers, and volunteers. These organizations can help in providing shelter, education, counseling, medical assistance, emotional support, and vocational training. Community participation can make children feel that they are accepted and supported, which is extremely important for their development and rehabilitation. Overall, the working of the existing Children Acts shows that more effort is needed to protect and guide children who are in difficult circumstances. A child-friendly, reform-oriented, and uniform juvenile justice system, along with active community involvement, is necessary to ensure the proper care, protection, treatment, development, and rehabilitation of such children.

#### Important points of act :-

- The Act provides for the confidentiality of proceedings by prohibiting the publication of names, addresses, or any particulars that could lead to the identification of a juvenile involved in any proceeding under the Act. Violation of this provision is punishable with a fine (Section 36)

- Prohibition of Punitive Sentences: The Act explicitly states that no delinquent juvenile can be sentenced to death or imprisonment. This fundamental principle ensures a rehabilitative approach rather than a punitive one, steering children away from the adult criminal justice system Section 22(1).
- To facilitate the care and rehabilitation of juveniles, the Act mandates the establishment of specialized institutions. These include Observation Homes for temporary reception during inquiry, Juvenile Homes for neglected juveniles, and Special Homes for delinquent juveniles (Sections 9, 10, 11).

#### Juvenile Justice act 2000:-

The principal aim of this Act is to consolidate and improve the laws concerning juveniles in conflict with the law and children in need of care and protection. This Act ensures that these children are provided with proper care, protection, treatment, and support in accordance with their developmental needs. This Act also encourages a child-friendly approach while handling cases related to children. The emphasis is always on the welfare of the child and on their rehabilitation and ability to become responsible citizens of the country through various institutions established under this law.

- The Constitution of India imposes a significant responsibility on the State to protect children. The State is to ensure that the needs of children are met and their basic human rights are protected under Article 15(3), Article 39(e) and (f), and Articles 45 and 47 of the Constitution of India. This implies that children must be provided with special care and protection. Internationally, the Convention on the Rights of the Child was adopted by the United Nations on 20 November 1989. This Convention provides a set of certain standards that need to be followed by all member countries to ensure the best interests of children. This Convention also emphasizes that child victims need to be

socially reintegrated as much as possible, and judicial proceedings need to be avoided whenever possible. India became a member of this Convention on 11 December 1992, which means that India agreed to follow the principles and standards of this Convention.

Taking into consideration these constitutional obligations and international commitments, as well as other very important international guidelines such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (Beijing Rules), and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990, the Government of India decided to enact a new and improved law.

Accordingly, the Government of India enacted the Juvenile Justice Act, 2000 to replace the previous law and to establish a more effective, child-friendly, and rehabilitation-oriented juvenile justice system in the country.

#### **Juvenile justice act 2015 :-**

The Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act 2015) is the main legislation in India that deals with the care, protection, and rehabilitation of children. It repealed the Juvenile Justice Act, 2000 and came into effect on January 15, 2016. In August 2014 the Government introduced the Juvenile Justice Bill in the Lok Sabha. The Government gave for the need for a new law. The Government said that the present Juvenile Justice Act of 2000 was not working well in places. There were some problems with the way the Juvenile Justice Act of 2000 was being implemented. There were also some delays in the procedures especially when it came to adoption. Because of these problems the Government thought it was necessary to make some changes to the Juvenile Justice Act of 2000.

The Government also looked at the information provided by the National Crime Records Bureau. The National Crime Records Bureau said that more and more crimes were being committed

by juveniles, those who were between 16 and 18 years old. The information from the National Crime Records Bureau showed that the number of crimes committed by juveniles compared to the number of crimes in the country went up from 1% in 2003 to 1.2% in 2013. The Government used this information from the National Crime Records Bureau to show why the Juvenile Justice Act of 2000 needed to be changed. During the same period, the percentage of 16 to 18-year-old juveniles accused of crimes also rose. In 2003, this age group comprised 54% of all juveniles accused of crimes. However, by 2013, this figure had risen to 66%. It is based on these statistics and the challenges that existed in the previous law that the government felt the need for a new and stronger Juvenile Justice law.

The Bill describes how two major institutions will be formed in every district to handle children as per the law. The two institutions are the Juvenile Justice Board (JJB) and the Child Welfare Committee (CWC). The Juvenile Justice Board will take care of children who are in conflict with the law, while the Child Welfare Committee will take care of children who need care and protection.

The Bill clearly describes the legal for adoption and the punishment for various offenses committed by children. The major change brought about by the Bill is that children aged 16 to 18 years can be tried as adults if they commit serious offenses. This means that if they commit serious offenses, they will be punished accordingly after proper evaluation. The Bill categorizes crimes into three types. First, a heinous crime is one that has a minimum punishment of seven years of imprisonment under any law existing previously. Second, a serious crime is one that has a punishment of imprisonment for a term of three to seven years. Third, a petty crime is one that has a punishment of imprisonment for a term not exceeding three years. This is important in

determining the way cases of children are to be treated.

### Important points of this act

- For the first time, the Act allows children in the 16 to 18 years age group to be tried as adults for "heinous offences" (crimes punishable with imprisonment of 7 years or more), following a preliminary assessment by the Board.
- The Act introduces new crimes specifically against children, such as corporal punishment in institutions, employing children for begging, and selling children, with strict punishments including rigorous imprisonment and heavy fines.
- All child care institutions (orphanages, shelters) must be registered with the government. Failure to register is a punishable offence, aimed at eliminating unregulated and illegal facilities
- It makes the adoption process more efficient by designating the District Magistrate (DM) as the authority to issue adoption orders and by consolidating all procedures under Central Adoption Resource Authority (CARA) regulations.

### International law for juvenile justice

#### Un standard minimum rules for the Administration of Juvenile Justice 1985

In September 1980, the United Nations held Sixth Congress on the Prevention of Crime and the Treatment of Offenders. It was during this Congress that the notion of developing a bill of rights for young offenders was proposed. This notion was supported by the United States delegation.

Most of the work on the document was done during a meeting in Beijing. Initially, it was called the Bill of Rights for Young Offenders. Later, it was renamed to the United Nations Standard Minimum Rules for the Administration of Juvenile Justice. These Rules were formally

adopted by the General Assembly of the United Nations on 29 November 1985. It is also important to note that the United Nations declared 1985 as the International Year of Youth. The Rules framed by UN serve as a minimum standard to accomplish protection of rights of young. It urged Member States to adapt, wherever this is necessary, their national legislation, policies and practices, particularly in training juvenile justice personnel, to the Beijing Rules and to bring the Rules to the attention of relevant authorities and the public in general. The Standard Minimum Rules applies to juvenile offenders impartially, without distinction of any kind, for example as to race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or other status.

#### UN rule for Protection Of Juveniles Deprived of their Liberty

In 1989, the United Nations recommendations and guidelines to protect the rights of children at the international level. The Convention on the Rights of the Child (CRC) came into force on 20 November 1989. It serves as a main framework or umbrella for three other important UN instruments related to children.

These include the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

These instruments aim to supervise and improve the welfare, protection, and health of juveniles. They also provide detailed guidance to implement and strengthen the principles laid down in the CRC.

The United Nations Rules for the Protection of Juveniles Deprived of their Liberty aim to make sure that juveniles who are detained or accused of offences are treated fairly and in a manner suitable to their age. These Rules focus on

protecting their rights and ensuring special care because they are young.

This UN initiative also reflects the increase in juvenile crime during the late twentieth century. It shows concern about a growing trend in many countries to weaken or remove special juvenile justice protections. In many places, this has meant lowering the age at which young offenders can be tried as adults, which reduces the safeguards available to them under juvenile justice laws.

### Key Points

- This rule says that the entire detention system should focus on rehabilitation and social reintegration, ensuring support and aftercare upon release.
- It states that they must have to legal counsel, family contact, fair disciplinary procedures, and protection from cruel or degrading treatment.
- Detained juveniles have the right to proper education, vocational training, medical care, and mental health support.

Ground reality of juvenile justice:-

**High pendency of cases :-**A study titled “Juvenile Justice and Children in Conflict with the Law: A Study of Capacity at the Frontlines” conducted by India Justice Report indicates a clear picture: Backlog in cases at Juvenile Justice Boards is a serious issue in India. The study covered 362 Justice Boards in 16 states from November 2022 to October 2023. In this period, a total of 100,904 cases were handled by these boards: 50,627 cases were from previous years, while 50,277 cases were new ones. Of these cases, only 45,097 cases were disposed of, which is about 45%. The rest, or 55,816 cases, remain pending, a rise of over 5,000 from earlier days. In other words, almost half of these cases remain in limbo. The study points out a stark variation in pendency from state to state.

### Structural gaps in juvenile justice boards constitution:-

According to the India Justice Report, there are serious structural gaps in the constitution and functioning of Juvenile Justice Boards in India. Under the Juvenile Justice (Care and Protection of Children) Act, 2015, every JJB must have a full bench consisting of one Principal Magistrate and two social workers, including at least one woman. However, the report shows that this rule is not properly followed in many states. Out of 470 JJBs studied, 24% were functioning without a complete bench. For example, in Bihar, although all boards had a Principal Magistrate, only 27% had the required social workers, which means most boards were incomplete. On the other hand, states like Odisha, Sikkim, and Jammu & Kashmir had fully constituted boards. The report also mentions that many Principal Magistrates handle juvenile cases as an additional duty, so boards sit only a few days in a week or even in a fortnight. Because of this, hearings are delayed, cases move slowly, and children stay longer in institutions. The absence of social workers weakens the child-friendly and rehabilitative approach of the JJB system, which is meant to focus on reform and welfare rather than punishment.

### Weak rti response

the report (Juvenile Justice and Children in Conflict with the Law) which I read extensively highlights a weak and broken Right to Information (RTI) response culture, which it identifies as a fundamental failure of statutory compliance and a major barrier to accountability. The study, which relied heavily on RTI requests to assess the system's capacity, found that authorities tasked with supervision and data aggregation routinely failed to provide complete information. Of the more than 500 replies received from 28 states and 2 Union Territories, only 36% came directly from nodal authorities, while 29% were transferred to districts, 24% received no response at all, and 11% were rejected outright. The report notes that nodal bodies routinely redirected requests to districts, suggesting that they did not have the fullest information readily at hand and that oversight is episodic rather than institutional. Districts, in turn, almost always sent incomplete information, did not respond, or rejected requests outright. The report points to a particularly egregious example in Uttar Pradesh, where the State Child Protection Society rejected an inquiry by claiming that "no such department exists," despite being the very body responsible for child protection. Similarly, Gujarat's State Legal Services Authority rejected queries by questioning the public interest, while its police headquarters transferred applications to a branch that then claimed blanket exemption as a "security organization." The report concludes that this pattern of non-responsiveness, partial returns, and routine redirection indicates a foundational challenge in data management, where information is neither created regularly nor readily available to be shared upward to supervisory functionaries, thereby compromising monitoring mandates and weakening accountability and transparency throughout the juvenile justice system.

### Absence of child data grid

one major problem in the juvenile justice system is the absence of a centralized and unified child data system track children in conflict with the law. Although the Juvenile Justice (Care and Protection of Children) Act, 2015 requires proper collection and sharing of data, in reality the information is scattered, incomplete, and not standardized across institutions. Supervisory or nodal authorities often do not have full data and redirect RTI requests to district offices, which shows poor coordination and weak record-keeping. The report clearly states that information is not regularly created or properly sent to higher authorities, making it difficult to monitor performance or ensure compliance with the law. Even basic details about child care institutions, such as their capacity, staff strength, or the number and category of children housed, are not consistently available. The Monitoring App for Seamless Inspection (MASI), which was introduced for better inspection and coordination, is also not publicly accessible and does not show inspection quality or follow-up actions. Because of this lack of a transparent and comprehensive data system, it becomes very difficult to check whether children's rights are being protected or whether institutions are functioning according to the law.

### Juvenile justice Board :-

The Juvenile Justice Board (JJB) is the competent authority responsible for dealing with Children in Conflict with Law (JCL). A Child in Conflict with Law refers to a child who is alleged to have committed an offence. Juveniles accused of a crime or detained for a crime are brought before the Juvenile Justice Board (JJB) under the Juvenile Justice (Care and Protection of Children) Act 2000 (amended in 2006).

The aim of JJB is to hold a child culpable for their criminal activity, not through punishment, but counselling the child to understand their actions and persuade them away from criminal activities in the future.

- The State Government, a notification published in the Official Gazette, may establish one or more Juvenile Justice Boards for a district or a group of districts specified in the notification. These Boards are constituted to exercise the powers and perform the duties assigned to them under the Juvenile Justice (Care and Protection of Children) Act, 2015 in matters relating to children in conflict with law.
- Each Board consists of a Metropolitan Magistrate or a Judicial Magistrate of the First Class, along with two social workers, of whom at least one must be a woman. Together, they form a Bench to hear and decide cases.
- Any child alleged to be in conflict with law must be produced before the JJB within 24 hours of being taken into custody. The Board then conducts an inquiry into the matter and passes appropriate orders, ensuring that all decisions are made in the best interest of the child.
- Children in conflict with law who are brought before the JJB and require temporary residential care and protection during the pendency of the inquiry are placed in Observation Homes. Those children who are found to have committed an offence and require long-term rehabilitation and protection are sent to Special Homes as directed by the JJB.
- For the care, protection, and rehabilitation of such children, the State Government operates four Observation Homes and one Special Home.

**Child Welfare Committee :-**

The Juvenile Justice (Care and Protection of Children) Act, 2015 requires the formation of at least one Child Welfare Committee (CWC) in each district. The CWC is the competent

authority to deal with cases pertaining to children in need of care and protection.

The Committee is entrusted the task of disposing of cases pertaining to the care, protection, treatment, development, and rehabilitation of such children. It also makes sure that their basic needs are met and that their human rights are protected. Section 30 of the Juvenile Justice (Care and Protection of Children) Act, 2015 lays down the functions and responsibilities of the Committee. These include conducting inquiries into all matters concerning or affecting the safety and well-being of children covered under the Act. The Committee may order the placement of a child in foster care whenever required and must ensure proper care, protection, rehabilitation, and restoration of children based on an individualized care plan.

The Child Welfare Committee is required to function and operate in accordance with the provisions made under the Juvenile Justice (Care and Protection of Children) Act, 2015.

**Structure:-**

- The Committee is composed of a total of five members.
- It includes one Chairperson along with four other members.
- A minimum of one member must be a woman.
- At least one member should possess expertise in issues relating to children.

NCRB data on offenders

Year	Total cases registered against juvenile
2013	43506
2014	33456

2015	33433
2016	35849
2017	33606
2018	31591
2019	32235
2020	29768
2021	31170
2022	30555
2023	31365

Data presented by the National Crime Records Bureau reveals that the pattern of juvenile offenses in India over the last ten years has been declining, though not without a few hiccups along the way. In 2013, a total of 43,506 juvenile in conflict with law offenses were reported, accounting for 1.2% of all cognizable offenses in India. This number gradually decreased over the years to 30,555 in 2022. However, in 2023, this number increased to 31,365, a 2.7% increase over the previous year.

It's therefore clear that juvenile offenses are not a linear trend; they are subject to various environmental influences. In some years, the increase in juvenile offenses might not necessarily a corresponding increase in criminal activity; sometimes, this increase might be a result of better reporting and registration of offenses. In 2020, juvenile offenses declined dramatically to 29,768, a trend which might be attributed to the various lockdowns occasioned by the outbreak of the COVID-19 pandemic, which reduced the opportunities for property and violent crimes.

If we consider individual states, then Madhya Pradesh and Maharashtra report the highest

numbers of juvenile-related offenses. In previous years, Madhya Pradesh was reported to contribute 20.6% of total juvenile offenses, while Maharashtra contributed 18.4%. This trend was also evident in 2023, where the state reported 22,393 crime against children offenses, while Maharashtra reported 22,390 offense cases related to juveniles. Delhi, despite being a smaller state, reported a surprising 7,769 offenses related to crimes against children in 2023, indicating a high concentration of juvenile offenses, particularly in urban centers.

#### Landmark cases related to juvenile justice:-

##### **Sheela Barse (II) and Others v. Union Of India And Others [1986 AIR 1773]**

The decision of the Supreme Court in the case of Sheela Barse v. Union of India has been instrumental in changing the course of the juvenile justice system in the country. The decision has been a scathing critique of the system of detaining vulnerable kids, mostly from the category of the destitute abandoned, and mentally challenged, in jail for safe custody. The case was decided on 13th August 1986 and highlighted the harsh and inhumane conditions under which these kids were subjected within the criminal justice system. The decision also held that the detention of these kids within the jail system violates the fundamental rights of these kids under Article 21 of the Constitution. The decision also built upon the principles set out in the case of Hussainara Khatoon (I) v. Home Secretary, State of Bihar, and held that the right to speedy trial is an essential ingredient of the right to life and liberty. The decision also emphasized the fact that these kids are national assets and their physical, mental, and moral development must be protected. The decision also emphasized the fact that the state must adopt a rehabilitative approach towards minors and not a punitive one.

##### **Salil Bali v. Union of India 2013**

The case of Salil Bali v. Union of India was decided by the Supreme Court of India on 17

July 2013. The petitioners challenged the constitutional validity of the Juvenile Justice (Care and Protection of Children) Act, 2000, particularly the provision that fixed eighteen years as the age for treating a person as a juvenile. They argued that treating all persons below eighteen as juveniles was arbitrary, especially in cases of heinous crimes committed by older adolescents between sixteen and eighteen years. It was contended that such classification violated constitutional principles and failed to account for mental maturity and criminal responsibility.

The Union of India defended the Act by stating that the age of eighteen was fixed in accordance with international , particularly the United Nations Convention on the Rights of the Child, and that the law was based on a rehabilitative rather than punitive approach. The government emphasized that juvenile justice policy is a matter of legislative wisdom and social policy.

The Supreme Court upheld the constitutional validity of the Act. It held that fixing eighteen years as the age of juvenility was a policy decision of Parliament and did not violate any constitutional provision. The Court observed that the Act was consistent with international standards and aimed at rehabilitation and reintegration of children in conflict with law. It further ruled that courts should not interfere with legislative policy unless it is clearly arbitrary or unconstitutional.

Thus, the judgment reaffirmed that all persons below eighteen years must be treated as juveniles under the Act and emphasized the rehabilitative philosophy of juvenile justice in India.

## **Recent amendment and changes in Juvenile justice act of India**

### **Enactment of juvenile justice (amendment) act, 2021:**

#### **Retrospective Application (does not matter how many years have been passed for crime commission)**

In the case of Hansraj v. State of Uttar Pradesh, the Supreme Court clarified a key aspect regarding the Juvenile Justice Act of 2015. The key aspect is that the protective and beneficial provisions contained in the Juvenile Justice Act can be applied retrospectively, that is, to the past. If a person was a minor when the crime was committed, he or she is entitled to the protective provisions contained in the Juvenile Justice Act, and this right cannot be denied even if the issue of juvenility is raised after many years, even while serving a prison sentence.

This judgment is clear on the aspect that a late claim of juvenility cannot be dismissed simply because it is raised late. The judgment is clear that, irrespective of how many years or decades may have passed since the commission of the crime, the issue must still be decided on the aspect of whether the accused was a minor when the crime was committed. If it is established that the person was a minor when the crime was committed, he or she must be treated in accordance with the provisions contained in the Juvenile Justice Act.

This judgment is a strong endorsement of the reformatory and rehabilitative approach that is a part of the juvenile justice system in India. The juvenile justice system in India is a protective mechanism that acknowledges that crimes are committed by juveniles because of immaturity, a lack of guidance, and adverse social factors. The juvenile justice system in India is a rehabilitative mechanism that focuses on the reformation and successful rehabilitation of juvenile offenders rather than punishment for the crime committed. The retrospective applicability of the provisions contained in the Juvenile Justice Act ensures that a person is not

permanently branded a criminal if he or she was a child when the crime was committed.

### **Increase of DM Power**

The 2015 "Juvenile Justice Act (Care and Protection of Children)" has received a major upgrade in the form of the 2021 Amendment, which places more responsibility in the hands of the district authorities in the matter of the protection of children. Under the 2021 Amendment, the role of the District (DM) and the Additional District Magistrate (ADM) was very significant in the initiation and implementation of the juvenile justice system in the district.

The major change was in the matter of adoptions. Earlier, the civil courts were in charge and issued the adoption orders, which would take time. Under the 2021 Amendment, the DM/ADM has the authority to issue the adoption orders and the adoption process would be over in a short time.

The supervision over the child protection agencies has also been strengthened in the 2021 Amendment. The DM has the authority over the District Child Protection Unit (DCPU), conducts a quarterly review of the Child Welfare Committee (CWC), and has the right to seek information from the Juvenile Justice Board (JJB) in order to ensure the effective implementation of the laws related to the protection of the children.

### **Stricter Eligibility Criteria for cwc members**

The 2015 Juvenile Justice Act received a stronger push through the 2021 amendment, particularly in the selection of members of the Child Welfare Committee (CWC). It was clear what the purpose was: place effective and trustworthy individuals in the position.

Currently, for an individual to be selected as a member for the CWC, they need to possess the required educational qualifications in the field of child welfare, child psychology, psychiatry, law, social work, sociology, public health, education, human development, and special education. In addition to this educational

requirement, there is the requirement of having at least seven years of experience in the field of child health, education, and welfare.

However, there are also disqualifications set in place for the purpose of ensuring the smooth working of the system. If an individual has been involved in human rights violation cases and has also been involved in the violation of the rights of child welfare and has been involved in the crime of child abuse and child labor, they are not eligible to be a part of the CWC. If they have been found guilty in any crime involving moral turpitude and sentenced accordingly, they are not eligible. If they are dismissed from the government service and are part of the management in any Child Care Institution in the same district, they are not eligible.

### **Conclusion**

India's Juvenile Justice Act is a forward-thinking, child-centric approach to justice, with a focus on rehabilitation rather than punishment. From its inception in the Apprentices Act of 1850, through the Juvenile Justice Act of 2015, and the latest amendments, the system has consistently sought to protect children in conflict with the law by acknowledging their vulnerability, stage of development, and capacity for reform. The Acts draw strength from constitutional mandates, international conventions such as the UN Convention on the Rights of the Child, and landmark judicial pronouncements that emphasise care, protection, social reintegration over punitive measures.

However, there is a tug of war between rehabilitative approach and the need for punishment in society, especially in cases of more serious offenses committed by older children, and this has resulted in significant changes, notably the provision for children in the 16- to 18-year-old bracket to be tried as adults after a preliminary assessment.

Despite the strength of the law, there are still many challenges in its implementation, including long pendencies, incomplete Juvenile

Justice Boards, poor data management, lack of RTI transparency, and the absence of a centralized system of child tracking, which undermine the very purpose of care, protection, and timely justice.

Significant reforms in the form of enhanced powers for District Magistrates, more rigorous eligibility criteria for Child Welfare Committee members, and the Model Foster Care Guidelines 2024 are steps towards greater accountability and efficiency in the system, as well as more family-based care. Judicial interpretations have also emphasized the protective and retrospective application of the juvenile justice system.

In conclusion, India's juvenile justice system is solid in theory and intent, and its success will depend on its implementation and integrity of the system and its officials, as well as the continued commitment to the reformative approach that underlies the very purpose of justice for children.

