

Juvenile Justice Act - UPSC Polity Notes

The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2018 has been introduced in the Lok Sabha. It intends to amend the Juvenile Justice (Care and Protection of Children) Act, 2015. This is an important legislation in India that is also relevant for the GS Paper-II of the [UPSC exam](#).

Juvenile Justice (Care and Protection of Children) Amendment Bill, 2015

The Juvenile Justice Act (JJA) pertains to provisions for children found in conflict with the law in India. It also gives provisions for children in need of care and protection.

Salient Provisions of the JJA, 2015

The JJA, 2015 replaced the Juvenile Justice Act, 2000.

Reasons for amending the 2000 Act:

- The government amended the existing law dealing with children in conflict with the law citing implementational issues and procedural delays with adoption, etc.
- The government also cited figures from the National Crime Records Bureau to show that there had been a hike in the number of juveniles committing crimes, particularly in the age bracket of 16 to 18 years.
- In the 2000 Act, there was no distinction between children in conflict with the law and children in need of care and protection. The amended act changed that.
- The 2000 Act also did not have provisions for the reporting of abandoned or lost children to the appropriate authorities, in order to ensure their protection and care.
- The amendment in the 2000 law came about because of public outrage at the infamous Delhi gang-rape case (Nirbhaya Case) in 2012. One of the offenders in the case was a 17-year-old.
- The legislation strives to achieve a balance between child rights and justice by not sentencing juveniles to the death sentence and life imprisonment.

History of Legislation concerning Children in Conflict with the Law

- The Apprentices Act, 1850, was the first law enacted in India dealing with children in conflict with the law. This law allowed the courts to treat children who had committed petty crimes as apprentices instead of sending them to prisons.
- The second law that dealt with juvenile offenders was the Reformatory Schools Act, 1876.
- The Indian Jails Committee (1919-20) also made some recommendations with regard to children in conflict with the law.
- In 1960, the Children Act was passed to provide for the care, maintenance, protection, welfare, education, training, trial and rehabilitation of neglected and delinquent children.
- The Juvenile Justice Act, 1986: This was the first central law on juvenile justice that provided a uniform law for the whole country in this respect.
- In 1992, the government of India ratified the United Nations Convention on the Rights of the Child which made it expedient to have a law that conformed to the standards of the Convention.
- Hence, the JJA, 1986 was repealed and the Juvenile Justice (Care and Protection of Children) Act, 2000 was enacted.

Juvenile Justice Act Features

The JJA, 2015 introduced many changes to the existing law based on the requirements of the day in terms of reforming the laws and making the juvenile justice system more responsive to the changing circumstances of society. The Act seeks to hold the child accused of crime accountable, not through punishments, but through counseling.

- The Act amended in 2015 changed the nomenclature of ‘juvenile’ to ‘child’ and ‘child in conflict with the law’.
- The Act defines orphaned, surrendered and abandoned children.
- It also gives definitions for petty, serious and heinous crimes by children.
 - A heinous offence is one that attracts a maximum punishment of 7 years’ imprisonment under any existing law.
 - A serious offence is one that attracts imprisonment of 3 to 7 years.
 - A petty offence is one that attracts a maximum of 3 years’ imprisonment.
- The Act gives more clarity on the functions and powers of the Juvenile Justice Board and the Child Welfare Commission.
- **Juvenile Justice Board:**
 - This is a judiciary body before which children detained or accused of a crime are brought.
 - This acts as a separate court for juveniles since they are not to be taken to a regular criminal court.
 - The Board comprises of a judicial magistrate of the first class and two social workers, one of whom at least should be a woman.
 - The Board is meant to be a child-friendly place and not intimidating for the child.
- **Child Welfare Committee:**
 - The State Governments set up these committees in districts in accordance with the provisions of the Act.
 - The Committees have the power to dispose of cases for the care, protection, treatment, development and rehabilitation of the children in need of care and protection, as well as to provide for their basic needs and protection.
- The Act provides for an efficient and organized system for the adoption of orphaned, surrendered and abandoned children.
- It also makes it compulsory for all child care institutions to be registered.
- **An important provision of the amended Act is that it provides for minors in the age group 16 - 18 years to be treated as adults in the case of heinous crimes.**
- The Act also gives the Central Adoption Resource Authority (CARA) statutory status.
- **The Act distinguishes between children in conflict with the law and children in need of care and protection.**
- Under the previous Act, any minor, regardless of the crime committed, could be convicted only to a maximum of 3 years. Under no circumstances could the minor be tried in an adult court or sent to an adult jail, or given a penalty longer than 3 years. However, this changed with the 2015 amendment. All children below the age of 18 would be treated equally except for one departure from the norm. That is, in the case of heinous crimes. Any minor of the age group 16 - 18 and who has been accused of committing a heinous crime can be tried like an adult. For this, the Juvenile Justice Board would assess the child’s physical and mental capacities, his/her ability to comprehend the consequences of the crime, etc. and determine whether the child can be treated as an adult.

Who is a Juvenile?

As per law, a juvenile is any individual below the age of 18.

- According to laws in India, any child below the age of 7 cannot be convicted under any law for any crime.
- Under earlier laws, the distinction between children in conflict with the law and children in need of care and protection was vague, as both were termed juveniles.
- In the amended law (2015 Act), the terms are ‘children in conflict with the law’ and ‘children in need of care and protection’; so that the distinction is clear.

Juvenile Justice Act, 2015 - Positives

There are many positives in the 2015 JJA. It was enacted to correct the deficiencies in the previous legislation. Some of the important benefits of this Act are:

1. There is a clear distinction between children in conflict with the law and children in need of protection and care.
2. It makes the registration of all children’s homes mandatory, bringing in more transparency and efficiency in the system.
3. It seeks to reduce crimes committed by children between the ages of 16 and 18.
4. By including the provision for 16 to 18 year-olds to be tried like adults in case of heinous crimes, it provides justice to the victims of such crimes.

Juvenile Justice Act, 2015 - Negatives

The amended JJA also has certain negatives associated with it. Some of the problems in the law are discussed below.

1. Many psychological studies point out the vulnerability of the 16 - 18 age group children because of hormonal and physical changes. Considering offences committed in this age as crimes and putting them in adult jails can cause further damage. In such environs, the minor will come into close contact with professional criminals, which can hamper their rehabilitation.
2. Some opine that the treating of minors between 16 and 18 years differently is a violation of Article 14 of the Constitution, which guarantees every citizen the [right to equality](#).
3. India ratified the UN Convention on the Rights of the Child in 1992. According to this Convention, any individual below the age of 18 is to be treated like a child. This is in contravention to the amended law that gives provisions for treating 16 - 18 year-olds like adults.
4. Psychological assessment is to be made to assess whether the minor can be treated as an adult or not. However, this can be subjective and not entirely scientific.
5. The argument to include 16 - 18-year-old minors in a special bracket was based on the data from the National Crime Records Bureau (NCRB). This data is itself questioned by many, and also, many of the cases were in the FIR stage and under preliminary proceedings only.
6. Most children who commit crimes are from the economically weaker sections of society. In order to reduce crime among children, there is a need to provide a better environment for the nurture of children who grow up in slum areas. Also, there is a need to foster a culture of open communication between parents and children among all classes.

Prevention is better than cure. There is a need to ensure that children do not turn to crime at all, in the first place. Also, minors who do get into crime should be held accountable depending on the circumstances. Rehabilitation is of utmost importance to avoid children in conflict with the law from becoming future liabilities for society.

UPSC Questions related to Juvenile Justice Act

Who is a child under Juvenile Justice Act?

Any individual under the age of 18 is a child.

Can a 6-year-old go to jail?

In India, No. In addition, as per Section 83 of the IPC, “Nothing is an offence which is done by a child who is above 7 years of age and under 12 who has not attained the sufficient maturity of understanding in order to judge the nature and consequence of his act on that particular occasion.”

