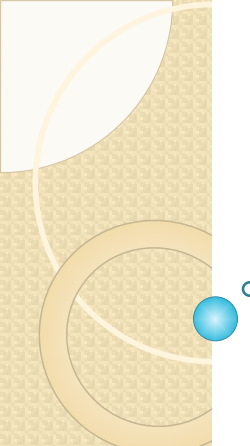




JUVENILE JUSTICE ACT, 2015



➤ As per 2011 census data, child between the ages 7 to 18 years constitutes about 25% of the total population.

➤ According to NCRB (National Crime Records Bureau), the percentage of Juvenile crimes as a proportion of total crime has increased from 1% to 1.2% from 2003 to 2013.

➤ 16-18 years olds accused of crime as a percentage of all Juvenile/Child accused of crime increased from 54% to 66% from 2003 to 2013.

Juvenile between 16-18 years apprehended under IPC

Burglary	1160	2117
Rape	293	1388
Kidnapping/Abduction	156	933
Robbery	165	880
Murder	328	845
Other offences (like cheating, rioting etc.)	11839	19641
Total	13941	25804

Source-Juveniles in conflict with law, crime in India 2013, NCRB.

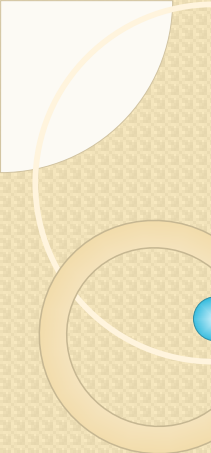
1. Key features of J.J.Act, 2015

a) Children in conflict with law.

Offences committed by child (below 18 years) are categorized as:

- i. Heinous offences (S. 2(33)) i.e. those with minimum punishment of 7 years of imprisonment.
- ii. Serious offences (S. 2(54)) i.e. Offences for which punishment is imprisonment between 3 to 7 years.
- iii. Petty offences (below 3 years of imprisonment)

- A child cannot be given life imprisonment without the possibility of release or death penalty (Sec 21)



In case of a “heinous” crime which has been allegedly committed by a person in the age group of 16-18 years, it will be examined by the J J Board to assess if the crime has been committed as a “child” or as an “adult”. Since their assessment will take place by the board which will have psychologists and social experts, it will ensure that the rights of the Juvenile are duly protected if he has committed the crime as a child. The trial of the Juvenile will accordingly take place as a child or as an adult on the basis of this assessment. (S.18(3)).

Under S.18(3), after preliminary assessment, Board may order transfer of the child who is between 16 to 18 years, as an adult, and then Board may order transfer of the trial of the case to the Children’s Court having Jurisdiction.

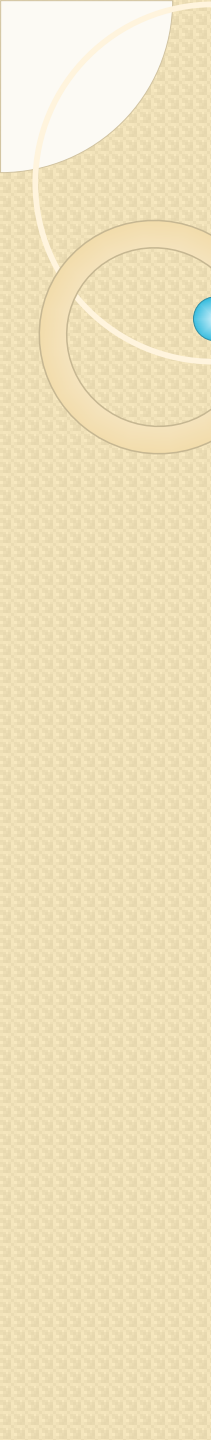
A Children’s Court is a Sessions court notified under the commission for Protection of Child rights Act 2005, or a POCSO court and where such courts have not been designated, the court of Sessions having jurisdiction to try such offences.(S 2(20)).

Fundamental Principles that shall be guided while implementing J.J.Act 2015 (Sec. 3)

- 1) Principle of Presumption of innocence.
- 2) Principle of dignity and work.
- 3) Principle of Participation.
- 4) Principle of best interest.
- 5) Principle of family responsibility.
- 6) Principle of safety.
- 7) Positive measure.
- 8) Principle of non-stigmatising semantics.
- 9) Principle of non-waiver of rights.
- 10) Principle of equality and non-discrimination.
- 11) Principle of right to privacy and confidentiality.
- 12) Principle of institutionalisation as a measure of last resort.
- 13) Principle of repatriation and restoration.
- 14) Principle of fresh start.
- 15) Principle of diversion.
- 16) Principle of natural justice.

Offences against Children

1.	Disclosure of identity of children without reasonable cause. (Sec. 74)	6 months imprisonment or fine of Rs. 2 Lakhs or both.
2.	Cruelty inflicted upon child by the person having the actual charge. (Sec. 75)	3 years imprisonment or fine of Rs. 11 Lakhs or both.
3.	Employment of child for begging. (Sec. 76)	5 years imprisonment and fine of Rs. 1 Lakh.
4.	Whoever gives intoxicating liquor or any narcotic drug or Psychotropic substances.(Sec.77)	7 years imprisonment and fine of Rs. 1 Lakh.
5.	Using a child for vending, peddling, carrying, supplying any intoxicating liquor or narcotic drug. (Sec.78)	7 years imprisonment and fine of Rs. 1 Lakh.
6.	Exploitation of a child employee. (Sec. 79)	5 years imprisonment and fine of Rs. 1 Lakh.
7.	Offering adoption without following the Provision or Procedure as provided. (Sec. 80)	3 years imprisonment or fine of Rs. 1 Lakh or both.
8.	Selling or buying a child. (Sec. 81)	5 years imprisonment or fine and fine of Rs. 1 Lakh.
9.	Corporal punishment by the person in charge or employ in a child care institution. (Sec. 82)	Fine of Rs.10000/- for first conviction and for every subsequent conviction imprisonment upto 3 months or fine or both.
10.	Use of child by militant groups or other adults. (Sec. 83)	7 years imprisonment and fine of Rs. 5 Lakh.
11.	Kidnapping and abduction. (Sec. 84)	Punishment as prescribed under Sec. 359 to 369 I P C Shall apply



✓Whoever commits any of the aforesaid offence on any child who is disabled then such person shall be liable to twice the penalty provided for such offence (Sec. 85)

✓Whoever abets any offence under the Act, shall be punished with the punishment provided for that offence (Sec. 87).

✓Where an Act or omission constitutes an offence under this Act and also under any other law, such offences shall be liable for punishment which is greater in degree.

✓Any child who commits any offence under this chapter shall be considered as child in conflict with law under this Act.

Compulsory Registration of Institution

Under the new Act all institutions, whether run by a state Government or by voluntary or non-governmental organisations, for housing children in need of care and protection or children in conflict with law shall be registered under this Act within a period of six months from the date of commencement of this Act(Sec. 41).

Any person who in charge of such institution fails to register institution under this Act shall be punished with imprisonment of 1 year or fine of not less than 1 lakh or both.

Presumption and determination of age

- In case the committee or the Board has reasonable ground for doubt whether the person brought before it is a child or not, the committee or the board shall undertake age determination process by seeking evidence by obtaining :
 - i. The date of birth certificate from the school
 - ii. The birth certificate given by a corporation or a Municipal Authority or a Panchayat.
 - iii. Only in the absence of (i) and (ii) age shall be determined by an ossification test or any other latest medical age determination test.

Leave of absence to a child placed in an institution

° The committee on the board may permit leave of absence to a child to allow him on special occasions like examination, marriage of relative, death of kith or kin or any emergency of like nature for a period not exceeding 7 days excluding the time taken in journey.

Such absence from institution shall be deemed to be part of the time for which he is liable to be kept in the home.

But when a child in conflict with law has failed to return to the special home on the leave period being exhausted, the time for which, he is still liable to be kept in the institution shall be extended by the board for a period equivalent to the time which lapses due to such failure. (Sec. 98)

Appeals (Sec. 101)

- Any person aggrieved by an order made by the committee or the board may prefer appeal to the children's court within 30 days from order.
- However the decisions by the committee related to foster care and sponsorship after care is appealable before District Magistrate .
- Appeal shall lie before the court of session against an order of the board u/s 18(3).
- No appeal shall lie from any order of acquittal made by board except in case of heinous offence.
- No appeal shall lie against order made by a committee in respect of finding that person is not a child in need of care and protection.
- No second appeal lie from any order of court of session passed in appeal under this section.

Juvenile Justice fund (Sec. 105)

➤ This Act makes Provision for creation of Juvenile Justice fund by the concerned State Government for the welfare and rehabilitation of the children dealt with under this Act by means of voluntary donations, contributions or subscriptions as may be made by any individual or organisation.

State child protection society and district child protection unit (Sec. 106)

- ▶ State Government shall constitute a Child Protection Society for the State and Child Protection Unit for every district to take up matters relating to children with a view to ensure the implementation of the Act, including establishment and maintenance of institutions under the Act, rehabilitation of children and to make co-ordination with various official and non-official agencies.

Child welfare Police Officer and Special Juvenile Police Unit (Sec. 107)

- In every Police station, at least one officer, not below the rank of assistant sub-inspector may be designated as child welfare Police Officer to exclusively deal with children either as victim or as perpetrators.
- To co-ordinate all functions of Police related to children, State Government shall constitute special Juvenile Police unit in every district and city and it includes Railway Police dealing with children.

Apprehension of child alleged to be in conflict with law.

➤ Sec. 10 of the new Act is the replica of Sec. 10 of the repealed Act of 2000, which provides as soon as a child in conflict with law is apprehended by the Police, such child shall be placed under the charge of the special Juvenile Police Unit or the designated child welfare Police Officer, who shall produce the child before the board within 24 hours excluding the time necessary for the journey and in no case such child shall be placed in a Police lock up or lodged in a jail.

Bail to child in conflict with law (Sec. 12)

A. Child in conflict with law, when brought before the Board, he may be released on bail or placed under the supervision of a

- i. Probationary Officer
- ii. Fit person.

A. Bail may be denied, if

- Release likely to bring him association with any known criminal.
- Release likely to expose him to moral, physical or psychological danger.

- Release would defeat the ends of justice

A. Board must record the reasons for denying the bail and circumstances that led to such decision.

B. When a child in conflict with law is unable to fulfil the conditions of bail order within 7 days of bail order, such child shall be produced before board for modification of the conditions of bail.

Duty to produce by Police immediate after apprehension.

- ◻ If the child is in conflict with law, the Police have to produce the child before JJB.
- ◻ A Child in conflict with law may be produced before an individual member of the Board when the Board is not sitting.
- ◻ Presence of two members needed (including Principal Magistrate) for making an order u/sec. 18(3)
- ◻ In case of difference of opinion, the opinion of majority shall prevail.

- ◻ If the child is in need of care and protection the Police shall produce the child before CWC. (Sec. 7)

Who is a child in need of care and protection (Sec. 2(14))

- ❖ Who is at imminent risk of marriage before attaining the age of marriage.
- ❖ Homeless, Abandoned.
- ❖ Street child, Forced labour, Beggar.
- ❖ Abused, tortured, neglected, exploited.
- ❖ Mentally or physically challenged/mentally or physically ill.
- ❖ Having incapacitated parents or no parent.
- ❖ Missing or run away child, whose parents are not traceable.
- ❖ Abused, tortured or exploited for the purpose of sexual abuse or illegal act.
- ❖ Vulnerable and is likely to be inducted into drug abuse or trafficking.
- ❖ Abused for unconscionable gains.
- ❖ Victim of natural or man-made calamity.

Who can produce CNCP before the Committee(Sec. 31)

Any CNCP may be produced before the Committee by

- Any Police Officer or SJPU (Special Juvenile Police Unit).
- Any Officer of DCPU (District Child Protection Unit) or inspector appointed under labour law.
- Any Public Servant.
- Childline services or any voluntary or non-governmental organisation.
- Child welfare officer or Probation Officer.
- Any Social Worker or a Public spirited citizen.
- By the child himself.
- Any nurse, doctor or management of a nursing home, hospital or maternity home.

Order that can be passed by Committee in respect of CNCP after inquiry (Sec. 37).

- ✓ Declaration that the child is in need of care and protection.
- ✓ Restoration of the child to parents or guardian or family.
- ✓ Placement of the child in Children's Home or fit facility or Specialized Adoption Agency for adoption.
- ✓ Placement of the child with fit person.
- ✓ Foster care orders u/s. 44.
- ✓ Sponsorship order u/s 45.
- ✓ Declaration that the child is legally free for adoption u/s. 38.

Final order that may be passed by the Board (S.15)

A.1. Allow the child to go home after advice or admonition and counselling to the parents/guardians and the child.

2. Direct the child to group counselling.

3. Order the child to perform community service.

4. Order the child or parent or the guardian of the child to pay fine.

5. To be released on probation of good conduct and place him under the care of parent, guardian or fit person on executing a bond.

6. Send the child to a Special Home for a maximum period of 3 years.

A. In addition to any such order Board may pass orders to

i) attend school.

ii) attend a vocational training centre.

iii) attend a therapeutic centre.

iv) undergone a de-addiction programme.

A. Where board after preliminary assessment u/s 15 pass an order that there is need for trial of the said child as an adult, then Board may order transfer of the trial of the case to the Children's Court having jurisdiction.

B. Board may order police for registration of FIR for offences committed against a child in conflict with law or CNCP

Duty of Police to inform Parents/Guardians etc. (S.13)

✓ When a child in conflict with law is apprehended, Police shall inform:

- 1) The parent or guardian of such Child, if they can be found and directed them to be present at the Board, before which the child is produced.
- 2) The Probation Officer, or if no Probation Officer is available, a child welfare officer for preparation and submission of social investigation report.

When child in conflict with law attained 21 years but yet to complete prescribed term of stay (S. 20).

✓ In such case

- ☐ Follow up evaluation by probation officer on DCPU or social worker or by children's court to know whether child has undergone reformative changes.**
- ☐ After the completion of evaluation procedure Children's Court may**
 - i) decide to release the child on such conditions as it deems fit which includes appointment of a monitoring authority for the remainder of the prescribed term of stay.**
 - ii) decide that the child shall complete the remainder of his term in jail.**

Runaway child in conflict with law (S. 26)

❖ Police shall produce a runaway child within 24 hours before the Board which passed original order in respect of that child

Or

to the nearest Board where the child is found.

Alert : NO ADDITIONAL PROCEEDING CAN BE INSTITUTED IN RESPECT OF SUCH CHILD.

Provision regarding abandoned, missing and surrendered child (S. 32-35).

Any individual or any organisation or a Police Officer
Finds

- An abandoned child.
 - Missing child.
 - Orphan child without family support
- Within 24 hours, shall give information to
- Childline services.
 - Nearest Police Station.
 - Child Welfare Committee.
 - DCPU
 - Handover the Child Care Institution registered under this Act.

❖ If no information given within 24 hours then it would constitute an offence.

❖ Such offence shall be punishable with imprisonment upto 6 months or fine of Rs. 10,000/-.

❖ If any parent or guardian wishes to surrender a child

i. He shall produce the child before the Committee.

ii. The Committee on satisfaction will cause a deed to be executed by the parent or guardian.

iii. The parents or guardian shall be given two months time to reconsider their decision.

iv. In the intervening period, the child may be placed

a) with the parents or guardian

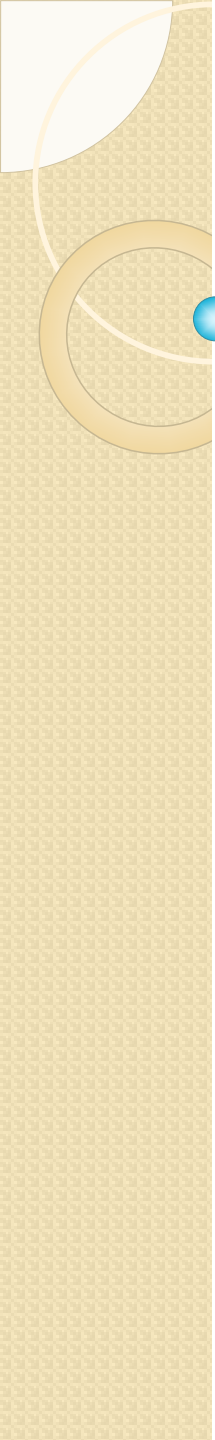
or

b) i) in a specialized Adoption Agency (if child is below 6 yrs)

ii) in a Children's Home (if child is above 6 years)

Special Provisions

- ❖ The Board on satisfaction is empowered to dispense with the attendance of a child for the purpose of inquiry.
- ❖ Where attendance of a child is required before Board or the Committee, such child shall be entitled to reimburse his and his escorts travelling expenses by the Board or the Committee or the DCPU as the case may be.
- ❖ Where the child who has been brought before the Board/Committee requires prolonged medical treatment, the committee or the Board shall send the child in an approved place for medical treatment.
- ❖ Where the child is found to be mentally ill or addicted to alcohol or other drugs, the Committee or the Board may order removal of such child to a psychiatric hospital or psychiatric nursing home in accordance with the provisions of the Mental Health Act.



Laws framed for child protection

❖ LEGISLATIONS-

- Prohibition of Child Marriage Act, 2006
- The Commissions for Protection of Child Rights Act, 2005
- The Juvenile Justice (Care and Protection of Children) Act, 2015
- The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995
- The Pre-Conception and Pre-natal Diagnostic Technique (Prohibition of Sex Selection) Act, 1994
- The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992
- The Immoral Traffic (Prevention) Act, 1986
- The Child Labour (Prohibition and Regulation) Act, 1986

We also need to keep in mind -

- ❑ The Guardian and Wards Act, 1890
- ❑ The Young Persons (Harmful Publications) Act, 1956

Protection

- ❖ Handling by special Juvenile Police (Sec. 10(1))
- ❖ Handcuffing of Juvenile/child prohibited (1995)3 SCC 743
- ❖ Police should not be in uniform and all procedure should be child-friendly (Sec. 7)
- ❖ Child/Juvenile cannot be kept in jail or lock-up (sec. 10(1))
- ❖ No death penalty or life imprisonment without the possibility of release.(Sec. 21)
- ❖ Proceeding are informal, participatory and private. (sec. 14(5) & Sec. 99)
- ❖ Parents to be involved in juvenile processes (sec. 13 & Sec 90)
- ❖ Right to free legal aid (Sec. 8(3)(c))
- ❖ No joint trial of a juvenile with an adult (Sec. 23)
- ❖ Information about a juvenile cannot be released to media. (Sec. 74)
- ❖ Inquiry under this section shall be completed within a period of four months and preliminary assessment under section 15 shall have to be completed within three months from the date of first production. (Sec. 14)
- ❖ If inquiry by the Board for petty offences remains inconclusive after six months the proceedings shall stand terminated. (Sec. 14(4))
- ❖ Facility of interpreter or translator, where the child fails to understand the language used in a proceeding.(Sec. 8 (3)(d))



THANK YOU