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# **EXAMINING THE LEGAL FRAMEWORK** **GOVERNING JUVENILE JUSTICE AND** **REHABILITATION IN INDIA**

AUTHORED BY - HARRIS M FAZAL

## **Introduction**

The concept of juvenile justice and rehabilitation holds paramount importance in any society striving for equitable and humane treatment of its younger population. In India, the legal framework governing juvenile justice has undergone significant evolution over the years, reflecting changing societal norms, international obligations, and a growing recognition of the unique needs and vulnerabilities of children in conflict with the law. This article aims to delve into the intricacies of the legal framework governing juvenile justice and rehabilitation in India, examining its key provisions, challenges, and prospects for reform.

## **Historical Background**

India's earliest legislative response to juvenile delinquency dates back to the enactment of the Apprentices Act, 1850, which provided for the apprenticeship and training of juvenile offenders. Subsequent legislative measures such as the Reformatory Schools Act, 1897, and the Madras Children Act, 1920, laid the foundation for juvenile justice by establishing institutions for the reformation and rehabilitation of young offenders. However, these laws primarily focused on custodial care rather than addressing the underlying causes of delinquency.

A significant milestone in India's juvenile justice landscape was the enactment of the Juvenile Justice Act, 1986 (JJA 1986), which represented a paradigm shift towards a more child-centric and rehabilitative approach. The JJA 1986 recognized juveniles as individuals below the age of sixteen and emphasised diversionary measures such as probation, counselling, and community-based rehabilitation programs. However, critics pointed out deficiencies in the Act's implementation, including inadequate infrastructure and limited emphasis on reintegration.

Building upon the foundation laid by the JJA 1986, the Juvenile Justice (Care and Protection of Children) Act, 2000 (JJ Act 2000), marked a watershed moment in India's juvenile justice

jurisprudence. This comprehensive legislation expanded the age range for juveniles to include individuals below the age of eighteen, aligning with international standards such as the United Nations Convention on the Rights of the Child (UNCRC). The JJ Act 2000 introduced specialised juvenile justice boards and child welfare committees, mandated the establishment of observation homes, and emphasised rehabilitation and reintegration measures for juvenile offenders. Additionally, it incorporated provisions for the care and protection of children in need, encompassing aspects such as adoption, foster care, and institutional support.

The latest legislative iteration in India's juvenile justice landscape is the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act 2015), which represents a holistic and rights-based approach towards juvenile justice.

### **Key Provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015**

**Changes in Nomenclature and Definitions:** - The Act's amendment in 2015 introduced a significant shift from the term 'juvenile' to 'child' and 'child in conflict with the law.' This change reflects a more inclusive and child-centric approach, emphasising the inherent rights and vulnerabilities of children within the justice system.

**Definition of Orphaned, Surrendered, and Abandoned Children:-** The Act provides comprehensive definitions for orphaned, surrendered, and abandoned children, recognizing the distinct needs and circumstances of children requiring care and protection. This clarity enables targeted interventions and support mechanisms for vulnerable children.

**Categorization of Offences:** - A notable feature of the Act is the categorization of offences committed by children into petty, serious, and heinous crimes, based on the severity of the offence and the corresponding punishment under existing laws. A heinous offence, attracting a maximum punishment of 7 years' imprisonment, signifies the gravity of certain crimes, necessitating specialised interventions for rehabilitation and reintegration.

**Establishment of Juvenile Justice Boards (JJB) and Child Welfare Committees (CWC):-** The Act establishes Juvenile Justice Boards (JJB) at the district level to handle cases of juvenile offenders. These boards comprise judicial and social work experts to ensure a child-friendly approach. Similarly, Child Welfare Committees (CWC) are formed to address cases of children

in need of care and protection, emphasising their holistic well-being.

**Let's delve into the detailed functioning of each of these bodies:**

**Juvenile Justice Boards (JJB)**

The Juvenile Justice Boards (JJBs), established at the district level in every state or Union territory, consist of a Metropolitan Magistrate or Judicial Magistrate of the first class, accompanied by two social workers, with one being a woman. With jurisdiction over cases involving children accused of offences categorised as petty, serious, or heinous, based on the severity of the offence, JJBs uphold principles of natural justice in their adjudication process. Adopting a child-centric approach, they prioritise safeguarding the rights and best interests of the child throughout proceedings, offering legal assistance, counselling, and support to the juvenile accused. In cases of guilt, JJBs prescribe rehabilitative measures such as counselling, vocational training, educational programs, community service, or placement in special homes, aiming at the child's reformation and social reintegration. Maintaining confidentiality, JJB proceedings are conducted in-camera to protect the privacy and dignity of the juvenile accused, preventing stigmatisation and discrimination while ensuring a fair and equitable process.

**Child Welfare Committees (CWC)**

At the district level in every state or Union territory, Child Welfare Committees (CWCs) are constituted, each comprising a Chairperson and four members, including at least one woman and one individual with expertise in child welfare. Tasked with ensuring the care, protection, and rehabilitation of children in need, CWCs handle cases involving orphaned, abandoned, surrendered, or abused children. They conduct thorough inquiries and assessments, gathering information from multiple sources, to determine the circumstances of children requiring care and protection. Based on their assessments, CWCs make placement and rehabilitation decisions, including placement in children's homes, foster care, or adoption, prioritising the best interests of the child. Monitoring and periodic review of cases ensure appropriate interventions and may lead to modifications or additional support services as needed. Through collaboration with government agencies, NGOs, and community-based organisations, CWCs facilitate access to education, healthcare, counselling, and essential services, ensuring comprehensive support for children under their care.

In essence, Juvenile Justice Boards and Child Welfare Committees play crucial roles in safeguarding the rights and well-being of children within the juvenile justice system. Through

their child-centric approach, these bodies ensure that the principles of rehabilitation, reintegration, and protection are upheld, fostering a supportive and nurturing environment for children in conflict with the law and those in need of care and protection.

**Rehabilitation and Social Reintegration:** - The Act prioritises rehabilitation and social reintegration of juvenile offenders through observation homes, education, vocational training, and counselling. Age-appropriate interventions are crucial in addressing underlying issues and facilitating successful reintegration into society.

Section 39 of the Juvenile Justice (Care and Protection of Children) Act, 2015, lays out the framework for the rehabilitation and social reintegration of children in need of care and protection or those in conflict with the law. This process is initiated through individualised care plans tailored to each child's specific needs. The preferred approach emphasises family-based care, which may involve restoration to the family with or without supervision, sponsorship, adoption, or foster care.

In cases where a child in conflict with the law is not granted bail, observation homes serve as appropriate settings to commence the rehabilitation and social integration process. Regardless of the placement, efforts towards rehabilitation and social integration begin promptly. If a child cannot be placed with a family for any reason, institutions established under the Act cater to their needs. Financial assistance is provided to children in conflict with the law and those in need of care and protection when they depart from special homes or places of safety upon reaching the age of eighteen. This support aims to facilitate their reintegration into society.

**Open shelters-** mandated by the Juvenile Justice Act, 2015, are established and maintained by state governments, either independently or through voluntary or non-governmental organisations. These shelters, registered under the Act, serve as community-based facilities for children requiring housing assistance. However, such support is temporary, provided for a limited duration to shield children from abuse or assist them in transitioning away from street life. Open shelters are obligated to provide monthly updates about the children under their care to the District Child Protection Care Unit and the Committee.

**Foster Care-** Children requiring care and protection may be placed in foster care, including group foster care, as directed by the Committee. This placement occurs within families unrelated to the

child biologically or through adoption, or in families recognized by the State Government as suitable for this purpose, for varying durations. Foster families undergo selection based on their qualifications, intentions, competence, and prior experience in caring for children. Monthly funding is provided by State governments through the District Child Protection Unit, taking into account the number of children placed. Foster families assume responsibility for the child's education, health, and nutrition.

**Sponsorship-** State governments administer individual, group, or community sponsorship programs. These programs offer medical, nutritional, educational, and supplementary support to families, children's homes, and special homes.

**After-Care Institutions-** Upon reaching eighteen years of age and leaving a child care institution, financial assistance may be provided to aid in the child's reintegration into society.

**Observation Homes-** Children in need of protection for a brief period during inquiries or trials are accommodated in observation homes. These homes are established by State governments or through voluntary or non-governmental organisations in every district or group of districts. Mandated by Section 41 of the JJ Act, 2015, these observation homes offer interim relief, protection, care, and rehabilitation to children in conflict with the law. State governments can enact regulations to govern and oversee observation homes, establish standards, and define various services for the rehabilitation and social integration of such children.

**Special Homes-** State governments are empowered to establish and maintain special homes in each district or group of districts to rehabilitate children in conflict with the law or those who have committed offences under the orders of the Juvenile Justice Board.

**Adoption-** Adoption is facilitated to ensure the right to a family for orphaned, abandoned, or surrendered children, adhering to the provisions of the Act. The Act permits intra-family adoptions regardless of religion, in accordance with adoption regulations. All inter-country adoptions must comply with the terms of the Act and adoption regulations.

These provisions, instituted by the Government of India, aim to facilitate the rehabilitation and social reintegration of children in conflict with the law and those in need of care and protection. However, due to inadequate implementation, satisfactory outcomes have not been realised.

## Challenges and Concerns

Despite the existence of a progressive legal framework, the implementation of juvenile justice laws in India is hindered by various challenges. Inadequate infrastructure and resources present significant barriers to the effective functioning of Juvenile Justice Boards (JJBs), observation homes, and other rehabilitation facilities. Furthermore, lengthy judicial processes and delays in case disposal contribute to prolonged periods of detention for juvenile offenders, diminishing their prospects of successful rehabilitation. Additionally, juvenile offenders often encounter societal stigma and discrimination, impeding their reintegration into mainstream society and access to education and employment opportunities. The prevalence of marginalisation and socio-economic disadvantage among juvenile offenders underscores the necessity for comprehensive social support systems to address the underlying causes of juvenile delinquency.

## Prospects for Reform

Addressing the challenges encountered by the juvenile justice system in India necessitates collective action from various stakeholders, encompassing policymakers, law enforcement agencies, the judiciary, civil society organizations, and the broader community. Potential areas for reform encompass strengthening infrastructure through investments in the development of facilities and capacity-building initiatives for Juvenile Justice Boards (JJBs), observation homes, and rehabilitation centers. Such efforts are essential to ensure the availability of adequate resources for the rehabilitation and reintegration of juvenile offenders.

Moreover, expediting judicial procedures and adopting alternative dispute resolution mechanisms are vital steps to streamline processes and minimize delays in delivering justice for juvenile offenders. Community involvement plays a pivotal role in fostering partnerships between government entities, NGOs, schools, and local communities, thereby promoting active participation in the rehabilitation and reintegration process.

Furthermore, sensitization programs and awareness campaigns are imperative to challenge prevailing stereotypes and misconceptions surrounding juvenile delinquency. By fostering a more empathetic and inclusive approach towards juvenile offenders, these initiatives aim to promote understanding and support within society. Through concerted efforts in these areas, stakeholders can work collaboratively towards enhancing the effectiveness and fairness of the juvenile justice system in India.

## Conclusion

The legal framework governing juvenile justice and rehabilitation in India has made significant strides in recent years, reflecting a growing recognition of the rights and needs of children in conflict with the law. However, persistent challenges in implementation and gaps in service delivery continue to pose obstacles to the effective realisation of juvenile justice goals. Addressing these challenges requires sustained commitment, collaboration, and innovation to ensure that every child, regardless of their circumstances, is given the opportunity to rehabilitate, reintegrate, and lead a fulfilling life as a productive member of society.

