

ISSN: 2582-6433



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

[www.ijlra.com](http://www.ijlra.com)

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# **AN ANALYSIS ON THE JUVENILE JUSTICE SYSTEM IN INDIA**

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## **Abstract:**

The juvenile justice system in India is a structure created to meet the needs and defend the rights of children who are in legal trouble. This system acknowledges that juvenile offenders should not be treated as adult criminals because they have not yet reached their full potential in terms of mental, emotional, or social development. Instead, they need particular care and consideration to help them change and reintegrate into society. The Juvenile Justice (Care and Protection of Children) Act, of 2015, establishes guidelines for the care, protection, and rehabilitation of children in conflict with the law. The system performs a variety of functions, including juvenile identification and processing, rehabilitation and reintegration, care and protection, crime prevention, and monitoring and evaluation. The juvenile justice system in despite some criticisms In India, the juvenile justice system is vital to safeguarding the welfare of children who are in legal trouble and defending their rights.

Keywords: Juvenile, children, rehabilitation, reintegration, legal

## **Introduction**

The Juvenile Justice System in India is a framework designed to cater to the needs and protect the rights of children in conflict with the law. The system recognizes that children who have committed offenses are not fully developed mentally, emotionally, or socially, and hence should not be treated as adult criminals. Instead, they require special care and attention to reform and reintegrate them into society.

The Juvenile Justice (Care and Protection of Children) Act, of 2015, replaced the earlier Juvenile Justice (Care and Protection of Children) Act, of 2000, and laid down new provisions

for the care, protection, and rehabilitation of children in conflict with the law. The Act defines a "juvenile" as any person who has not completed eighteen years of age.

The role of the Juvenile Justice System in India is multi-fold. The system aims to protect the rights of children and ensure their well-being while providing them with access to justice. The following are some of the key roles of the Juvenile Justice System in India:

1. **Identification and processing of juveniles:** The system is responsible for identifying juveniles who come in conflict with the law and processing their cases through a child-friendly and non-adversarial approach. The system also ensures that the identity of the juvenile is kept confidential.
2. **Rehabilitation and reintegration:** The system aims to rehabilitate and reintegrate juveniles back into society by providing them with education, vocational training, counselling, and other forms of support.
3. **Protection and care:** The system ensures that the best interest of the child is the primary consideration in all decisions related to the juvenile. The system also provides for the care and protection of children who are victims of abuse, neglect, or exploitation.
4. **Supportive environment:** Prevention is and development of children and creating a supportive environment for their growth.
5. **Monitoring and evaluation:** The system monitors the progress of juveniles who are undergoing rehabilitation and reintegration and evaluates the effectiveness of the rehabilitation programs.

The Juvenile Justice System in India has faced criticism in the past for being too lenient towards juvenile offenders. However, the system has evolved over the years to strike a balance between the need for justice and the rights of the child. The system recognizes that children who commit offenses require care and support rather than punishment and aims to provide them with opportunities for growth and development.

## **METHODOLOGY:**

The study has adopted the doctrinal approach to research, which mainly uses secondary sources. We have consulted as many sources as possible, including books, journals, as well as various articles and lectures by eminent legal scholars from India and other countries. The following techniques have been used to fulfill the goals of our study and collect the necessary data:

1. Study of the research books already in existence.

2. Books and journals that are both primary and secondary sources.
3. Online browsing.
4. Listening to the lectures of leading jurists.
5. Study of various committee reports and other Governmental Publication

### **RESEARCH QUESTION:**

What are the roles of the juvenile justice system in India?

### **RESEARCH OBJECTIVE**

To know about the roles of the juvenile justice system in India.

## **HISTORY OF THE JUVENILE JUSTICE SYSTEM IN INDIA**

India is home to one of the largest populations of children in the world. The country has made significant progress in improving the lives of children in recent years, but challenges remain, particularly when it comes to children who come into conflict with the law. The juvenile justice system in India is responsible for handling cases involving children who are accused or convicted of committing crimes. The system is governed by the Juvenile Justice (Care and Protection of Children) Act, of 2015, which replaced the earlier Juvenile Justice Act, of 2000. In the modern era, there has been a global movement for the special treatment of juvenile offenders, especially in many industrialized nations like the United States and the United Kingdom. Midway through the eighteenth century, this movement got started. In the past, juvenile offenders received the same treatment as more serious offenders. For the same reason, on November 20, 1989, the UN General Assembly passed the Declaration on the Rights of the Child. The goal of this agreement is to safeguard young offenders' best interests.

The Treaty stipulates that juveniles will not be the subject of any legal or judicial actions to protect their social rehabilitation. The Convention requests that the Juvenile Justice Act of 1986 be repealed and replaced with new legislation. As a result, the "Juvenile Justice (Care and Protection of Children) Act, of 2000" was passed by the Indian legislature.

In order to comply with the recommendations made in the UN Basic Executive Regulations for Young Offenders, which were ratified in November 1985, the Juvenile Justice Act of 1986, which modified the earlier Children's Act of 1960, was enacted. The aforementioned Act, which was applicable to the entire country of India, was broken down into 63 sections and 7

chapters. The primary goal of the law is to offer abused juvenile offenders protection, support, rehabilitation, training, and treatment.

### **DEFINITION OF CHILD**

The term "child" was defined in section 2(12) to refer to a child under the age of 18. Juvenile refers to a person under the age of 18 in Section 2(35). In the 2015 Act, the term "juvenile" is defined for the first time. A child who lacks biological parents, legal guardianship, adoptive parents, or guardianship under Section 2 (42) is referred to as an orphan.

According to Section 2 (60), a child is deemed to be a "surrendered child" if their biological or adoptive parents, guardians, or parents have waived their rights due to a child's physical, mental, or other disability or a social factor that cannot be changed by them. A child who has committed minor, major, or heinous crimes, also known as a "child in conflict with the law," is referred to in Section 2 (13) as a "child in violation of the law."

### **DISTINCTION BETWEEN JUVENILE & CHILD**

A minor is a natural person who is either younger than 18 years old or has not attained the age of majority and legal responsibility. Even though a minor is someone between the ages of 16 and 18, the accused child is not tried as an adult but rather is sent to a children's treatment center. The young offender has been charged and is currently standing trial as an adult.

Both terms have the same definition in general; the distinction is in the context of the associated legal repercussions. A child or juvenile is referred to as a juvenile, whereas an immature person or young offender/offender is referred to as a juvenile.

### **OVERVIEW OF THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015**

The Juvenile Justice (Care and Protection of Children) Act, of 2015, is the primary legislation governing the juvenile justice system in India. The Act defines a child as a person who has not completed eighteen years of age. The Act aims to ensure that children in conflict with the law receive appropriate care, protection, and rehabilitation and that their rights and best interests are protected. The Act also emphasizes the need to treat children in a manner that is consistent with their age and developmental stage, and that takes into account their social, cultural, and economic background.

The Act provides for the establishment of Juvenile Justice Boards (JJBs) and Child Welfare Committees (CWCs) at the district and state levels. The JJBs are responsible for hearing cases involving children in conflict with the law, while the CWCs are responsible for the care and protection of children in need of care and protection. The Act provides for a range of measures to ensure the effective functioning of JJBs and CWCs, including training programs, capacity building, and the provision of resources and facilities.

## **JUVENILE JUSTICE BOARDS AND CHILD WELFARE COMMITTEES**

The Juvenile Justice Boards (JJBs) and Child Welfare Committees (CWCs) are the two key institutions responsible for implementing the juvenile justice system in India. The JJBs are composed of a judicial magistrate and two social workers, one of whom must be a woman. The JJBs are responsible for hearing cases involving children in conflict with the law, determining guilt or innocence, and imposing appropriate measures for rehabilitation and reintegration into society. The JJBs are also responsible for ensuring that children in conflict with the law are treated in a manner that is consistent with their age and developmental stage.

The Child Welfare Committees (CWCs) are responsible for the care and protection of children in need of care and protection. The CWCs are composed of a chairperson and four other members, including at least one woman. The CWCs are responsible for determining the status of children in need of care and protection, such as abandoned, orphaned, or neglected children, and for ensuring that appropriate measures are taken to protect their rights and best interests.

## **REHABILITATION AND REINTEGRATION MEASURES**

The Juvenile Justice (Care and Protection of Children) Act, of 2015, emphasizes the importance of rehabilitation and reintegration measures for children in conflict with the law. The Act provides for a range of measures to help children in conflict with the law reintegrate into society, including counseling, education, vocational training, and skill development. The Act also provides for the establishment of Observation Homes and Special Homes, where children can be housed and receive care, protection, and rehabilitation services.

## **OBSERVATION HOMES AND SPECIAL HOMES**

Observation Homes are temporary facilities where children in conflict with the law are housed during the pendency of their case. These homes are meant to provide a child-friendly environment that encourages the physical, emotional, and intellectual development of children. The homes are required to provide basic amenities such as food, clothing, shelter, and medical care to the children. In addition, the homes are also required to provide education and vocational training to the children to prepare them for their eventual release.

Special Homes, on the other hand, are long-term facilities where children who are convicted of an offense can be housed and receive care, protection, and rehabilitation services. The homes are meant to provide a safe and supportive environment that enables the children to develop their potential and lead productive lives. The homes are required to provide education, vocational training, counselling, and other rehabilitation services to the children.

## **REHABILITATION SERVICES**

The Juvenile Justice (Care and Protection of Children) Act, of 2015, emphasizes the importance of rehabilitation and reintegration measures for children in conflict with the law. The Act provides for a range of rehabilitation services to help children in conflict with the law reintegrate into society. These services include counselling, education, vocational training, and skill development. The Act also provides for the establishment of After Care organizations, which are meant to provide support and guidance to children after their release from Special Homes.

## **CHALLENGES FACED IN IMPLEMENTING**

### **REHABILITATION MEASURES**

Despite the provisions in the Juvenile Justice (Care and Protection of Children) Act, of 2015, there are several challenges faced in implementing rehabilitation measures. One of the main challenges is the lack of adequate resources and infrastructure to provide rehabilitation services. Many Observation Homes and Special Homes lack basic amenities and facilities, making it difficult to provide quality care and rehabilitation services to the children.

Another challenge is the lack of trained professionals to provide counselling and other rehabilitation services. The shortage of qualified social workers, psychologists, and vocational trainers makes it difficult to provide comprehensive rehabilitation services to children.

Moreover, there is a lack of coordination between different agencies responsible for providing rehabilitation services. Often, different agencies work in silos, leading to duplication of efforts and inefficient use of resources.

## **POSSIBLE SOLUTIONS TO ADDRESS THE CHALLENGES**

To address the challenges faced in implementing rehabilitation measures, there is a need for the government to allocate adequate resources and improve infrastructure in Observation Homes and Special Homes. The government should also focus on training and recruiting more qualified professionals to provide rehabilitation services. Additionally, there should be greater coordination between different agencies responsible for providing rehabilitation services to ensure efficient and effective delivery of services.

To address the criticisms and challenges faced in implementing the Juvenile Justice (Care and Protection of Children) Act, 2015, there is a need for greater awareness among stakeholders about the provisions of the Act. The government should conduct awareness campaigns to educate law enforcement agencies, judicial officers, and social workers about the Act. The government should also allocate adequate resources to JJBs and CWCs to improve their infrastructure and facilitate their functioning.

## **CASES ON THE JUVENILE JUSTICE SYSTEM IN INDIA**

In **Gaurav Jain v. Union of India**<sup>1</sup>, the Supreme Court of India discussed the preamble of the Constitution and stated that it is an integral part of the Constitution of India and that children have the right to equality of opportunity, dignity and care, protection and rehabilitation of societies with both hands. This was done during negotiations with a written proposal in accordance with Article 32 of the Constitution regarding a difficult situation involving prostitutes or fallen women and their offspring.

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<sup>1</sup> Gaurav Jain v. Union of India, 1990 AIR 292, 1989 SCR Supl

The Supreme Court of India stated in **Laxmi Kant Pandey v. State**<sup>2</sup> that every child has the right to love and affection as well as moral and material security and that these rights can be met if the child is raised in a family. The court also stated that after domestic adoption has been exhausted, international adoption should be permitted.

Some event becomes a mile that shook the psyche of a society or a nation in **Subramanian Swamy v. Raju Thr**<sup>3</sup>. member of the Council for Juvenile Justice. A 23-year-old university student was gang-raped in a running bus in the Delhi Gang Rape Case in December 2012 by 6 people, one of the homes was a few months younger than 18. As a result, the juvenile defendant who was accused and tried in JJB was sent to a special home for three years. A juvenile could move freely in society even after committing the heinous crimes of rape and murder, which included sticking an iron rod into the victim's private area.

Dr. Subramaniam Swami, a Rajya Sabha member, former law minister, and senior Supreme Court advocate, has filed a request with the court asking for an order prohibiting the release of a particular juvenile from a special home. Because the current law does not permit it, the Supreme Court of India stated that it was powerless to stop the release of a deployed minor. Swami should approach the Indian Parliament to request the necessary changes to the law, which would increase the punishment for such offenses. Nothing here would be taken out of context. to point out that the juvenile who was deployed was housed in a special facility along with the suspect in the Delhi Blast Case. Thus, it is simple to imagine how the blast suspect's impact would affect a dejected cub and vice versa.

The cub was released from the observation home and later discovered committing an even more heinous crime in a strange home, it was further observed. It follows that the question of whether this reformatory can fulfill the objectives for which these houses were built naturally arises.

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<sup>2</sup> Laxmi Kant Pandey v. State, 1984 AIR 469

<sup>3</sup> Subramanian Swamy v. Raju Thr, 2018

## **CONCLUSION**

### A. Summary of Key Findings

The Juvenile Justice System in India has evolved over the years, with the introduction of the Juvenile Justice (Care and Protection of Children) Act, 2015, which seeks to provide care, protection, and rehabilitation to children in conflict with the law. However, the implementation of the Act has been hampered by several challenges, including the lack of resources, infrastructure, and trained professionals. The juvenile justice system in India has also been subject to several criticisms, including its effectiveness in deterring juvenile crime and its fairness and impartiality.

### B. Implications for Future Research

Future research should focus on evaluating the effectiveness of rehabilitation measures provided to children in conflict with the law in India. Research should also focus on identifying best practices in other countries that can be adopted in India to improve the juvenile justice system. Additionally, research should be conducted to understand the reasons for the high rates of recidivism among juveniles in India.

### C. Recommendations for Improving the Juvenile Justice System in India

To improve the juvenile justice system in India, there is a need for greater awareness among stakeholders about the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015. The government should allocate adequate resources to JJBs and CWCs to improve their infrastructure and facilitate their functioning.

There should also be greater coordination between different agencies responsible for providing rehabilitation services. Additionally, the government should focus on training and recruiting more qualified professionals to provide rehabilitation services to children in conflict with the law. Finally, there should be a greater emphasis on research to identify best practices and evaluate the effectiveness of rehabilitation measures in India.

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