

Juvenile Justice Act

Three state child rights commissions, including Bengal, Rajasthan, and Punjab, had merged with the Delhi Commission for the Protection of Child Rights (DCPCR), urging the Union government to reverse an amendment to the Juvenile Justice Act that defines certain crimes against children as non-cognizable. The Juvenile Justice Act 2015 (Care and Protection of Children), as amended by Presidential acceptance, took effect in 2021. Earlier, the National Commission for the Protection of Child Rights (NCPCR) evaluation of Child Care Institutions (CCIs) in 2020 revealed serious problems with the operation of childcare establishments.

What is the Juvenile Justice Act 2015?

The Juvenile Delinquency Law and the Juvenile Justice Act 2000 (Care and Protection of Children Act) were repealed by the Act, which was presented and passed in Parliament in 2015. It permitted the trial of juveniles violating the law between the ages of 16 and 18 as adults in scenarios where the offenses had to be ascertained.

A Juvenile Justice Board was to ascertain the type of crime committed and decide whether the juvenile must be tried as a minor or as a child. It gained traction following the 2012 Delhi gang rape, which occurred where one of the offenders was under the age of 18 and thus was tried as a juvenile.

Features of the Juvenile Justice Act 2015

To comprehend the Juvenile Justice (Care and Protection of Children) Act, it is important to understand its features in absolute depth. The following are the features of the JJ act 2015:

- The Juvenile Justice (Care and Protection of Children) Act was instituted and passed by the Indian Parliament in 2015 to substitute the Juvenile Delinquency Law and the Juvenile Justice Act of 2000.
- The Act included clauses for juveniles aged 16 to 18 to be tried as adults if they were found to be in violation of the law, particularly heinous offenses.
- The Act also included provisions for adoption. The Hindu Adoptions and Maintenance Act (1956) and the Guardians of the Ward Act (1890) were repealed in favor of more universally accessible adoption regulations.
- The JJ Act made the Central Adoption Resource Authority (CARA) the statutory framework for adoption-related matters, allowing adoption techniques for orphans, surrendered, and neglected or abandoned children to run smoothly.
- All Child Care Institutions, regardless of whether they are run by the State Government or by voluntary or non-governmental organizations, must be registered under the Act within 6 months of its implementation.
- The Juvenile Justice Act refined adoption methodologies for orphans, homeless children, and children who had surrendered.
- The act also established foster care in India.
- To allow it to carry out its duties more efficiently, the current Central Adoption Resource Authority (CARA) has been upgraded to the status of a statutory body.
- The law also states that when a decision to adopt a child is taken, disabled children and physically or financially ineffectual children are given precedence.
- Special measures have been taken to deal with child offenders aged 16 to 18 who commit heinous crimes.

- After undertaking the preliminary assessment, the Juvenile Justice Board has the option of transferring cases of heinous criminal offenses conducted by such children to a Children's Court (called a Court of Session).

Offenses under the Juvenile Justice Act

The Juvenile Justice (Care and Protection of Children) Act covers three types of offenses. These offences include- Cognizable, Non-Cognizable, and cases including both Cognizable and Non-Cognizable Offences. All these offenses are discussed in detail in the section below:

Cognizable Offences:

A cognizable offense, under the Juvenile Justice Act 2015, is a crime for which a policeman, according to the first schedule or any other law in force at the time, could first detain the convict with no need for a warrant and begin an investigation without consent from the court. Killing, rape, abduction, thievery, dowry death, and other abhorrent or profound offenses are examples of cognizable offenses. Only cognizable crimes receive a first information report (FIR).

Non-Cognizable Offences:

A non-cognizable crime is one that is not bailable and is listed in the first schedule of the Indian Penal Code. In the instance of a non-cognizable offense, the police cannot detain or investigate the defendant in the absence of a warrant.

A charge sheet is filed with the magistrate, who is presumed to direct that an investigation be launched by the involved police officers. Falsification, deception or cheating, defamation, public nuisance, and other non-cognizable crimes fall into this category.

Cases including both Cognizable and Non-Cognizable Offences:

As per Section 155(4) of the Criminal Procedure Code, whenever there are two or maybe more crimes conducted in a case, at least one of which is cognizable and the other is not, in that scenario, the complete case must then be treated as a cognizable case, with the lead investigating officer having all of the authority and power that he possesses when investigating a cognizable case.

Problems with Juvenile Justice Act 2015

There were multiple issues that arose post the Juvenile Justice Act of 2015. Following is a list of problems with the juvenile justice act that the experts and the public highlighted:

- The amendment in question is to Section 86 of the JJ Act, which states that crimes under the special law, punishable by three to seven years in prison, have now been recategorized as non-cognizable.
- While victims will be unable to straightforwardly report such crimes due to power imbalances, often such crimes are brought to the police by either parents or child rights organizations and Child Welfare Committees (CWC).
- Parents of such children are most often day laborers who are either unsure how to go about reporting the crime or are unwilling to document the crimes with the police.
- They do not want to participate in the court process as it would require them to leave work, resulting in wage loss.
- In most cases, CWCs' (Child Welfare Committees) very first intuition is to "talk and come to an agreement" without intensifying the incident to the police.
- Attempting to make these crimes, as well as several other major offenses under the special law, non-cognizable would end up making trying to report a crime to the police much more complicated.