**RESEARCH PAPER**

 **ON**

**Juvenile Convicts and Human Rights**

By: -

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**ABSTRACT**

In this research paper an attempt is made to analyze the special provisions that are vested on Juveniles in India with the light of its constitutional philosophy and the international conventions. This paper gives a commences with the brief introduction on the term juvenile and the related provisions, later a brief background on how such juvenile delinquents were dealt with in the pre and post-Independence era along with the present provisions in India. In present provisions of India, the definition of the juvenile and child are discussed and the Juvenile Justice Act of 2000 and 2015 along with each of their special objectives, salient features and principles are discussed in depth. Types of Juvenile are also discussed with more emphasis on the present most common types of juvenile committing crimes and the important reasons behind them, it also includes some comments from famous authors who have shared their views on the same subject matter. And the most important discussion made in this research paper is the role of human rights in juvenile justice and the role of other organization like the UNICEF, this also deals with some prescribed the least privileges and opportunities that should be regarded by governments. In the prevention of juvenile delinquency, a brief on is discussed on the recognizing juveniles and addressing the methods by which juvenile delinquency is prevented in India.

**KEYWORDS:** Juvenile, international convention, Human Rights, Justice, Act.

**INTRODUCTION**

A “Juvenile” is a person who has not completed eighteen years of age. They represent the nation and the coming future of the country, but in the past years the crimes due to juveniles has increased dramatically.The general tendencybehind such commitment of the crime are early-life experiences, dominant masculinity, upbringing, economic havocs, lack of education, etc. Juvenile crime, previously addressed as juvenile delinquency, is a term that defines the participation of a minor (person below the age of 18) in an illegal activity.Juvenile Justice is the legal system in developing countries such as Indiawhich aims to protect all children, bringing within its purview “the children in need of protection”, setting aside those individual or acts which are “in conflict with law”. The constitution makers of India have provided with separate for the children and women.

Before the existence of the Juvenile Justice Act of 2015, 2000 and 1986, there existed the Children Act of 1960 which aimed at giving effects to the international responses towards the issue of Juvenile Justice by which they provided a uniform policy which recognized and protected the interests and rights of a Juvenile and that supervised at the care, treatment, rehabilitation which improved the development of a child in all aspects i.e., emotionally, mentally and physically.

With the recent developments in the international community with regardsto the involvement of Juveniles in crime, the Indian lawmakers were compelled to develop a new provision or aprogressive law for the concerned Juvenile system in the country this resulted in the birth of, the Juvenile Justice act of 1986, 2000 and 2015. The Introduction of the Act has replaced the existing juvenile laws and has introduced some remarkable changes. One of the remarkable changes is juvenile under the age group of 16 to 18 years should be tried as an adult.

**BACKGROUND**

**Indian Scenario: A) Pre-Independence Era:**

India has a preexisting history of providing separate legal provisions for juvenile offenders. Such provisions can be traced as far back as the Code of Hammurabi in 1790 BC, and during the colonial regime, in 1843,Lord Cornwallis established the first center for those children called “Ragged School”. The Apprentices Act, in 1850 became the first law which required that children between the ages of 10-18 convicted in Courts are to be provided with vocational training as part of their rehabilitation program. Even in the Indian Penal Code, 1960 there are exemptions of children under the age of seven years from criminal responsibility andit also exempts children between the ages of 7-12 years, as they have not attained sufficient maturity to understand to consequences of their delinquency.The Act of Criminal Procedure, 1898 provided special treatment for juvenile offenders. Then Indian Children Act came from the Indian Jail Committee between the year 1919-1920. The individual provincial government chooses to enact separate legislation for juvenile in their respective jurisdictions. These laws contained provisions for the establishment of a specialized mechanism for the treatment of juveniles.

**B) Post-Independence Era:**

In the post-independence era, Juvenile Justice policy in India is structured around the Constitutional framework which is prescribed inArticles 15 (3), 21, 24, 39 (e) and (f), 45 and 47, and also in some international Covenants, such as the UN Convention on the Rights of the Child (CRC) and the UN Standard Minimum Rules for Administration of Juvenile Justice. The Juvenile Justice Bill which was first introduced in the Lok Sabha in 1986, and it replaced the Central Children Act. The policy included things such as training and rehabilitation of delinquent, neglected and exploited children.The Juvenile Justice (Care and Protection of Children) Act, 2000, was brought in compliance with the Child Rights Convention 1989, has repealed the earlier Juvenile Justice Act of 1986 when India signed and ratified the Child Rights Convention 1989 in the year 1992. This Act provides a special framework for the protection, treatment and the rehabilitation of children in the purview of the Juvenile Justice System. Juveniles who are accused of crimes or detained for a crime are brought before the Juvenile Justice Board, not in a conventional criminal court, under this Act. This board consists of a metropolitan magistrate or a judicial magistrate of the first class and two social workers, of which at least one of whom should be a woman. “Police are the first major component in the justice system for juveniles.” A Special Juvenile Police Unit (SJPU) shall be set up in every police station. A child is usually brought before the JJB by a police officer or person from the SJPU. Any organization or person who brings a child before the court should inform their local police unit first and the police within24 hours has to produce a child before the court once he/she is arrested. Once the child has been brought before the JJB, the child is registered into the closest Observation Home. “A Probation Officer (PO) has played a pivotal role under Juvenile legislation as it is the PO who will be the Juveniles guidance, and shall lead to the Juvenile’s self-realization of his/her wrongs. JJB are meant to resolve cases within a stipulated time period of four months andeffort shall be made to release the juvenile on bail or probation. Under the JJA, 2000 the maximum sentence for a juvenile who has broken the law is three years in a protective home, regardless ofthe magnitude of the crime.

The functions of aftercare association are not less significant. After consideration associations are for the consideration, direction and security of Juveniles in clash with law or kids needing care and assurance who have finished their terms in the Special Homes or Children's Homes and their recovery cycle isn't finished. After consideration association will empower such youngsters to adjust to the general public and urge them to carry on with an ordinary life. An alteration was made to the Act in 2006, with primary accentuation on accelerating the organization of Justice for Juvenile and Model Rules 2007 and that correction in the Act has additionally added to the viability of this government assistance enactment.

**C) In present era:**

A development for the extraordinary treatment of adolescent wrongdoers has begun all through the world including many created nations like U.K., U.S.A. This development has been begun around the eighteenth century. Before this, adolescent wrongdoers were treated as same as other criminal guilty parties. Furthermore, for a similar explanation, General Assembly of United Nations has embraced a Convention on the Rights of Child on twentieth November 1989. This show tries to secure the wellbeing of adolescent wrongdoers. The Convention expresses that to ensure the social – reintegration of adolescent, there will be no legal continuing and court preliminaries against them. The Convention drives the Indian Legislation to rescind the Juvenile Justice Act, 1986 and to make another law. Subsequently, Indian Legislation concocted another demonstration which was called as "The Juvenile Justice (Care and Protection of Children) Act, 2000.

The Juvenile Justice, 1986 which revoked the previous Children Act, 1960, pointed toward offering impact to the rules contained in the Standard Minimum Rules for the Administration of Juvenile Justice received by the U.N. nations in November 1985.[12] The previously mentioned Act comprised of 63 Sections, 7 Chapters and is reached out to entire India hope to the State of Jammu and Kashmir. The basic role of the Act was to give care and security, treatment, improvement and recovery of the dismissed adolescent reprobate.The main objectives of the Act were:

1. The act basically laid down uniform framework for the juvenile justice in country in such a way that it protects the right and interest of juvenile.
2. It talks about the machinery and infra – structure for the care, protection treatment, development and rehabilitation of the juvenile offenders.
3. It set out the basic provisions for the proper and fair administration of criminal justice in case of heinous crime done by juvenile offenders.

**DEFINITION OF A CHILD AND JUVENILE UNDER THE JUVENILE JUSTICE ACT, 2015 AND OTHER VARIOUS LAWS**

In general terms, a “child” means a person who has not attained the age of 18 years and is not mature enough to understand what is right and wrong or the ethics of the modern society. In today’s world the penal laws of major countries have adopted the principle of ‘doli incapax’[[1]](#footnote-2), The penal law includes that Only child between the age of seven to twelve age can be convicted, provided that, the act they have committed is a heinous crime and they have knowledge of the same and have attained the sufficient knowledge to understand the consequences of their act.

Now, according to Section 2 sub-section 12 of The Juvenile (Care and Protection) Act, 2015 a “child” means a person who has not completed eighteen years of age and thisact classifies the term “child” into the following two categories:

1. “child in conflict with law”[[2]](#footnote-3), and
2. “child in need of care and protection”.

The UN Convention on the Rights of Child, 1989 defines that “child” means a human being below the age of eighteen years unless the law declaration applicable to child, majority is attained earlier.

And under the Children Act, 1960: Section 2(e) of the Act states “child” means a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years.

**JUVENILE JUSTICE ACT, 2000 AND 2015**

The Act was sanctioned in year 2000 with point and goal to give security to youngsters. The referenced was changed twice – first in the time of 2006 and later in year of 2011.The amendment was made to address the hole and escape clauses in the usage. Furthermore, the expanding number of instances of adolescent wrongdoings in the last ongoing years and unpleasant episode of "Delhi Gang Rape Case" has constrained the administrators to think of the law. The significant downside of the Act was that it contains unprepared legitimate arrangements and failing adolescent framework was likewise the significant explanation in forestalling the adolescent wrongdoings in India. The demonstration was supplanted soon by The Juvenile Justice (Care and Protection) Act, 2015. The Juvenile Justice (Care and Protection of Children) Act, 2000[[3]](#footnote-4), which has supplanted the prior Juvenile Justice Act, 1986, has been upheld in the whole nation aside from the State of Jammu and Kashmir w.e.f first April 2001. The new law is more amiable and accommodates appropriate consideration and insurance. An unmistakable qualification has been made in this Act between the adolescent wrongdoer and dismissed youngster. It likewise recommends a uniform age of 18 years beneath which the two young men and young ladies are to be treated as kids. It additionally expects to empower expanded availability to an adolescent or the youngster by setting up Juvenile Justice Boards and Child Welfare Committees and Homes in each area or gathering of regions. The Juvenile Justice (Care and Protection of Children) Act, 2000 sets out the essential law for not just the consideration and insurance of the youngsters yet in addition for the settling and mien of issues identifying with kids in clash with law. For the execution of the Act, the Ministry is actualizing an arrangement Scheme called, Program for Juvenile Justice.

The objectives of the Programme for Juvenile Justice are:

i. To extend help to State Governments to bear the cost of infrastructure and services development under the Juvenile Justice Act in order to ensure that in no circumstances the child in conflict with law is lodged in a regular prison.

ii. To ensure minimum quality standards in the juvenile justice services.

iii. To provide adequate services for prevention of social mal-adjustment and rehabilitation of socially mal-adjusted juveniles.

iv. Ensure participation of community and other organizations into the care and protection of children in conflict with law who are perhaps more vulnerable than other groups of children.

Legal framework for the adolescent and youngsters are to some degree unique. Truly, youngsters need development, they are in early stages, and can be transformed without any problem. So the death penalty or life detainment, focused on jail in default of installment of fine or in default of outfitting security can't be granted to them. Despite the fact that the Act establishing offenses endorsed for the grown-ups and the adolescent are the equivalent, there is incredible arrangement of contrast as respect to the ward of the courts and method to be followed. The denounced adolescent isn't to be attempted by standard criminal courts. Adolescent equity board gives them.

**Juvenile Justice Act, 2015:** This act replaced the Juvenile Justice act of 2000 because there was a requirement for a more efficient and effective justice system that would focus on deterrent as well as incorporate reformative approaches. The approach towards Juveniles should be different from that of adults, there were contentions made in the Parliament that the Juveniles should be given more space for transformation or reformation or improvement and that is only possible when there’s a special justice system. Thus, the new act i.e. the Juvenile Justice (care and protection of children) Act, 2015 focused on a Juvenile friendly approach of adjudication and disposition of matters.

**Some of the salient features are as follows:**

* Section 2 (12) of the Juvenile Justice (care and protection of children) Act, 2015 gives the definition of the Child, meaning thereby that a child is a person who hasn’t completed the age of 18 i.e. he/she is below 18. The Act has given a classification regarding the term ‘Child’ namely “Child in need of care and protection” and Section 2 (13) of the Juvenile Justice (care and protection of children) Act, 2015 that talks about “Child in conflict with law”.
* There was a clear distinction made regarding the facets of offences, meaning thereby that categories were made terming the offences as heinous, serious and petty. There have been specifications made regarding the Juveniles who are between the age of 16-18, if any kind of crime is committed by them then after due perusal of their mental capacity, they can be tried as an adult.
* Introduction of Juvenile courts, meaning thereby that special courts were to be established that will be trying the Juvenile offences only, like that of the NDPS courts, courts dealing with POCSO, etc.

**Principles of Juvenile Justice Act, 2015**

Juvenile Justice Act 2000 is replaced by JJ Act 2015, with a view to update JJS in accordance with the International conventions and present social development. The new Act under lying following basic principles:Presumption of innocence, Principles of dignity and worth, Principles of participation with due regard to maturity, Principles of best interest of the child, Principles of family responsibility to take care, Principles of ensuring safety without my abuse of the child, Positive measures for wellbeing and development of child, Principles of non-accusatory or non-stigmatizing semantics, Principles of non-waiver of rights, Principles of equality and non-discrimination, Principles of right to privacy and confidentiality, Principles of institutionalization should be last resort, Principles of Repatriation and restoration, Principles of fresh start-erasing of past records, Principles of diversion (without resorting to judicial proceedings), Principles of natural justice.

The act combine the laws identifying with child affirmed and discovered to be in clash with law and child needing care and security by providing food and considering their fundamental necessities through appropriate care& insurance, advancement, treatment, social-combination, by receiving a childrenamicable methodology in the settling and removal of issues to the greatest advantage of youngsters. The act additionally centers around restoration of adolescent guilty parties through different youngster care houses and establishments.

**TYPES OF JUVENILE DELINQUENCY**

A delinquent[[4]](#footnote-5) is considered to be a Juveniles who are capable of committing the same crimes as adults, but only due to the offender’s status as “minor”, their acts are considered to be delinquent. A Juvenile delinquency can be classified under the following three heads and are listed in the documents of the Office of Juvenile Justice and Delinquency Prevention (OJJDP)[[5]](#footnote-6).

(a) violent crimes which result in bodily injury, for instance assault, rape, murder etc.

(b) property crimes are committed when a juvenile uses force or threat of force to obtain the property of others.

(c) Drug-related crimes involve the possession or sale of illegal narcotics such as LSD, Cocaine or Cannabis etc.

A few important classifications are given below by authors

1. Eaton and Polk in “Measuring Delinquency” classified the following kinds of juvenile offences, Minor violations which include minor traffic violation,Property violations,Major traffic violations which include automobile theft, Human addiction which include alcohol and drug addiction,Bodily harm which include homicide offences.
2. In “Juvenile Delinquency; Concept and Control”, Trojannovicz mentioned juvenile offenders as Gang-organized and Collective Delinquency,Unsocialzed-aggressive Boys,Accidental Offender,Professional Delinquency, andOccasional Delinquency.

**ROLE OF HUMAN RIGHTS IN JUVENILE JUSTICE**

Human rights are those advantages which are basic to live as human creatures' fundamental norms, without such rights individuals can't endure and create in pride. They are inborn to the human individual, natural and general. As a feature of the system of human rights law, all human rights are indissoluble, interrelated and reliant. Understanding this system is essential to advancing, ensuring and understanding child rights. In spite of critical endeavors to improve rights of the child, powerless and minimized child are being failed to remember. child who are casualties of misuse, abuse and segregation, and experience the ill effects of training, medical care and other fundamental administrations, are as a rule generally neglected by global advancement endeavors that could drastically improve their lives and prospects. Children who need security are regularly imperceptible andahuge number of youngsters are imperceptible to the world in light of the fact that their predicament is covered up, under-revealed, or transparently dismissed. Kids who are destined to become undetectable have no conventional character, grow up without the caring consideration of guardians or family, are squeezed too soon into grown-up duties, and abused for benefit.By permitting kids to vanish from view and neglecting to reach and secure them, social orders sentence kids to more disregard and misuse, with enduring ramifications for their prosperity and for the advancement of their networks and nations.

Children need a defensive climate to shield them from hurt. All degrees of society ¡V from families and governments to instructors and the media have a section to play exclusively and by and large to forestall misuse and to guarantee that kids are not made undetectable or failed to remember. Youngsters have the right to live in wellbeing and with poise. Misuse and abuse are an attack against each kid's respect and a terrible infringement of their rights. Ensuring kids is fundamental to their physical and passionate wellbeing, their overall prosperity, and their capacity to create to their fullest potential. It is hence fundamental to the human and monetary improvement of countries.

Children over who are captured and confined for supposed bad behavior are frequently not given the insurances they are entitled under the Convention on the Rights of the Child. In numerous nations, youngsters are charged and condemned for acts that ought not be violations, for example, delinquency or rowdiness at home. A few states set a base period of criminal obligation lower than the universally adequate age of 12. A few states likewise treat certain kids, particularly more seasoned teenagers or youngsters who are blamed for especially genuine violations, as though they were grown-ups during their preliminary and condemning. Sentences of death, existence without the chance for further appeal, and whipping are as yet passed on in certain nations, infringing upon worldwide law. The global restriction on confining youngsters with grown-ups is likewise regularly disregarded.

**UNICEF's ROLE IN JUVENILE JUSTICE**

UNICEF's central goal is to advocate for the assurance of children's privileges, to help meet their fundamental necessities and to extend their occasions to arrive at their maximum capacity. UNICEF is guided in doing this by the arrangements and standards of the Convention on the Rights of the Child. Based on fluctuated general sets of laws and social customs, the Convention is an all-around concurred set of non-debatable principles and commitments.

These essential norms additionally considered basic liberties' set least privileges and opportunities that should be regarded by governments. They are established on regard for the poise and worth of every person, paying little mind to race, shading, sexual orientation, language, religion, conclusions, beginnings, riches, birth status or capacity and in this way apply to each individual all over. The Convention on the Rights of the Child is the main lawfully restricting worldwide instrument to consolidate the full scope of basic freedoms' considerate, social, monetary, political and social rights. In 1989, world pioneers concluded that children required an extraordinary show only for them since individuals under 18 years of age regularly need uncommon consideration and insurance that grown-ups don't. The four main standards of the Convention are non-segregation; dedication to the eventual benefits of the child; the privilege to life, endurance and advancement; and regard for the perspectives on the child. Each correct spelt out in the Convention is inalienable to the human nobility and amicable improvement of each child. The Convention secures children's privileges by setting norms in medical care; training; and legitimate, common and social administrations. The standards plot in the worldwide common freedoms system applies both to children and grown-ups. Children are referenced expressly in a significant number of the basic liberties instruments; norms are explicitly adjusted or adjusted where the necessities and concerns encompassing a privilege are unmistakable for children.

**PREVENTION OF JUVENILE DELINQUENCY**

It is broadly demonstrated that beginning stage intercession speaks to the best way to deal with forestalling adolescent wrongdoing. To forestall adolescent wrongdoings, we need to bargain not just with maladjusted children whose troubles carry them under the steady gaze of law yet additionally with the individuals who while not abusing laws are upsetting others in school and different spots. Most importantly, we ought to recognize such adolescents and from that point give them treatment. Avoidance requires singular, gathering, hierarchical endeavors that target keeping pointed toward shielding adolescents from violating the law. Through the financial area, advancement programs with expert preparation, professional instructions are the zones which can help and forestall youth association in Delinquent exercises. In lawful use of JJA it is imperative for the specialists to be associated with the Juvenile equity framework to fabricate successful organization with common society. Inclusions of NGOs and neighborhood networks can likewise help in forestalling adolescent pack wrongdoing. The government should put more accentuation on appealing valuable long-haul plans for adolescents so they recapture their self-assurance and feel persuaded to join the standard of the general public.

**CONCLUSION**

The increasing rates of juvenile crime in India in very a concerning issue and need to be focused upon by our government and make adequate changes in the current legal system. Although government has laid various legislation and rules to prevent the incidents of juvenile crimes but these laws on juveniles is not creating a curbing effect on the juveniles and therefore leads to the results which are not fruitful and legislative intent is not accomplished.It is essential to eliminate this training from society to keep control of the issue of Juvenile Delinquency. It is to the greatest advantage of the deviant child to restore him as ahead of schedule as could reasonably be expected and incorporate him back into society. The State has an obligation to secure the privileges of these children and to concoct reformative strategies to instill values in these children which can socially elevate and offer certainty to them so they can additionally assume a helpful function in the public arena.

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1. deemed incapable of forming the intent to commit a crime or tort, especially by reason of age (under ten years old). [↑](#footnote-ref-2)
2. child who has committed an offence and he or she is under the age of 18 years on the date of commission of the offence [↑](#footnote-ref-3)
3. http://odishapolicecidcb.gov.in/sites/default/files/Juvenile%20Justice%20%28Care%20And%20Protection%20Of%20Children%29%20Act%2C%202000.pdf [↑](#footnote-ref-4)
4. Definition under the Oxford dictionary: especially of young people or their behavior showing a tendency to commit crimes delinquent teenagers. [↑](#footnote-ref-5)
5. Website states the functions of OJJDP: https://www.ncjrs.gov/pdffiles1/ojjdp/223612.pdf [↑](#footnote-ref-6)