



THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT



**National Human Rights Commission
India**

The Juvenile Justice (Care and Protection of Children) Act



TRAINING & RESEARCH DIVISION
**NATIONAL HUMAN RIGHTS COMMISSION
INDIA**

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THE JUVENILE JUSTICE ACT

The Juvenile Justice (Care and Protection of Children) Act¹ (for short, the JJ Act) defines a **child as a person who is below the age of 18 years.**

The JJ Act takes care of two categories of children:



Children in conflict with the law.

and



Children in need of care and protection.



Children in conflict with the law are dealt with by *Juvenile Justice Boards*. *Children in need of care and protection* are dealt with by *Child Welfare Committees*.

Since age is the key factor, it is important that no mistakes are made regarding the age of a child – a person above 18 years should not be treated as a child; and a person below the age of 18 years must be given the benefit of this Act.

The procedures regarding determining the age of a child are:

- Where by the very appearance it is clear that the person is below 18 years, the Juvenile Justice Board (the Board, for short) or the Child Welfare Committee (the Committee, for short) can proceed with dealing the person as a child without waiting for further proof of age.

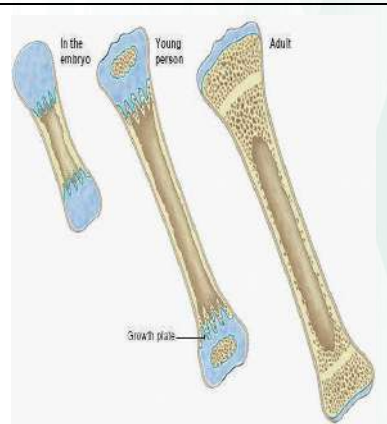
School Certificate	
This is certify that Shri / Kumar : Son / Daughter of shrim/	
Village	P.O
Dist/Tahsil..... State	
..... was a bonafide student	
Of our institutionduring the session.....	
His/Her date of birth as per the school admission register number (if available),	
Date :	Signature of the headmaster
Signature of the insured/ applicant	
.....	
I undersigned hereby confirm that the above institution/school is existing in the given location and is currently functional	
Branch Operation Manager/ Gazetted officer	
Date :	

Date of birth on school certificate, or the matriculation or equivalent certificate from the concerned examination Board are preferred for proof of age of a child

¹ This law was passed in 2015

- If the Board or the Committee have any doubt regarding the age, they should:
 - Refer to the date of birth on the school certificate, or the matriculation or equivalent certificate from the concerned examination Board.
 - In the absence of school or matriculation certificates, refer to the birth certificate given by a corporation, or a municipal authority, or a panchayat.
 - If none of the above are available, the age shall be determined by an ossification test, or any other latest medical age determination test, conducted on the orders of the Committee or the Board.

A person's age can be estimated till the age of 25 years by an analysis of bones i.e. ossification test. The test is conducted by X-ray analysis of bones (e.g. pelvic, shoulder, elbow, knee, ankle, thigh, wrist), and dental X-rays. The overall physical development of the person is also considered. Age is declared by taking all these tests into consideration. However, this age determination is only an estimate and it has a margin of error of up to 2 years. Thus, if the ossification test declares the person to be 18 years, the person may also be 17 years or 19 years of age.



GENERAL PRINCIPLES OF CARE AND PROTECTION OF CHILDREN

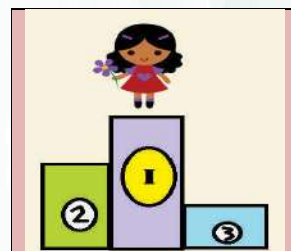
All authorities under the Act (e.g. Boards, Committees, Central or State Governments, etc) should follow the following principles while dealing with children:



Presumption of innocence: All children shall be presumed innocent of any criminal intent.



Dignity and worth: All persons shall be treated with equal dignity and rights.





Participation: All children shall have a right to be heard and to participate in all processes and decisions affecting their interests.

In any decision affecting a child, the best interest of the child is the primary rule



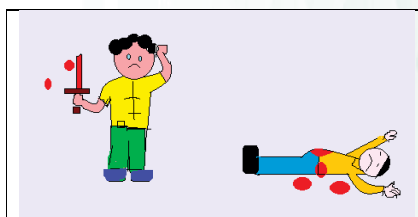
Principle of best interest: All decisions regarding the child shall be based on best interest of the child. This means that any decision taken regarding the child should be based on what is best for the child.



Equality and non-discrimination: All children should be given equal opportunities and treated equally. No child should face discrimination on grounds such as sex, caste, ethnicity, place of birth, disability, or any other ground.

CHILDREN IN CONFLICT WITH LAW

A child in conflict with law means a child who is either alleged to have committed an offence, or found to have committed an offence. The child should have been below the age of 18 years on the date the offence took place.



A child in conflict with law means a child who is either alleged to have committed an offence, or found to have committed an offence

Sampat is a 14 year old boy. He is caught red-handed pick pocketing near a bus stop in Delhi. A crowd gathers around him and take him to the police station. Since Sampat is below the age of 14 years on the day that he committed the offence, he will be dealt with under the provisions of the JJ Act.

It does not matter at what age the child is caught, or how old the child is when the inquiry is finally over. **The relevant age is how old the child was when the offence occurred.** A child may have committed an offence at the age of 17 years, but is caught only when he is 22 years old. Or it could happen that by the time the inquiry is over, the child may have crossed 18 years of age. Either way, the process of the JJ Act must be followed.

Ashok is a 20 year old college student. When he was 16 years old, he and his friend Asif got into a fight in a secluded park. In a fit of rage Ashok hit his friend with a hockey stick. He then ran away leaving Asif lying on the ground with severe head injuries. It took Asif four years to recover from the trauma and identify Ashok as his attacker. The police arrest Ashok.. Although Ashok is now an adult, because he was a child when the incident occurred, he will be tried under the JJ Act.

DEALING WITH CHILDREN IN CONFLICT WITH LAW

JUVENILE JUSTICE BOARDS

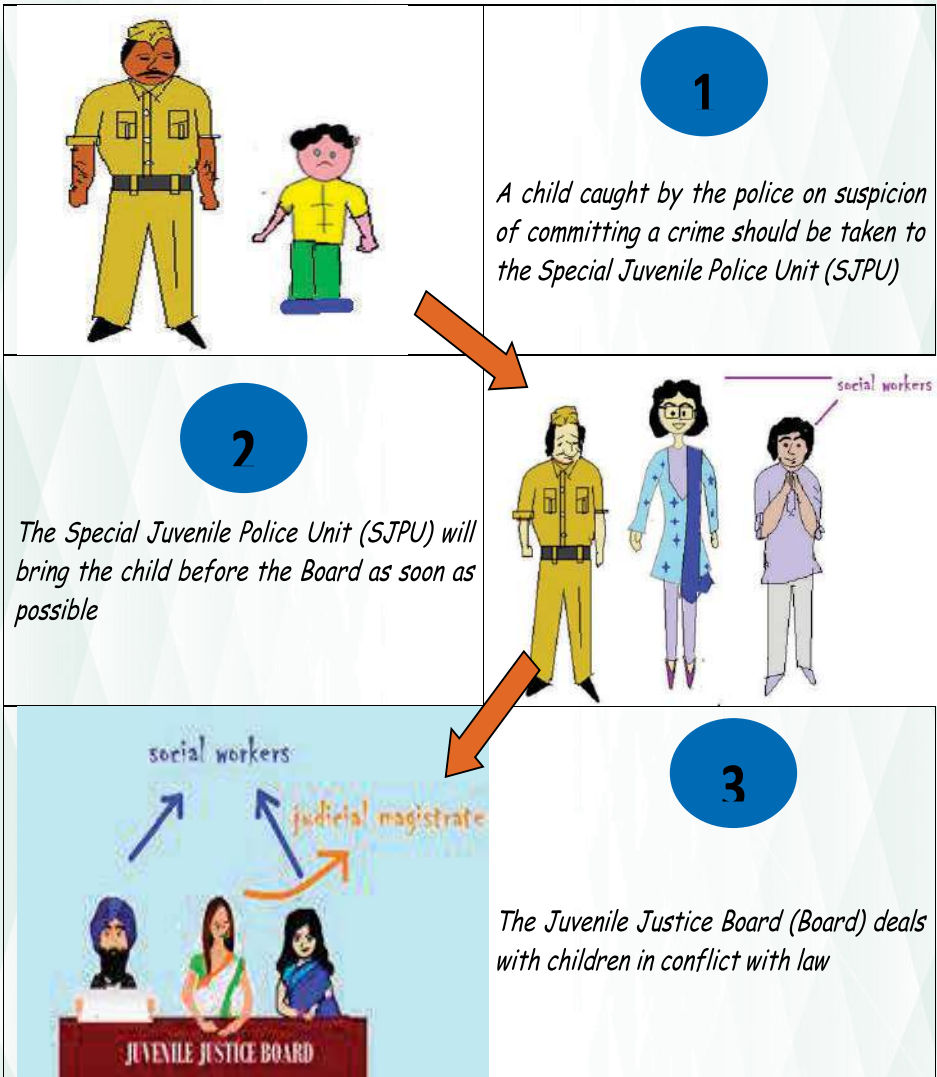
Children in conflict with law are dealt by **Juvenile Justice Boards**. Each district should have Juvenile Justice Board (for short, the Board). Each Board should have a Judicial Magistrate and 2 social workers. At least one of the social workers should be a woman.



Any child caught by the police on suspicion of having committed a crime should immediately be placed under the charge of the special juvenile police unit (SJPU) or the designated child welfare police officer.

The SJPU or the child welfare police officer should then produce the child before the Board. This should be done as soon possible, and within 24 hours of the time that the child is caught by the police (excluding travel time).

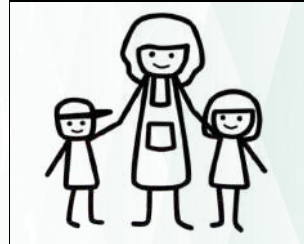
Bringing children in conflict with the law before the Juvenile Justice Board



DUTIES OF THE JUVENILE JUSTICE BOARD

The duties of the Board with regard to its dealings with a child in conflict with law include:

☺ Conducting the entire process concerning a child in conflict with law e.g. finding out whether the child actually did commit the crime, whether a child accused of a crime should be tried as an adult, etc.



☺ Ensuring the informed participation of the child, and the child's parents or guardians, in every step of the process.

☺ Ensuring that the child's rights are protected throughout the process.

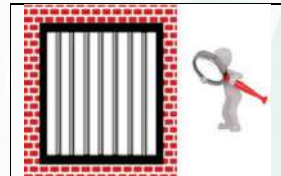
The Board must ensure that the child's parents or guardians are fully included in the whole process

☺ Ensuring availability of free legal aid for the child through the legal services institutions.

☺ Providing an interpreter/translator for any child having difficulty in understanding the language used by the Board in the proceedings.

☺ Ensuring the necessary support required in cases where a child in conflict with law is also in need of care and protection.

☺ Conducting at least one inspection visit every month to residential facilities for children in conflict with law, and making necessary recommendations.



☺ Conducting regular inspection of jails meant for adults, to check for any children in such jails. Where a child is found, the Board should transfer of such a child to an observation home.




Juvenile Justice Boards must regularly inspect jails meant for adults to check if there are any children in such jails

☺ Order for social investigation to be conducted by the Probation Officer (or Child Welfare Officer or Social Worker). This social investigation report should be submitted within 15 days.

BAIL

Bail is nearly always to be provided to children in conflict with law. The seriousness of the alleged crime is not important. It does not matter whether the offence is bailable or non – bailable. **Bail is the rule.** It is only in a few situations that the child would not be released on bail.

A child in conflict with law will not be released on bail if such release is likely to:

-  *Bring the child into contact with any known criminal, or*
-  *Expose the child to moral, physical or psychological danger, or*
-  *Defeat the ends of justice.*



A child in conflict with law should never be kept in either a police lockup or a jail.

Handcuffing, beating and torturing a child is not permitted under any circumstances

Children not granted bail are sent to an observation home or some place of safety.

Sarala is 14 years old. Her elder brother Rohit is a drug peddler. Convinced that no one will suspect a school girl, he uses Sarala to courier drugs concealed in her school bag. One day Sarala is caught and arrested for selling narcotic drugs. She tells the police that her brother forces her to do this. In this case, Sarala is a juvenile in conflict with the law and is entitled to bail. However, if the Board feels that sending Sarala home on bail may be a danger to her as she might be attacked by her brother and his gang, then she will not be released on bail. Instead she will be sent to an observation home, or some other safe place.

TIME PERIOD OF INQUIRY

The Board will inquire into the allegations against a child in conflict with law. This inquiry should be **completed within 4 months**, though it can be extended by another 2 months if the circumstances require such an extension.

In the case of a **PETTY OFFENCE**, if the inquiry is not completed within 6 months, the matter will be closed, and there will be no further inquiry. *A petty offence is one for which the maximum punishment under the IPC or any other law is 3 years of imprisonment.* Offences such as riding rashly on a public road causing danger to others², or singing obscene songs in a public place causing annoyance to others³ are petty offences under the JJ Act.

Anup and his friend Rahul are 12 year old boys. During a Hindu festival they stand outside a temple and sing lewd songs. They find it great fun to annoy the serious worshippers, and the more they are scolded, the more amusing they find it! One priest gets so annoyed that he complains to the police. Anup and Rahul are brought before the Board as children in conflict with law. The Board has several other cases to deal with, and they keep delaying Anup and Rahul's case. Six months pass in this way. Board now cannot proceed with the boys' case as the offence is a petty one. Anup and Rahul must be let off, and the matter to be closed.

DECISIONS THAT CAN BE TAKEN BY THE BOARD AFTER INQUIRY



If the Board finds after inquiry that the child has not committed any offence, then the child will be let off completely.



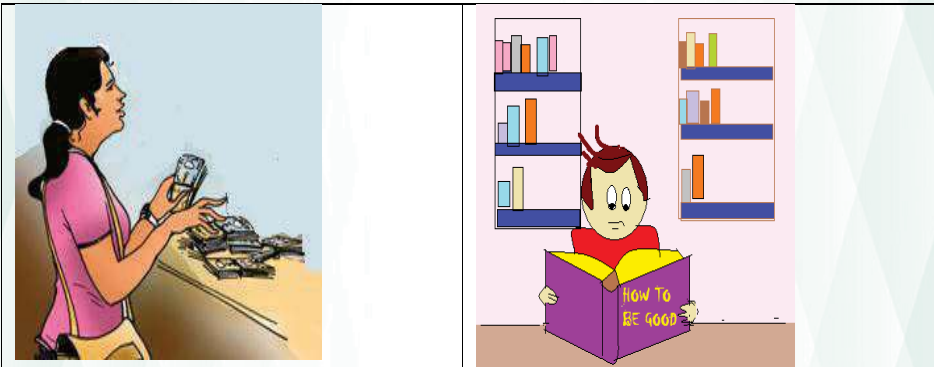
If the Board finds after inquiry that the child has indeed committed an offence, then it can do the following:

- ✓ Allow the child to go home after giving advice or admonition, with counseling to the child and parents/guardian.

² Section 279 of the IPC, punishable with six months' imprisonment

³ Section 294 of the IPC, punishable with three months' imprisonment

- ✓ Direct the child to take part in group counseling.
- ✓ Order the child to do community service.
- ✓ Order the parents/guardian of the child to pay a fine. The child may also be made to pay a fine, *if the child is earning an income that is permissible under the child labour laws.*



If a child is found to have committed an offence the Board can pass such orders as directing the parents or guardian to pay a fine, or sending the child to a special home where the child can be reformed

- ✓ Direct the child to be released on ***probation of good conduct for a maximum period of three years***. During this time the child will be placed under the care of any parent, guardian or other person the Board considers fit to shoulder such responsibility.
- ✓ Direct the child to be sent to a ***special home for a maximum period of three years***. The special home will focus on the reform of the child by providing education, skill development, counseling, behavior modification therapy, and psychiatric support. In the interest of the child, or in the interest of other children in the shelter, the child may also be shifted to some other place of safety.

In addition to the above orders, the Board may also direct the child to:

- ✓ Attend school
- ✓ Attend a vocational training centre
- ✓ Attend a therapeutic centre
- ✓ NOT visit a specified place
- ✓ Undergo a de-addiction programme.



The Board can direct a child in conflict with law to undergo a de-addiction programme

No child in conflict with law can be sentenced to death or for life imprisonment without the possibility of release. This is regardless of how serious the offence, or the age or maturity of the child. Life imprisonment without the possibility of release means life imprisonment for the remainder of one's life. No such sentence can be imposed on a child.

No child in conflict with law can be sentenced to death.



No child in conflict with law can be sentenced to life imprisonment without the possibility of release i.e. life imprisonment for the remainder of one's life.





Every final order of the Board must include an individual care plan for the child's rehabilitation, including follow – up by the Probation Officer or the District Child Protection Unit, or some recognized NGO.

WHEN A CHILD IN CONFLICT WITH LAW MAY BE TRIED AS AN ADULT

A child in conflict with the law can be treated as an adult OLNLY if the following 2 circumstances are fulfilled:



*The child in conflict with law is **above 16 years of age***



*The child is accused of a **heinous offence**.*

A **heinous offence** is an offence which is *punishable under the IPC (or any other law) by at least 7 years of imprisonment*. Murder and rape are examples of heinous offences.

The procedure for dealing with children above the age of 16 accused of committing a heinous offence is different from the procedure in all other cases affecting children in conflict with the law.

SOME EXAMPLES OF HEINOUS OFFENCES (A CHILD ABOVE 16 YEARS ACCUSED OF COMMITTING A HEINOUS OFFENCE CAN BE TRIED AS AN ADULT)



Waging war against the Government of India



Murder



Rape

Manjit is 15 years old. He spends a lot of time playing video games on the internet. He is often scolded by his mother for "wasting his time" in this way. One day, on the eve of his exam, his mother caught him playing video games instead of studying. She scolded him and said with this attitude he would never be successful in life. In a fit of rage, Manjit hits his mother repeatedly on the head with his cricket bat. Manjit's mother does not survive the attack. Manjit has committed a heinous offence under the JJ Act (the punishment for murder is much more than 7 years of imprisonment). However, since Manjit is not 16 years of age, he will not be tried by the special procedure dealing with heinous offences. He will be dealt with by the Board as any other child in conflict with the law.



Arjun is 17 years old. He is accused of shooting to death a teacher who expelled him from the examination hall for cheating. Arjun can be tried as an adult as he is above 16 years of age and has been accused of a heinous offence

PROCEDURE TO BE FOLLOWED IF A CHILD ABOVE 16 YEARS IS ACCUSED OF COMMITTING A HEINOUS OFFENCE

If a child **above the age of 16 years** is **alleged to have committed a heinous offence**, the Board should make a preliminary assessment as to the **mental and physical capacity of the child** to:



Commit such an offence, and

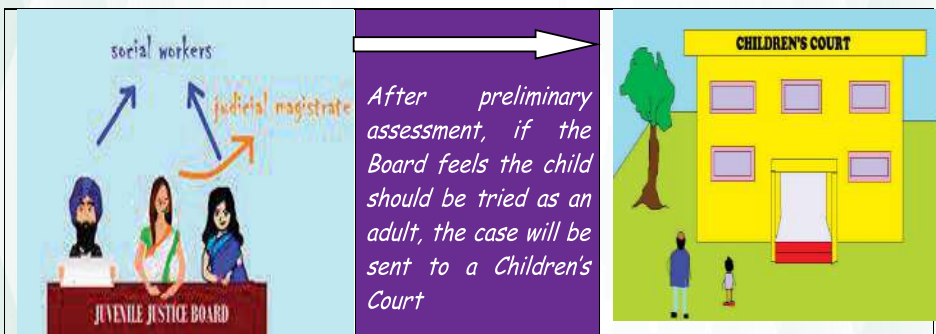


Understand the consequences of the offence.

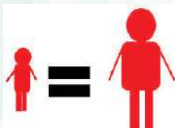
This preliminary assessment is not a trial. It is only a process to decide whether a child in conflict with law could indeed have committed such an offence and understood the consequences of committing such an offence.

This assessment should be completed within a period of 3 months. If the Board needs more time to complete its preliminary assessment, it must get the permission in writing from a Chief Judicial Magistrate.

After the preliminary assessment, if the Board feels that the child should be tried as an adult, then it should transfer the case to the Children's Court. A Children's Court means a court set up under the Commissions for Protection of Child Rights Act (2005) or a Special Court under the Protection of Children from Sexual Offences Act (2012). Where no such courts have been established, the Court of Sessions can function as a Children's Court.



Once the matter is sent to it, the Children's Court may decide either:

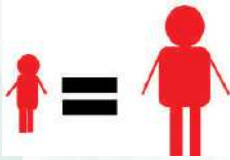


THAT THE CHILD SHOULD BE TRIED AS AN ADULT

OR



THAT THE CHILD SHOULD **NOT** BE TRIED AS AN ADULT



If the Children's Court decides that the child should be treated as an adult, it will conduct the trial for the child keeping in mind the following:



The special needs of the child



The tenets of fair trial



Maintaining a child friendly atmosphere

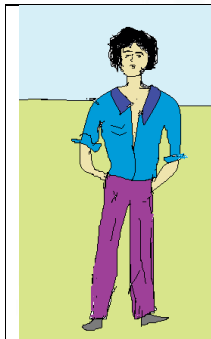
Once the trial is over, ***if the child is found to have committed the offence***, the Children's Court should:



Ensure that the child is sent to a place of safety till he is 21 years old. It is only after the child turns 21 that the child (now an adult) can be transferred to jail.



Ensure that the reformatory services including educational services, skill development, counseling, behaviour modification therapy, and psychiatric support are provided to the child in the place of safety.




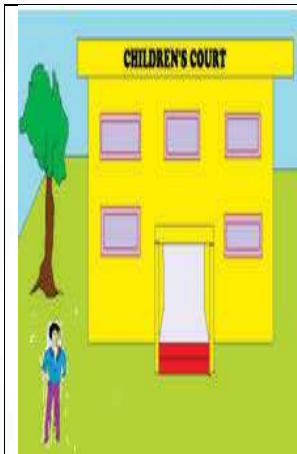
Arif is 16 years old. He is accused of raping and strangling to death his 9 year old neighbor, Sheila. The Board holds he should be tried as an adult, as he is above 16 years old and is accused of committing heinous offences (rape and murder)



Ensure that there is a periodic follow up report every year by the Probation Officer/ District Child



Protection Unit/ social worker to check the progress of the child in the place of safety and to make sure that the child is not ill treated in any way.

 If the term of stay directed by the Children’s Court extends till beyond the time when the child turns 21, then the Children’s Court must decide where the child (now an adult) should complete the remaining period. This will be done by considering reports of the Probation Officer/ District Child Protection Unit/ social worker as well as the reports of other relevant experts. These reports will evaluate the progress of the child during his/her stay in the place of safety. The focus is on the reformatory progress made by the child, and

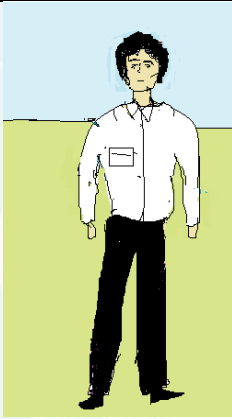


Arif's is then tried by the Children's Court, which holds that Arif has committed these crimes. Arif cannot be sentenced to death or life imprisonment for the rest of his life. The Court directs him to spend a term of 20 years. Arif will first be sent to a place of safety till he is 21 years old.

whether the child is ready to function as a productive member of society. After considering these reports, the Children’s Court can direct that:

-  **The child be released:** Here the Children’s Court can impose conditions for release (e.g. appointing a monitoring authority for the remaining period of the required term of stay).
-  **The child (now an adult) be sent to jail** for remaining portion of the prescribed term of stay.

When he is 21, the Children's Court will assess Arif's progress with the help of experts (Arif's Social Worker, etc)



The Children's Court can set Arif free if he is found to be reformed. The Court can also impose conditions such as appointing a monitoring authority to oversee Arif for the remaining 15 years of the term



If he has not reformed, Arif will spend the remaining 15 years in jail



If the Children's Court decides that the child should NOT be treated as an adult, it can conduct an inquiry and pass orders in the same way that the Board would have in any other case (e.g. sending the child for counseling, or de-addiction, or to a special home, etc.



As in the case with final orders of the Board, every final order of the Children's Court must include an individual care plan for the child's rehabilitation, including follow-up.

RAISING CLAIM OF JUVENILITY

If a child is alleged to have committed an offence, the child should be tried under the JJ Act by a Board or a Children's Court. Ideally, a child in conflict with the law is brought immediately before a Board. But it may so happen that a person accused of a crime is brought before a court of law instead of a Board. This may happen because of ignorance of this provision of law, or uncertainty about the age of the accused. It is for this reason that, no matter why the person is brought before a court instead of a Board, the person can claim his/her right to be tried as a juvenile under the JJ Act. The court itself may think that an accused person before it is actually a juvenile.

In either case, the court should make an inquiry to determine the age of the accused and record its finding. The process for determining age has been dealt with earlier: with greatest emphasis made on school and Board examination records, followed by certificate from municipal and similar local authorities, and finally an ossification test. An ossification test is only a last resort as it is not exact, and is pointless if carried out after a person is 25 years of age.

After the inquiry, the court should record its finding on the age of the accused. If it is found that the accused was below the age of 18 years on the date of the offence, then the person will be tried as per the JJ Act *regardless of the current age of the accused*. Significantly, there is no time limit on raising this claim of juvenility. The plea to be tried under the JJ Act can be raised *at any stage and at any court, and even after the case has been finally disposed*.

Angaar was 17 years old when he was picked up by the police on the ground of rioting. The police ignored his protests, and entered Angaar's age as 19 years. Angaar was not aware of the provisions of the JJ Act and did not think the age discrepancy was relevant. The court where he was tried also did not suspect that he was a minor. The court held him guilty and sentenced him to 2 years of imprisonment. In jail, Angaar learned about the JJ Act from a legal aid lawyer.

Angaar can now approach a court to plead that he be tried under the JJ Act. If Angaar is able to prove that he was a juvenile at the time of the commission of the offence, then his present conviction will be set aside, and he will be tried again under the JJ Act.

WHERE 'CHILD' IS FOUND TO BE AN ADULT!!

If during the inquiry, the Board or the Children's Court find out that the 'child in conflict with law' before them is actually an adult, i.e. was above 18 years of age at the time of offence, the person will no longer be tried as a child. The person will now be tried under the usual court system.

Asha is brought before the Board accused of selling drugs. This is an offence under the Narcotic Drugs and Psychotropic Substances Act. She looks like a minor, and claims she is a minor. However, on inquiry, the Board finds on checking her school records that she is actually 20 years old. Asha will no longer be tried under the JJ Act. She will now face trial under the usual court system



NO JOINT TRIALS OF CHILDREN AND ADULTS!!

There shall be no joint proceedings of a child alleged to be in conflict with law, with a person who is an adult. If a child has allegedly committed a crime along with an adult, the two will be tried separately – the child under the JJ Act, and the adult under the usual criminal court system.

If two children in conflict with the law are tried together for allegedly committing an offence together, and it is later found that one of them is actually an adult, the two will from now on be tried separately.

NO ADULT CAN BE TRIED ALONG WITH A CHILD!

Adnan and Anand are car thieves. Adnan's 10 year old son Toufiq adores his father and begs to be taken along so he can "learn the work early." Adnan finds this amusing and sometimes takes Toufiq along. One night Anand, Adnan and Toufiq get caught while trying to steal a car. As Toufiq is a minor, he will be tried separately under the JJ Act. The father Adnan cannot be tried along with the child Toufiq.

Adnan and Anand, both adults caught for committing a crime jointly, will be tried together under the usual criminal court system.



NO PERMANENT BLOT FOR JUVENILE OFFENCES

The JJ Act focuses on reform. Any child found to have committed an offence is given a chance to reform, and is understood to have the capacity and likelihood of reforming. This is why when the child becomes an adult, every opportunity is given for the child to have a fresh start in life. For this reason, there will be no disqualification on account of the person's tryst with the law as a child. In fact the records of the case shall also be destroyed in due course of time.

HOWEVER, this is not so in the case of a child above the age of 16 who is found to have committed an offence by the Children's Court. In such a case, the person *will suffer disqualification* on account of their having been in conflict with the law as a child. Here, *even if the person has reformed, his or her criminal past as a child will not be erased*. It will reflect in their criminal record. The records of the case will not be destroyed. Rather, they will be retained in the Children's Court.



Shankar (left) was 17 when he killed 16 year old Maya for refusing to be his girlfriend. He was tried by the Children's Court and found to have committed the offence. He is directed to spend a term of 14 years. Even after he serves out this term, the record of his case will be retained by the Children's Court, and the offence that he committed as a child will form a part of his record.



Toufiq was 10 years old when he was caught trying to steal a car with his father Adnan. He is sent to the Board where he is tried and found to have committed the offence. The Board directs that he spend 6 months in a special home. After Toufiq serves this time in a special home, he is set free and can make a fresh start. The records of his case will be eventually destroyed by the Board and there will be no blemish to his record as a law abiding citizen.



CHILDREN IN NEED OF CARE AND PROTECTION



A child in need of care and protection means a child who is—
Homeless and destitute, or found begging, or living on the street.



Working in violation of child labour laws.

<i>CHILD IN NEED OF CARE AND PROTECTION.....</i>		
		
<i>Homeless child, or child found begging or destitute</i>	<i>Child living with a person likely to hurt or abuse the child</i>	<i>A child working in violation of child labour laws</i>



Staying with a person (whether a guardian of the child or not) who has:

- ✚ Hurt, abused or neglected the child.
- ✚ Threatened to hurt, abuse or neglect the child and is likely to do so.
- ✚ Killed, abused, or neglected some other child, and is likely to do the same with this child as well.



With a mental or physical disability, or is suffering from some terminal disease, and has no one who is willing and able to take care of the child.



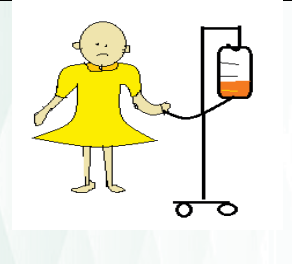


With a parent or guardian who is unfit or incapable of providing adequate care and protection to the child.



Without parents, or whose parents have abandoned or surrendered the child, and no one is willing to take care of the child.



Missing or run away.

<i>CHILDREN IN NEED OF CARE AND PROTECTION.....</i>		
		
<i>A child with a terminal illness or disability with no one to look after her</i>	<i>An abandoned child, or child whose parents/guardians are unfit or unable to take care of the child</i>	<i>A missing or runaway child, or child having no one to take care of him/her</i>



A victim of sexual abuse or illegal acts, or is likely to be.



A victim of drug abuse or trafficking.



Likely to be exploited for any commercial purpose.



Victim of any armed conflict, civil unrest or natural calamity.



Victim of child marriage.

CHILDREN IN NEED OF CARE AND PROTECTION.....

		
<i>A child victim of any armed conflict, civil unrest or natural calamity</i>	<i>A child vulnerable to sexual abuse, drug abuse or other exploitation</i>	<i>A child likely to be made to enter child marriage</i>

DEALING WITH CHILDREN IN NEED OF CARE AND PROTECTION

CHILD WELFARE COMMITTEES

Each district should have at least one Child Welfare Committee (Committee for short) to deal with children in need of care and protection. The Committees consist of a Chairperson and four other members. At least one of these members should be a woman, and one other member should be an expert on children's matters. All the members should be experienced in working for the welfare of children.



A child in need of care and protection can be brought before the Committee by:



Any police officer, any officer of District Child Protection Unit, or inspector appointed under any labour law.



Any public servant.



Childline Services or any NGO or voluntary agency recognized by the government .



Child Welfare Officer or probation officer.



Any social worker or a public spirited citizen.



The child directly.



Any nurse, doctor or management of a nursing home, hospital or maternity home.

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<i>Any police officer, or District Child Protection Unit officer</i>	<i>Childline Services, or any recognized NGO or voluntary</i>	<i>Any nurse, doctor, or management of a nursing home or hospital</i>	<i>Any social worker or a public spirited person, or Child Welfare Officer or probation officer</i>	<i>The child directly</i>

A child can also be 'surrendered' by its parents or guardian. If a parent or guardian wishes to surrender a child for physical/emotional/social factors beyond their control, the child should be brought to the Committee. The Committee will hold due inquiry and counseling. After this process is complete, the Committee can allow the surrender if it feels this is in the best interest of the child.

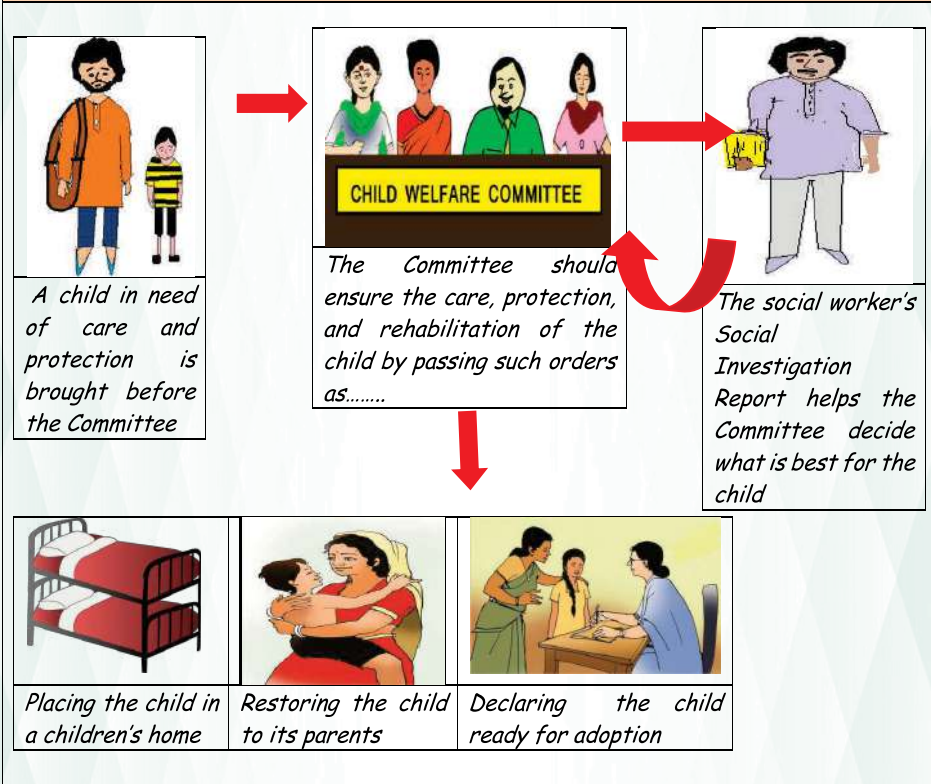
The parents or guardian who surrendered the child are then given two months' time to reconsider their decision. In the meantime, the child can either be allowed to stay with the parents or guardian or placed in a Specialised Adoption Agency (if the child is below the age of 6 years). If above 6 years of age, the child is sent to a children's home.

When a child is brought before it, the Committee can:

- ✚ Send the child to a children's home, or some other fit place or person (i.e. a place or a person that the Committee has recognized to be suitable).
- ✚ Order for a social investigation to be conducted by a social worker (or Child Welfare Officer, or Child Welfare Police Office). This Social Investigation Report should be ready within 15 days.

The Committee itself should complete its entire process of dealing with the child in question within 4 months.

PROCESS FOR DEALING WITH CHILDREN IN NEED OF CARE AND PROTECTION



After the inquiry is complete, the Committee will consider the wishes of the child (if the child is mature enough), and *pass orders* such as:

- *Declare that a child is in need of care and protection.*
- *Restore the child to parents or guardian or family:* The Committee should ensure that all efforts are made for restoration of abandoned or lost children to their families.
- *Place the child in a Children's Home, or fit facility, or Specialised Adoption Agency.*

- *Place the child with a fit person for long term or temporary care:* The Committee should monitor the child's stay in a children's home or other fit place. The child will stay in such places till some better rehabilitation arrangement can be made, or till the child turns 18.
- *Give appropriate directions to persons or institutions or facilities in whose care the child is placed with regard to the overall care, protection and rehabilitation of the child.*
- *Declare the child is legally free for adoption:* Orphaned, abandoned, and surrendered child can be declared as legally free for adoption after the Committee completes due inquiry.
- *Place the child in foster care:* Here, the child is placed with a family that is certified as able to provide an alternative home environment to the child. A foster home is more temporary in nature, while adoption is permanent.

Other duties of the Committee include:

- Ensuring care, protection, appropriate rehabilitation of children in need of care and protection based on the child's individual care plan.
- Selecting appropriate registered institutions for placement of children requiring institutional support.
- Conducting at least two inspection visits per month of residential facilities for children in need of care and protection and making recommendations for improvement.
- Taking *suo motu* (i.e. on its own, without waiting for anyone to first approach it for action) action to reach out to children in need of care and protection.
- Conduct inquiry in case of a complaint of abuse of a child in any child care institution.

Sudha Apte lives in a flat in Mumbai. From her balcony she can see the sitting room of her neighbour's house. Sudha often notices a young girl in shabby clothes doing various household chores like dusting and sweeping. One day Sudha hears the sound of howling. She sees that the girl in the flat across is getting beaten by what Sudha assumes are the girl's employers. Sudha immediately calls Childline at 1098. Childline and their partner NGOs make inquiries and come to know that the girl is 12 year old Monmi from Assam who has been sent to Mumbai to work as a domestic worker. Monmi is clearly a child in need of care and protection as she is being made to work in violation of child labour laws, and is also a victim of physical abuse from her employers.

Childline rescues Monmi and brings her before the nearest Child Welfare Committee. The Committee will have to ensure the best interest of the child. They direct the Child Welfare Officer to prepare a social investigation report. The Committee comes to know that Monmi is an orphan. She says she is okay with staying on in Mumbai as she has no one in Assam, but she does not want to work for her employers. The Committee arrange for her to stay at a children's home, where she will have access to education, vocational training and other rehabilitative support. As Monmi has expressed her willingness to be sent in foster care or adoption, the Committee is also looking for an appropriate family where she can be sent in foster care or adoption.



Shalu was still in the womb when her father, a debt ridden farmer faced with another crop failure, took his own life. Her mother Kusum was left destitute. There was no money for food, clothes or medicine, and the very survival of Shalu was at risk. There was no work to be found in the village and Kusum would have to go to the city to find work.

It was then that Kusum decided to surrender 1 month old Shalu for adoption. She hoped that her daughter would have a better chance in life if she is adopted by a good family.

Heartbroken but determined to give her daughter a better future, Kusum approaches the Committee to surrender Shalu. The Committee gives Kusum time to reconsider, but she has made up her mind. The Committee makes the necessary inquiries, and then helps Kusum with the formalities of the surrender deed. In the meantime Shalu is sent to a children's home as Kusum decides to leave for the city and find work as soon as possible.

Shalu is later adopted by a childless couple in Chennai where she is welcomed into the family.

OFFENCES AGAINST CHILDREN PUNISHABLE UNDER THE JJ ACT



No newspaper, magazine, or any other form of media should **disclose** the name, address, school or **any other information** which may lead to the identification of a **child in conflict with law** or a **child in need of care and protection** or a **child victim or witness of a crime**. No picture of any such child should be published. However, for reasons to be recorded in writing, the Board or Committee inquiring into the matter may permit such disclosure, **if such disclosure is in the best interest of the child**.

Violation of this provision is punishable with imprisonment for a term which may extend to 6 months, or fine which may extend to two lakh rupees, or both.



No one having charge over a child should **assault/abandon/abuse a child** so as to cause unnecessary mental or physical suffering. The person having such charge over a child should also not let anyone else assault/abandon/abuse the child.

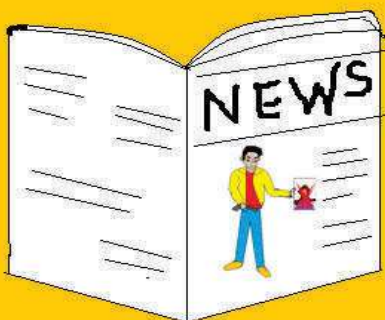
Violation of this provision is punishable with 3 years' imprisonment, or with fine of 1 lakh rupees, or with both.

If the offence is committed by any person employed by or managing an **organisation entrusted with the care and protection of the child**, the punishment is **rigorous imprisonment which may extend up to 5 years, and fine which may extend up to 5 lakhs rupees**.

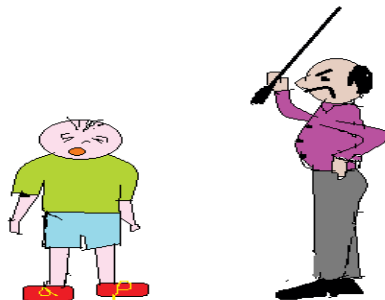
If the cruelty **causes a physical disability in the child, or some mental illness or mental inability to perform regular tasks, or is a risk to the child's life and health**, the punishment will be **rigorous imprisonment of minimum 3 years which can go up to 10 years, as well as a fine of 5 lakh rupees**.

However, this does not apply in the case of abandonment of a child by the biological parents due to circumstances beyond their control.

Publishing information which can lead to the identification of a child in conflict with law or a child in need of care and protection is a punishable offence



Assaulting, abusing, or abandoning a child is a punishable offence



Using a child for the purpose of begging is punishable with 5 years of imprisonment as well as fine of 1 lakh rupees.

If for the **purpose of begging, the person amputates or maims the child**, the punishment will be greater – rigorous imprisonment for at least 7 years (and maximum 10 years), as well as fine of 5 lakh rupees.





Giving a child any intoxicating liquor, or any narcotic drug, or tobacco product, or psychotropic substance, unless prescribed by a medical doctor, is punishable with 7 years' rigorous imprisonment and a fine which may extend up to 1 lakh rupees.



Using a child for selling or supplying any intoxicating liquor, narcotic drug, or psychotropic substance, is punishable with up to 7 years' rigorous imprisonment as well as a fine up to 1 lakh rupees.



Employing and keeping a child in bondage, or withholding the earnings of a child, or using a child's earnings for one's own purposes, is punishable with up to 5 years' rigorous imprisonment as well as a fine of 1 lakh rupees.

<p><i>Using a child to sell intoxicating liquor or narcotic drugs is a punishable offence</i></p>	<p><i>Recruiting a child for any purpose by a militant group is a punishable offence</i></p>
	



Giving or receiving in adoption any orphan, abandoned or surrendered child, contrary to the adoption laws under the JJ Act, is punishable with up to ***3 years' imprisonment, or fine of 1 lakh rupees, or both.***

Any recognised adoption agency committing this offence will ***lose its registration and recognition for at least 1 year.***



Selling or buying a child for any purpose is punishable with up to ***5 years' rigorous imprisonment as well as fine of 1 lakh rupees.*** If this offence is committed ***by a person having actual charge of the child*** (e.g. parent/guardian, employees of a hospital or nursing home or maternity home), the punishment is ***imprisonment for at least 3 years and maximum 7 years.***



If ***any person employed in a child care institution subjects a child to physical punishment*** with the aim of disciplining the child, the punishment is a ***fine of 10,000 rupees.*** ***If the offence is repeated,*** the punishment will increase to ***imprisonment which may extend to 3***

months, or fine, or both. Such a person will also be dismissed from service and will not be allowed to work directly with children again.



Recruiting a child for any purpose by a militant group or outfit is punishable with up to *7 years' rigorous imprisonment as well as fine of 5 lakh rupees.*

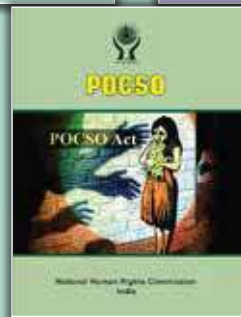
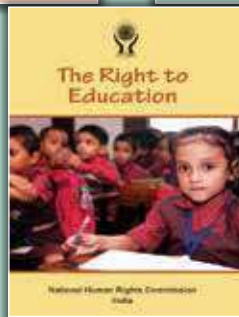
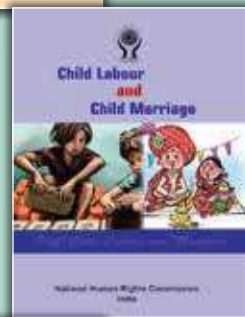
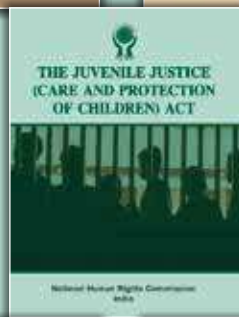
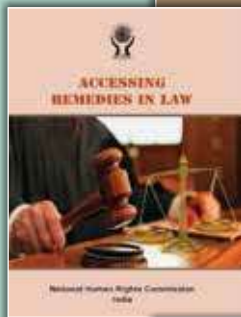
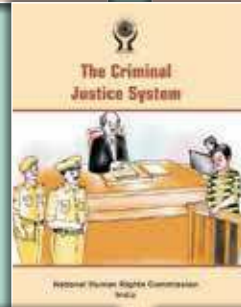
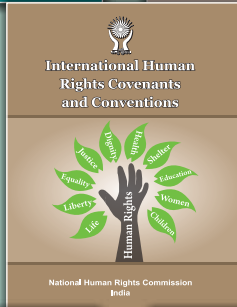
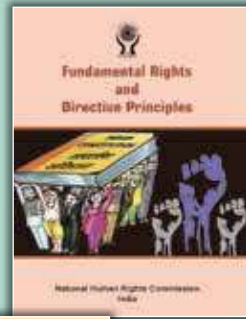
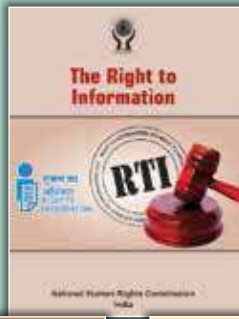


Using a child for illegal activities by any adult or an adult group is punishable with up to *7 years' rigorous imprisonment as well as fine of 5 lakh rupees.*



Committing any of the above offences on a child with disability will be punished with twice the punishment prescribed

Of course, if any child commits any of the above offences, the child will be dealt with by the Board as a child in conflict with law.



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