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## **SCOPE AND EFFECT OF THE PROCESS OF PRELIMINARY ASSESSMENT IN JUVENILE JUSTICE ACT, 2015**

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### **ABSTRACT**

India is a country with a large population which also includes children. Children are the assets of the nation and the backbone of our country. They have certain rights and duties. But they don't have an age of maturity to know their rights so, they are becoming the victims of delinquency. Children can become criminals for many reasons but poverty and the environment in which they live are one of the main reasons. The punishment for these juveniles should not be the same as for adults, we should consider the child's age, maturity, and studies. To deal with such issues Juvenile Justice (Care and Protection) Act was enacted by the Indian Government. This article mainly focuses on the scope, need, background, and preliminary assessment of the Juvenile Justice Act, of 2015.

**Keywords:** Juveniles, Preliminary Assessment, Juvenile Delinquency, Juvenile Justice Board.

**INTRODUCTION:**

The Juvenile Justice (Care and Protection) Act, 2015 was enacted and came into force in 2015 after the tragic event of the Delhi gang rape case (i.e. Nirbhaya rape case). However, the origin of Juvenile Act was started in 1850. Later, it undergoes more changes through amendments and judicial pronouncements. Now, the Juvenile Justice (Care and Protection) Act, of 2015 is in practice. This article mainly discusses the difficulty in assessing the age and capacity of the children. And focuses on the difficulty faced by the children when they are sent to jail and the importance of adopting the method of reformatory schools for Juveniles.

**JUVENILES:**

The term 'Juvenile' is derived from the Latin word "Juvenis" which means "Young". In a general sense, a child refers to a person who has not completed the age of 18 years and does not have the maturity to understand, but a Juvenile refers to a person under the age of 18 years who allegedly committed an offence. The legal system mostly follows the principle of "Doli incapax" which means a child cannot commit an offence with criminal intent. The Juvenile Justice Act deals with such Juveniles. This act provided a clear view of the child who conflicts with the law and children who need care and protection. It also speaks about the rights and process of children put up for adoption.

**BACKGROUND OF JUVENILE JUSTICE ACT**

The concept of juvenile justice was not new in India. The first legislation for Juveniles in India came in 1850 which was the Apprentice Act, it required that children between the ages of 7 to 18 years convicted in court should be provided the vocational training during their reformatory process. Then this was converted into the Reformatory School Act of 1897. Then more laws like the Indian Penal Code and the Code of Criminal Procedure recommend different treatment for young offenders.

After the Independence Constitution provides some provisions in both Fundamental rights and Directive principles to protect and develop children. Based on this Children Act of 1960 made the imprisonment of child to become illegal. But this act failed to provide justice, so the Juvenile Justice Act 1986 was made, and later replaced by the Juvenile Justice Act, 2000. However, after the Nirbhaya case is large controversy arose, and as a result Juvenile Justice

Act, 2015 was enacted. This act provides many changes which provides Juvenile offenders between the ages of 16-18 years in heinous crimes were to be considered as adults.

### **REASON FOR CHANGES IN ACT, 2000**

1. The Juvenile Justice Act did not have any provisions for the loss of children or to report abandon a child or to ensure the care and protection of the Children.
2. The changes brought to bring a balance between the child's rights and justice when a child is an offender.
3. The Juvenile Justice Act, of 2015 was brought because there was a procedural delay when Act, 2000 was in force.
4. The main reason for the amendment is the Nirbhaya rape case. In that case, one Juvenile was also involved in a crime, but he was not given severe punishment because of the child offender. So, to provide severe punishment to child offenders above the age of 16, when they are involved in heinous crime the changes were brought to the Act, 2000.
5. Data from criminal records shows that several young people were involved in crimes particularly the age of 16-18 years of age.
6. The act, of 2000 provides the same meaning to the children in conflict with the law and children need care and protection.

The Juvenile Justice Act encompasses a broad scope, primarily focusing on the protection, care, and rehabilitation of children in conflict with the law or in need of care and protection. It outlines procedures for dealing with juvenile offenders, including diversionary measures, rehabilitation programs, and the establishment of juvenile justice boards. Additionally, the Act addresses various aspects related to child rights, such as adoption, foster care, and the prevention of juvenile delinquency. Its overarching goal is to ensure the well-being and development of children in the justice system.

### **JUVENILE JUSTICE BOARD:**

The Juvenile Justice Board (JJB), established under the Juvenile Justice Act, 2015, has several significant effects:

1. **Adjudication for Juveniles:**

The JJB is responsible for determining the adjudication of juvenile offenders, including their guilt or innocence, and deciding on appropriate dispositions or rehabilitation measures.

## **2. Protection of Juvenile Rights:**

It ensures that the rights of juveniles in conflict with the law are upheld throughout the legal process, including the right to legal representation, fair treatment, and access to rehabilitation services.

## **3. Rehabilitation Focus:**

The JJB emphasizes rehabilitation and reintegration into society rather than punishment for juvenile offenders. It assesses the individual needs of juveniles and provides appropriate intervention programs aimed at their reform and social reintegration.

## **4. Diversionary Measures:**

The JJB has the authority to divert juveniles away from the formal justice system through measures such as counselling, community service, or participation in rehabilitation programs, depending on the nature of the offense and the circumstances of the juvenile.

## **5. Protection of Child Rights:**

Beyond adjudication, the JJB plays a role in ensuring the overall protection and welfare of children, including those in need of care and protection. It addresses issues such as child abuse, neglect, and exploitation, and takes necessary steps to provide for the safety and well-being of vulnerable children.

Overall, the Juvenile Justice Board serves as a crucial institution in promoting the rehabilitation and reintegration of juvenile offenders while safeguarding their rights and ensuring their overall well-being.

## **MERITS OF JUVENILE JUSTICE ACT:**

The Juvenile Justice Act of 2015 has several merits:

### **1. Focus on Rehabilitation:**

The Act prioritizes the rehabilitation and reintegration of juveniles in conflict with the law, aiming to prevent reoffending and promote their social reintegration.

## **2. Child-Centric Approach:**

It recognizes children as vulnerable individuals in need of care, protection, and guidance rather than punishment, aligning with principles of child rights and welfare.

## **3. Protection of Rights:**

The Act safeguards the rights of juveniles, including the right to privacy, legal representation, speedy trial, and protection from cruel, inhuman, or degrading treatment.

## **4. Progressive Measures:**

It introduces progressive measures such as diversion, probation, and counselling to address juvenile delinquency, acknowledging the developmental stage and unique needs of young offenders.

## **5. Specialized Institutions:**

The Act establishes specialized juvenile justice institutions like Juvenile Justice Boards and Child Welfare Committees to ensure a child-friendly justice system and effective implementation of juvenile justice measures.

Overall, the Juvenile Justice Act of 2015 promotes a balanced approach that emphasizes accountability while also prioritizing the well-being and rehabilitation of juvenile offenders.

## **DEMERITS OF JUVENILE JUSTICE ACT:**

While the Juvenile Justice Act of 2015 has several merits, it also has some potential demerits or areas that may need improvement:

### **1. Criticism of Age Limit:**

One common criticism is the age limit for juvenile offenders, which is set at 18 years. Some argue that individuals over 16 or 17 years old who commit serious offenses should be treated as adults, especially in cases of heinous crimes.

### **2. Implementation Challenges:**

The effective implementation of the Act's provisions, including rehabilitation programs and social reintegration measures, may face challenges due to resource constraints, lack of trained personnel, and varying capacities at the state level.

### **3. Inadequate Rehabilitation Facilities:**

Insufficient rehabilitation facilities and programs tailored to the diverse needs of juvenile offenders can hinder their successful reintegration into society, leading to a higher risk of recidivism.

### **4. Judicial Discretion:**

The Act grants considerable discretion to Juvenile Justice Boards and Child Welfare Committees, which may lead to inconsistency in decision-making and disparities in the treatment of juvenile offenders across different regions.

### **5. Lack of Public Awareness:**

Limited awareness among the public about the principles and objectives of the Act may result in misconceptions, stigma, and discrimination against juvenile offenders, hindering their successful reintegration into society.

Addressing these demerits requires continuous review, monitoring, and reform of the juvenile justice system to ensure that it effectively balances the principles of accountability, rehabilitation, and protection of juvenile rights.

## **CONCLUSION:**

The assessment of the Juvenile Justice Act 2015 would typically involve evaluating its implementation, impact, and adherence to its stated objectives. It may cover areas such as the protection of juvenile rights, rehabilitation measures, effectiveness of the juvenile justice system, and alignment with international standards. The conclusion of such an assessment could highlight strengths, weaknesses, and recommendations for improvement in the juvenile justice system.