



## Issue with the Juvenile Justice Amendment Act, 2021

**For Prelims:** Juvenile Justice Act, Non-cognisable offence, The Protection of Children from Sexual Offences Act, United Nation Convention on the Right of the Child

**For Mains:** Concerns Associated with the JJ Amendment Act, 2021, Legal Frameworks for the Welfare of children

### Why in News?

**The Juvenile Justice Act Amendment** is making it harder to report abuse at child care institutions by making abuse and cruelty by staffers or persons in-charge at Child Care Institutions (CCI) **non-cognisable**.

- The **Juvenile Justice (Care and Protection of Children) Amendment Act, 2021** was passed to amend various provisions of the **Juvenile Justice Act, 2015**.

### What are the Provisions of Juvenile Justice (Care and Protection) Amendment Act 2021?

- **Non-Cognisable Offence:**
  - Crimes against children which are mentioned in the chapter “Other Offences Against Children” of the JJ Act, 2015 that allow an imprisonment between three and seven years will be deemed “non-cognisable”.
- **Adoption:**
  - The amendment provides strength to the provision of protection and adoption of children. There are many adoption cases pending before the court and **to make proceedings of the court faster now the power is transferred to the district magistrate**.
  - Amendment provides that the **district magistrate has the authority to issue such adoption orders**.

### What are the Highlights about of Juvenile Justice Act, 2015?

- Parliament introduced and passed the **Juvenile Justice (Care and Protection of Children) Act in 2015 to replace the Juvenile Delinquency Law and the Juvenile Justice (Care and Protection of Children Act) 2000**.
- The Act **offered provisions to allow trials of juveniles in the age group of 16-18 years** as an adult who were found to be in conflict with the law, especially heinous crimes.
- The Act also **offered provisions regarding adoption**. The Act replaced the **Hindu Adoptions and Maintenance Act (1956)** and Guardians of the ward Act (**1890**) with more universally accessible adoption law.
- The Act enabled smooth functioning of **adoption procedures for orphans, surrendered, and abandoned children** while making the [Central Adoption Resource Authority \(CARA\)](#) the statutory body for adoption-related matters.
- [Child Care Institutions \(CCI\)](#):

- All Child Care Institutions, whether run by the State Government or by voluntary or non-governmental organisations are to be mandatorily registered under the Act within 6 months from the date of commencement of the Act.

## What is the Concern Associated with the Juvenile Justice Amendment Act, 2021?

- Specifically, the **amendment under challenge is the one to Section 86 of the JJ Act**, according to which **crimes under the special law**, with punishment between three to seven years, have been **reclassified as non-cognisable**.
- While the **victims themselves are unable to directly report them due to the imbalance in power**, most such crimes are **reported to the police by either parents or child rights bodies and Child Welfare Committees (CWC)**.
  - **Parents of these Children:** They are mostly daily wage labourers, are either unaware of how to, or not inclined to report the crimes to the police.
    - They **do not want to engage with the legal process** because that **would force them to take time off from work, resulting in loss of wages**.
  - **Child Welfare Committees (CWC):** CWCs' first instinct in most cases is to **"talk and arrive at a settlement"** without having to escalate the matter to the police.
- **Making these crimes non-cognisable** along with several other serious crimes under the special law **would make reporting an offence to the police even more difficult**.

## What is a Cognizable and Non-Cognizable offence in India?

- The [Criminal Procedure Code](#) lays the rules for the conduct of proceedings against any person who has committed an offence under any Criminal law.
- **Cognizable Offences:**
  - A cognizable offence is an offence in which the **police officer** as per the first schedule or under any other law for the time being in force, **can arrest the convict without a warrant and can start an investigation without the permission of the court**.
  - Cognizable offences are generally heinous or serious in nature such as **murder, rape, kidnapping, theft, dowry death etc.**
  - The [first information report \(FIR\)](#) is registered only in cognizable crimes.
- **Non-Cognizable Offences:**
  - A non-cognizable offence is the offence listed under the first schedule of the [Indian Penal Code](#) and is bailable in nature.
  - In case of a non-cognizable offence, **the police cannot arrest the accused without a warrant as well as cannot start an investigation**.
    - A **criminal complaint is lodged with the magistrate** who is supposed to order the concerned police station to initiate an investigation.
  - The crimes of **forgery, cheating, defamation, public nuisance**, etc., fall in the category of non-cognizable crimes.
- **Cases consisting of both Cognizable and Non-Cognizable Offences:**
  - **According to Section 155(4)** of the **Criminal Procedure Code**, when two or more offences are there in a case, of which at least one is of cognizable nature, and other of non-cognizable nature.
    - Then the **entire case has to be dealt as a cognizable case**, and the investigating officer will have all the powers and authority as he has in investigating a cognizable case.

## What does the Statistics Say?

- According to the [National Crime Records Bureau \(NCRB\)](#), since **it started recording these**

**crimes in 2017, they had risen by over 700 percent by 2019.**

- The NCRB in 2017 recorded **278 cases of crimes committed by CCI in-charges** across India involving 328 child victims. These cases rose to 1,968 by 2019, involving as many as 2,699 child victims.

## **What are Other Legal Frameworks for the Welfare of children?**

- [The Protection Of Children from Sexual Offences Act \(POCSO\), 2013](#)
- [Child Labour \(Protection and Regulation\) Act, 2016](#)
- [United Nation Convention on the Right of the Child \(UNCRC\)](#)
- [National Commission for Protection of Child Rights, 2005](#)

## **Way Forward**

- Along with addressing the procedural lacunae and **ensuring faster delivery of justice, there is a need to ease reporting capacity of victims through parents or independent civil society organisations** that will provide the necessary support to the victim and ensure that the child returns to a normal life.
  - High conviction rate would go a long way in ensuring a safe world for children.
- Specific training in child protection rules should be imparted, as district magistrates usually are not trained or equipped to deal with these specific laws.
- To ensure safety of the Children, District Administration should work in close coordination with all five arms - **CWC, JJ Board, CCI, district child protection units and special juvenile police units.**

[Source: TH](#)

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