



JUVENILE JUSTICE IN INDIA

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LEGISLATIVE HISTORY:

Tracing important changes and differences between the three Acts

		JJ Act 1986	JJ Act 2000	JJ Act 2015	Summary of Change
1.	Definition of Juvenile or Child for the purpose of the Act	Sec. 2(h): Juvenile: Boy under 16 years and Girl under 18 years	Sec. 2(k): Person who has not completed 18 years of age	Sec 2 (12): Child means a person who has not completed eighteen years of age	Under the 1986 Act, there was a different definition for a boy and a girl. This difference has been removed in the subsequent Acts.
2.	Classification of Offences	No Classification present	Sec. 8.4: Every juvenile...sent to the OH shall be kept in a reception unit of the OH for preliminary inquiries, care and classification according to his age group such as 7 – 12 years, 12 – 16, and 16 – 18 years, giving due consideration to physical and mental status and degree of the offence committed... Sec. 9.4: The Rules... may also provide for the classification and separation...	Three categories of offences: Sec 2 (33): heinous offences: includes the offences for which the minimum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment for seven years or more; Sec 2 (45): petty offences: includes the offences for which the maximum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment up to three years; Sec 2 (54): serious offences: includes the offences for which the punishment under the Indian Penal Code or any other law for the time being in force, is imprisonment between three to seven years;	There is some mention of classification in the 2000 Act i.e degree and nature of offence committed is an important factor in deciding the nature/kind of care and /or home in which the CIL is placed. In contradistinction to this, the 2015 Act explicitly classifies offences in three categories.

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3.	Bail	<p>Sec 18(1): Bail to be given as a matter of right. Bail not to be given if there are reasonable grounds for believing that release is likely to bring him in to association with any known criminal or expose him to moral danger or that his release would defeat the ends of justice</p>	<p>Sec 12(1): When any person accused of aailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before a board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a Probation Officer or under the care of any fit institution or fit person but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that this released would defeat the ends of justice.</p>	<p>Sec 12: Bail (1) When any person, who is apparently a child and is alleged to have committed aailable or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person: Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person's release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.</p>	<p>Has mostly remained the same- only difference is that under the 2015 Act, the JJB has to records its reasons for giving or denying bail to the child.</p>
4.	Composition of/and procedures for Competent Authority dealing with CICL	<p>Sec 5 read with Sec 20 read with Sec 39: Juvenile Court consists of such number of Metropolitan Magistrates or Judicial Magistrates of the first class as may be prescribed. Every juvenile court to be assisted by a panel of two honorary social workers. Prescribed procedure- summons procedure. (As far as possible)</p>	<p>Sec 4: Inquiry to be conducted by the Juvenile Justice Board, consisting of a Metropolitan Magistrate or a Chief Judicial Magistrate and two social workers at least one of who shall be a woman, forming a bench and every such bench shall have the powers conferred by the Code of Criminal Procedure, 1973. In the event of a difference of opinion among the members, the opinion of the majority shall prevail, and when there is no majority, the opinion of the principal magistrate shall prevail.</p> <p>Sec 5 (1): The Board shall observe such rule of procedure in regard to the transaction of business as may be prescribed.</p>		

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5.	Inquiry and Preliminary Assessment	<p><u>Inquiry:</u></p> <p>Sec 27(1): A Board or a Juvenile Court shall hold its sittings at such place, on such day and in such manner, as may be prescribed.</p> <p>Sec 27(2): A Magistrate empowered to exercise the powers of a Board or, as the case may be, a Juvenile Court under sub-section (2) of section 7 shall, while holding any inquiry regarding a juvenile under this Act, as far as practicable, sit in a building or room different from that in which the ordinary sittings of Civil and Criminal Courts are held, or on different days or at times different from those at which the ordinary sittings of such courts are held.</p> <p>Sec 27(3): An inquiry regarding a juvenile under this Act shall be held expeditiously and shall ordinarily be completed within a period of three months from the date of its commencement, unless, for special reasons to be recorded in writing, the competent authority otherwise directs.</p> <p><u>Preliminary Assessment:</u></p> <p>NIL- no provision for Preliminary Assessment</p>	<p>Sec 14: Inquiry by Board regarding juvenile.</p> <p>1- Where a juvenile having been charged with the offence is produced before a Board, the Board shall hold the inquiry in accordance with the provisions of this Act and may make such order in relation to the juvenile as it deems fit.</p> <p>Provided that an inquiry under this section shall be completed within a period of four months from the date of its commencement, unless the period is extended by the Board having regard to the circumstances of the case and in special cases after recording the reasons in writing for such extension.</p> <p><u>Preliminary Assessment:</u></p> <p>NIL- no provision for Preliminary Assessment</p>	<p>Sec 14: Inquiry by Board regarding child in conflict with law.</p> <p>Sec 14(1): Where a child alleged to be in conflict with law is produced before Board, the Board shall hold an inquiry in accordance with the provisions of this Act and may pass such orders in relation to such child as it deems fit under sections 17 and 18 of this Act.</p> <p>Sec 14(2): The inquiry under this section shall be completed within a period of four months from the date of first production of the child before the Board, unless the period is extended, for a maximum period of two more months by the Board, having regard to the circumstances of the case and after recording the reasons in writing for such extension.</p>	<p>Process for inquiry has remained the same (more or less) across the three Acts.</p> <p>Both the 1986 and 2000 JJ Acts, do not provide for preliminary assessment as transfer of children was not permitted under any circumstance. Under the 2015 Act, a provision for preliminary assessment, which permits the transfer of children has been introduced.</p>

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6.	Preliminary Assessment into heinous offences by the Board	No provision	No provision	<p>Sec 15(1): In case of a heinous offence alleged to have been committed by a child, who has completed or is above the age of sixteen years, the Board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence, and may pass an order in accordance with the provisions of sub- section (3) of section 18: Provided that for such an assessment, the Board may take the assistance of experienced psychologists or psycho-social workers or other experts. Explanation.—For the purposes of this section, it is clarified that preliminary assessment is not a trial, but is to assess the capacity of such child to commit and understand the consequences of the alleged offence.</p> <p>Sec 15(2): Where the Board is satisfied on preliminary assessment that the matter should be disposed of by the Board, then the Board shall follow the procedure, as far as may be, for trial in summons case under the Code of Criminal Procedure, 1973: Provided that the order of the Board to dispose of the matter shall be appealable under sub-section (2) of section 101: Provided further that the assessment under this section shall be completed within the period specified in section 14.</p>	<p>Entirely new provision introduced in the 2015 Act.</p> <p>Preliminary assessment to decide whether a person between 16 and 18 years alleged to have committed a heinous offence should be transferred to a Children’s Court.</p> <p>The assistance of psychologists, psycho- social workers or other experts can be taken.</p> <p>The preliminary assessment is not a trial.</p> <p>If the JJB decides to retain jurisdiction, it should follow the process for summons case. This order of the JJB is appealable.</p> <p>The preliminary assessment must be completed within three months.</p>
7.	Orders that may be passed by a JJB	<p>Sec 21(1): Where a Juvenile Court is satisfied on inquiry that a juvenile has committed an offence, then, notwithstanding anything to the contrary contained in any other law for the time being in force, the Juvenile Court may, if it so thinks fit, – (a) Allow the juvenile to go home after advice or admonition ; (b) Direct the juvenile to be released on probation of good conduct and placed under the care of any parent, guardian or other fit person, on such parent, guardian or other fit person executing a bond, with or without surety as that court may require, for the good behaviour and well-being of the juvenile for any period not exceeding three years ;</p>	<p>Sec 15 (1): Where a Board is satisfied on inquiry that a juvenile has committed an offence, then, notwithstanding anything to the contrary contained in any other law for the time being in force, the Board may, if it thinks so fit, - (a) allow the juvenile to go home after advice or admonition following appropriate inquiry against and counselling to the parent or the guardian and the juvenile; (b) direct the juvenile to participate in group counselling and similar activities; (c) order the juvenile to perform community service; (d) order the parent of the juvenile or the juvenile himself to pay a fine, if he is over fourteen years of age and earns money;</p>	<p>Sec 18: Orders regarding child found to be in conflict with law: (1) Where a Board is satisfied on inquiry that a then, notwithstanding anything contrary contained in any irrespective of age has committed a petty offence, or a serious offence, or a child below the age of sixteen other law for the time being in force, Board may, if it so thinks fit,— (a) allow the to go home after advice or admonition by following appropriate inquiry and counselling to such child and to his parents or the guardian; (b) direct the child to participate in group counselling and similar activities; (c)order the child to perform community service under the supervision of an organisation or institution, or a specified person, persons or group of persons identified by the Board;</p>	

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7.	Orders that may be passed by a JJB	<p>(c) Direct the juvenile to be released on probation of good conduct and placed under the care of any fit institution for the good behaviour and well-being of the juvenile for any period not exceeding three years ;</p> <p>(d) Make an order directing the juvenile to be sent to a special home, –</p> <p>(i) In the case of a boy over fourteen years of age or of a girl over sixteen years of age, for a period of not less than three years ;</p> <p>(ii) In the case of any other juvenile, for the period until he ceases to be a juvenile ;</p> <p>Provided that the Juvenile Court may, if it is satisfied that having regard to the nature of the offence and the circumstances of the case it is expedient so to do, for reasons to be recorded, reduce the period of stay to such period as it thinks fit :</p> <p>Provided further that the Juvenile Court may, for reasons to be recorded, extend the period of such stay, but in no case the period of stay shall extend beyond the time when the juvenile attains the age of eighteen years, in the case of a boy, or twenty years in the case of a girl ;</p> <p>(e) Order the juvenile to pay a fine if he is over fourteen years of age and earns money.</p> <p>Sec 21(2): Where an order under clause (b), clause (c) or clause (e) of sub-section (1) is made, the Juvenile Court may, if it is of opinion that in the interests of the juvenile and of the public it is expedient so to do, in addition make an order that the delinquent juvenile shall remain under the supervision of a probation officer named in the order during such period, not exceeding three years, as may be specified therein, and may in such supervision order impose such conditions as it deems necessary for the due supervision of the delinquent juvenile :</p> <p>Provided that if at any time afterwards it appears to the Juvenile Court on receiving a report from the probation officer or otherwise, that the delinquent juvenile has not been of good behaviour during the period of supervision or that the fit institution under whose care the juvenile was placed is no longer able or willing to ensure the good behaviour and well-being of the juvenile it may after making such inquiry as it deems fit, order the delinquent juvenile to be sent to a special home.</p>	<p>(e) direct the juvenile to be released on probation of good conduct and placed under the care of any parent, guardian or other fit person, on such parent, guardian or other fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and well-being of the juvenile for any period not exceeding three years;</p> <p>(f) direct the juvenile to be released on probation of good conduct and placed under the care of any fit institution for the good behaviour and well-being of the juvenile for any period not exceeding three years;</p> <p>(g) make an order directing the juvenile to be sent to a special home for a period of three years;</p> <p>Provided that the Board may, if it is satisfied that having regard to the nature of the offence and the circumstances of the case, it is expedient so to do, for reasons to be recorded, reduce the period of stay to such period as it thinks fit.</p>	<p>(d)order the child or parents or the guardian of the child to pay fine</p> <p>(e) direct the child to be released on probation of good conduct and placed under the care of any parent, guardian or fit person, on such parent, guardian or fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and child's well-being for any period not exceeding three years;</p>	

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7.	Orders that may be passed by a JJB	<p>Sec 21(3): The Juvenile Court making a supervision order under sub-section (2), shall explain to the juvenile and the parent, guardian or other fit person or fit institution, as the case may be, under whose care the juvenile has been placed the terms and conditions of the order and shall forthwith furnish one copy of the supervision order to the juvenile, the parent, guardian or fit institution, as the case may be, the sureties, if any, and the probation officer.</p> <p>Sec 21(4): In determining the special home, or any person or institution to whose custody a juvenile is to be committed or entrusted under this Act, the court shall pay due regard to the religious denomination of the juvenile to ensure that religious instruction contrary to the religious persuasion of the juvenile is not imparted to him.</p>			
8.	Orders that cannot be passed	<p>Sec 22: Sentenced to death/imprisonment /prison in lieu of fine Proviso: Juvenile who has attained the age of 14 years has committed an offence and the J C is satisfied that the offence committed is of so serious a nature or that his conduct and behaviour have been such that it would not be in his interest or in the interest of other juveniles in a special home to send him to such special home, and that none of the other measures provided under this Act is suitable or sufficient, the J C may order such delinquent to be detained at such place and in such conditions as it thinks fit.</p>	<p>Sec 16 same as Sec 22 of 1986.</p> <p>Sec 16 proviso same as Sec 22 of 1986, except for only two changes: applies to juveniles who have attained the age of 16 years.</p> <p>Juvenile Justice Board to order child in conflict with law to be detained in a place of safety.</p>	<p>Sec 21: No child in conflict with law shall be sentenced to death or for life imprisonment without the possibility of release, for any such offence, either under the provisions of the Indian Penal Code or any other law for the time being in force.</p>	<p>Under the 2015 Act, juveniles can be sentenced to imprisonment, including life imprisonment.</p>

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9.	Presumption and Determination of Age	<p>Sec 32 The competent authority shall make inquiry and record finding of age</p>	<p>Sec 49 same as Sec 32 of 1986 Act.</p> <p>Model Rule 12 (3) In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the court or the Board or, as the case may be, the Committee by seeking evidence by obtaining</p> <p>(a) (i) the matriculation or equivalent certificates, if available; and in the absence whereof;</p> <p>(ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;</p> <p>(iii) the birth certificate given by a corporation or a municipal authority or a panchayat;</p> <p>Model Rule 12. Procedure to be followed in determination of Age. (1) In every case concerning a child or a juvenile in conflict with law, the court or the Board or as the case may be the Committee referred to in rule 19 of these rules shall determine the age of such juvenile or child or a juvenile in conflict with law within a period of thirty days from the date of making of the application for that purpose.</p>	<p>Sec 94 Presumption and determination of age:</p> <p>Sec 94(1): Where, it is obvious to the Committee or the Board, based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the Committee or the Board</p> <p>The word 'obvious' has been used instead of 'where it appears the competent authority shall make due inquiry so as to the age of that person and for that purpose shall take such evidence as may be necessary observation stating the age of the child as nearly as may be and proceed with the inquiry under</p> <p>No order of a competent authority shall be deemed to have become invalid merely by any subsequent proof</p> <p>(2) In case, the Committee or the Board has —</p> <p>(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof; (ii) the birth certificate given by a corporation or a municipal authority or a panchayat;</p> <p>(iii) and only in the absence of (i) and (ii) above, 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:</p> <p>Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.</p> <p>(3) The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person.</p>	

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	Court	Case Name	Determination Of Juvenility/Age Of Juvenile Offender	Trial Of A Juvenile	Sentencing A Juvenile Offender	Operation of the JJ Act/Guidelines On Functioning Of Juvenile Homes & Observation Homes	Guidelines On The Role of Stakeholders such as Media, Hospitals, Courts
11.03.1976	Supreme Court	Bachchey Lal v State of UP	-The fact that an accused is below 18 years of age at the time of commission of the offence is certainly an important factor which would guide the Court in determining whether or not to inflict the death penalty		-Since accused is below 18 years of age, death sentence awarded by lower court commuted to life imprisonment.		
24.07.1981	Supreme Court	Jayendra v State of UP	-Based on the physical examination of the juvenile and other radiological findings of the Chief Medical Officer, the age of the juvenile (appellant) in the present case was determined to be 16 years and 4 months old.	-Based on S. 2(4) of the Uttar Pradesh Children Act, 1951, the appellant was declared a juvenile at the time of the offence. Thus, the appellant had to be tried as a juvenile offender and not as an adult offender.	-In the present case, the Court held that since the appellant was a child at the time of the offence, he could not be tried for the offence as a adult. As a result, since he had already attained adulthood, he could not be punished for the crime he had committed as a child. -Conviction of the appellant was upheld but the sentence imposed upon him was quashed and he was released.		
02.04.1982	Supreme Court	Umesh Chandra v State of Rajasthan	-The relevant date for determining the age of the accused who claims to be a child is the date of the occurrence of the offence and not the date on which the accused is brought for trial				

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11.11.1983	Supreme Court	Gopi Nath v State of West Bengal	<p>-Whenever a case is brought before the Magistrate and the accused appears to be aged 21 years or below, before proceedings with the trial or undertaking an inquiry, an inquiry must be made about the age of the accused on the date of occurrence of the offence</p> <p>-This must especially be done where special Acts dealing with juvenile delinquents are in force, and if necessary, the Magistrate may refer the accused to the medical board or civil surgeon for the purpose of age determination</p>	<p>-Whenever juvenile delinquent is arrested, he/she has to produced before a juvenile court and if no juvenile court is established, the Court of Session will act as a juvenile court.</p> <p>-Such a juvenile delinquent has to ordinarily be released on bail irrespective of the nature of the offence alleged to have been committed unless there are reasonable grounds for not releasing him.</p> <p>-In the present case, since the appellant was a juvenile at the time of the offence, the magistrate should not have committed the case to the Court of Session. Hence, the Court of Session in the present case, did not have the requisite jurisdiction to try the juvenile</p> <p>-As a result, the entire trial of the appellant stood vitiated.</p> <p>-Appellant released on bail and the case is remitted to the Magistrate to proceed further in accordance with the law and provisions of the West Bengal Children's Act.</p>	<p>-Conviction and sentence for imprisonment for life imposed by the Sessions Judge and confirmed by the High Court set aside.</p>		

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04.04.1989	Supreme Court	Bhoop Ram v State of UP	<p>-The Sessions Judge, without going into the question of whether the appellant was below 16 years of age on the date of the commission of offences, adverted only to the fact that the appellant was below 18 years of age at the relevant time and simply followed the ratio laid down in Bachey Lal v State of UP (1956)</p> <p>-In the present case, the Supreme Court, even at the stage of admission of the SLP, called upon the Sessions Judge in Bareilly to stage an age inquiry.</p> <p>-Age inquiry was staged with the help of the Chief Medical Officer and the school certificates of the juvenile (appellant). The Sessions Judge held that appellant would have completed 16 years on the date of the commission of the offences.</p> <p>-The Supreme Court thus concluded (based on all the above factors) that the juvenile would not have completed 16 years of age on the date of commission of said offences.</p>	-Appellant should have been dealt with under the UP Children Act instead of being sentenced to imprisonment when he was convicted by the Sessions Judge.	-Followed the ratio laid down in Jayendra v State of UP and held that since the accused had crossed the maximum age of detention in an approved school (i.e 18 years, as he was presently 28 years of age), his conviction would be upheld but the sentence imposed on him would be quashed.		

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14.02.1992	Supreme Court	Pradeep Kumar v State of UP	<p>-High School Certificate produced by appellants showed that he was 15 years of age at the time of the commission of said offence</p> <p>-Court ordered medical examination which also disclosed that the appellants could not have completed 16 years of age at the time of the offence</p>	-Appellants should have been tried under the UP Children Act instead of being sentenced to imprisonment u/s 302 IPC.	- Conviction of appellants sustained but all sentences awarded quashed		
19.03.1997	Supreme Court	Kadra Pahadiya & Ors v State of Bihar				<p>-Calendars of criminal courts(Magistracy) in most of the States, barring a few geographically small States, are clogged and as a result, trial of cases is delayed. In light of this, there is no justification for not setting a part of the machinery envisioned by the Code into motion (with reference to s. 13 and 18 of the Code).</p> <p>-The basic idea in providing for appointment of Judicial Magistrates, second class, is to ensure that petty cases do not occupy the time of the regular magisterial courts. Hence, the idea underlying the provision for the appointment of Special Judicial Magistrates/Special Metropolitan Magistrates u/s 13(1) and 18(1) respectively, is to relieve regular courts of the burden of trying those cases which could be</p>	

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19.03.1997	Supreme Court	Kadra Pahadiya & Ors v State of Bihar				<p>-Parliament has advisedly left the decision as to the choice of power to be conferred on such Magistrates with the High Court. Once a request is received from the Central/State Government by the High Court, the ball is entirely in the High Court, and it is the High Court and the High Court alone which has to decide on the number of appointments to be made, the choice of personnel to be entrusted with such power, and the extent of power to be conferred on such persons. It is the High Court which has to specify the qualification and/or experience that would be required for the discharging of duties by such Magistrates. As pointed out earlier, the period for which such appointments may be made must not exceed one year at a time, which shows that these are not appointments by way of regular entry into service, and are mean to be short-duration appointments to reduce the burden of pendency in regular Courts. In our view, the appointees should view the call as a social obligation and not employment: indeed as a</p>	

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19.03.1997	Supreme Court	Kadra Pahadiya & Ors v State of Bihar				<p>-That is the spirit of Section 13 and 18 and every appointee must take the call in that spirit and not expect payment as if they are in the service of the concerned State/Union Territory. That is the reason why the said two provisions expect persons who have retired or are about to retire from Government service to be appointed to help clear the pendency. Viewed from this angle it seems fairly clear to us that retired Judicial Officers, officers of the Registry of District Courts and High Courts, as well as other Government servants who have the specified experience and qualification, can be requested to accept appointments as part of social service and they may be paid a fee to meet their out-of-pocket expenses and honorarium. We are sure that the High Courts will find any number of public spirited, retired persons available to extend a helping hand to the Criminal Justice System in the country. The High Court, we must add by way of caution, must be extremely careful in the conferment of power and should do so based on the qualification and experience</p>	

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19.03.1997	Supreme Court	Kadra Pahadiya & Ors v State of Bihar				<p>-We are of the opinion that unless a machinery is set up to ensure that such cases will not pile up once again after the system is put on an even keel by the withdrawal of such cases, such measure will not serve any purpose but will, instead, send a wrong signal to the offenders that they can commit such infractions with impunity as nothing will happen to them, and ultimately the cases would be withdrawn. That will bring about more indiscipline in society rather than create a culture of discipline which is so vital for national growth. But, if an adequate machinery of the type envisioned by Sections 13 and 18 of the Code is placed in position to ensure that cases do not pile up in future and then the cases are withdrawn with a view to placing the system on an even keel, it will achieve the desired objective to bring about discipline in society and eradicate crime. That is because the wrong-doer will know that he will be immediately hauled up before a Magistrate and would be punished if found guilty.</p>	

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19.03.1997	Supreme Court	Kadra Pahadiya & Ors v State of Bihar				-If the load of such petty crimes is taken out of the regular courts, those courts would have time to deal with more serious crimes rather than have their time consumed by such petty cases. Besides, petty cases would also be disposed of with speed if sufficient number of Second Class Magistrates and Special Judicial/Special Metropolitan Magistrates are appointed. With such a huge pendency, it is difficult to understand the indifference in utilising this machinery envisioned by the Code .	
09.07.1997	Supreme Court	Gaurav Jain v UOI				-The JJ Act 1986 was enacted to achieve a uniform legal framework for juvenile justice in the country as a whole to ensure that no child, under any circumstance, is lodged in jail or kept in police lock-up. This will be ensured by establishing Juvenile Welfare Boards and Juvenile Courts. -Every Juvenile Home to which child is sent under JJ Act 1986, shall provide the child with accommodation, maintenance and facilities for educational, vocational,	

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09.07.1997	Supreme Court	Gaurav Jain v UOI				<p>-In addition to the above, the Juvenile Home should also provide the child with facilities for the development of the child's character and abilities and give him/her necessary training for protecting himself/herself against any danger/exploitation, and also to ensure the overall all-round growth and development of the child.</p> <p>-Object of the Act is not to punish the juvenile but to rehabilitate him/her.</p> <p>-Establishment of juvenile homes is a mandatory duty of the State.</p>	
27.10.1997	Supreme Court	Bhola Bhagat & Ors v State of Bihar	<p>-The High Court in the present case had held that age given by the appellants the time of their examination u/s 313 CrPC was not sufficient to prove their juvenility.</p> <p>- The Supreme Court held that the approach of the High Court was wrong as the High Court had denied the benefit to juveniles which they were entitled to under the JJ Act 1986.</p>		-The conviction of the appellants was sustained but their sentences were quashed.		

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27.10.1997			<p>-The Supreme Court further held that, in light of s. 32 of the JJ Act 1986, if the High Court had any doubt regarding the age of the appellants, it should have ordered an enquiry to determine their ages.</p> <p>-Further held that it would not overlook the beneficial provisions of the JJ Act 1986 on the technical ground that there was no supporting material apart from the appellant's statement u/s 313 CrPC.</p> <p>- Whenever a plea of juvenility is raised, it is obligatory for the court, in light of the beneficial nature of the JJ Act, to hold an inquiry and determine the age of the appellant</p>				
09.05.2000	Supreme Court	Arnit Das v State of Bihar	<p>-Overruled Umesh Chandra v State of Rajasthan and held that an enquiry as to the age of the person had to be made with reference to the date such person is brought before the competent authority and not the date when such person committed the offence. Thus, held that the date of the commission of offence is irrelevant for finding out whether the person is a</p>				

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02.02.2005	Supreme Court	Pratap Singh v State of Jharkhand	<p>-The Supreme Court in Umesh Chandra v State of Rajashtan, held that the relevant date for determining the age of the accused who claims to be a child is the date of occurrence of offence and not the date of the trial. But, a two-Judge Bench of the Supreme Court in Arnit Das v State of Bihar, laid down the law that the relevant date for the said purpose would be the date of production of the accused before the court, and not the date of the occurrence. Hence, due to the above conflicting views, the matter was referred to the Constitution Bench in the present case.</p> <p>-In the present case, the Supreme Court held that the reckoning date for the determination of the age of the juvenile is the date of an offence and not the date when he is produced before the authority or in the court</p>				

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26.02.2009	Supreme Court	Pawan v State of Uttranchal	<p>-Documents submitted as age proof: (a)Statement of Accused u/s 313 CrPC wherein his age has been recorded as 17 years (b)The accused's school leaving certificate which records his date of birth</p> <p>-Both rejected by Court in the present case- held that Accused's statement u/s 313 CrPC is a tentative observation based on physical appearance which is not correctly determinative of age; and the school-leaving certificate issued by the accused's headmaster did not inspire confidence since it had been issued only after the accused's conviction</p> <p>-Court further noted that entry from birth register, which would have been determinative of the age of the accused, had not been produced</p>	<p>-In light of Section 7(A) of the JJ Act, the Court held that in each and every case where juvenility is claimed for the first time before the Supreme Court, the Court is not compelled to conduct an enquiry or call a report from the trial court. Only when the materials (age related proof) produced before the Supreme Court, prima facie suggest that the accused was a juvenile, there is a need for such enquiry to be conducted/ report to be called from the Trial Court.</p> <p>-In the present case, since the materials/documents produced before the Court did not merit any confidence, there was no need for the Court to conduct an Age Enquiry.</p>	<p>-No interference with conviction or sentence given by the lower courts.</p>		

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17.04.2009	Supreme Court	Satish @Dhanna v State of MP			- Since Accused was under 18 years at the time of offence, conviction of accused upheld and sentenced awarded modified to period of detention already undergone.		

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05.05.2009	Supreme Court	Hari Ram v State of Rajasthan	<p>-Law is now crystallized on a conjoint reading of Sections 2(k), 2(l), 7A, 20 and 49, read with Rules 12 and 98, places beyond all doubt that all persons who were below the age of 18 years on the date of commission of the offence even prior to 1st April 2001, would be treated as juveniles, even if the claim of juvenility was raised after they had attained the age of 18 years on or before the date of commencement of the Act and were undergoing sentence upon being convicted</p> <p>-Only in the absence of documents referred in Clause (b), rule 12, sub-rule (3)- which include: (i)the matriculation or equivalent certificates- in the absence of the same: (ii)the date of birth certificate from the school first attended and in absence of the same: (iii) the birth certificate given by a corporation or a municipal authority or a Panchayat; would a medical opinion be sought from a duly constituted Medical Board.</p>	<p>-The appellant was about sixteen years of age on the date of commission of the alleged offence. In view of Sections 2(k), 2(l) and 7A read with Section 20 of the said Act, the provision thereof would apply to the appellant's case and on the date of the alleged incident the accused was a juvenile.</p> <p>-As a result, matter was remitted to the Juvenile Justice Board for disposal in accordance with law, within three months</p>	<p>-If the appellant (the juvenile in the present case), has been in detention for a period which is more than the maximum period for which a juvenile may be confined to a Special Home, the Board shall release the appellant from custody forthwith.</p>		

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09.12.2009	Delhi High Court	Court on its own motion through Anant Asthana v Govt of NCT of Delhi				<p>-Order to constitute a committee consisting of (i)Joint Director (Technical), (ii) Hon'ble Magistrate heading JJB-1, (iii) Hon'ble Magistrate heading JJB-2 and (iv) an advocate/social worker nominated by the Executive Chairman, Delhi Legal Services Authority.</p> <p>-The Committee will supervise the functioning of the Observation Homes, and also if necessary, conduct surprise inspections and make reports to the High Court Committee from time to time. The High Court Committee may consider issuing appropriate directions to all the concerned authorities and such directions shall be implemented by all the concerned authorities, and the first of such report shall be submitted by the Committee within a period of four weeks</p> <p>-The Four Member Committee appointed by the Court will visit homes, gather the facts and place them before the High Court Committee which will then issue the directions</p>	

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07.01.2011	Supreme Court	Daya Nand v State of Haryana			-Since accused was below 18 years of age at the time of the offence, appeal against conviction allowed, and the entire case remitted to the Juvenile Justice Board for disposal in accordance with the law.		
13.04.2012	Supreme Court	Om Prakash v State of Rajasthan & Anr	<p>-In a situation when the school records are not clear/free from ambiguity, and can't conclusively prove the minority of the accused, medical opinion assumes great importance and thus, cannot be overlooked.</p> <p>-In this case, since the school records of the accused supporting his claim of juvenility did no merit confidence, the statement of the medical jurist who conducted the ossification test of the accused assumes great importance and significance.</p> <p>-Medical evidence in the form of scientific medical tests like bone ossification and radiological examination</p>	<p>-While courts must be sensitive in cases involving juveniles who are accused for serious offences such as rape and murder, the juvenile-accused should not be allowed to abuse/misuse statutory protection by producing questionable documents.</p> <p>-In such cases, medical evidence should be given priority over administrative records.</p> <p>The benefit under the JJ</p>			-Accused shall be sent for trial before the court of competent jurisdiction where his trial is pending, and not to the Juvenile Court.

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07.09.2012	Supreme Court	Reena Banerjee & Anr v Govt NCT of Delhi & Ors				<p>-Asha Kiran is the only Delhi Government run home for differently abled men, women and children. The Petitioners have highlighted incidents of custodial deaths at the home due to lack of adequate medical facilities and services, and other issues such as overcrowding, poor hygiene and sanitation.</p> <p>-In light of this, Mr. S.D Salwan, learned Standing Counsel appearing for the Govt, placed a report record delineating an action plan to tackle the issues:</p> <p>(a) Appointment of a new Administrator, with a background in medicine for the Home</p> <p>(b) Formation of a strong Governing Council comprising of eminent citizens and experts for the development, improvement and management of the Home</p> <p>(c) Development of a Terms of Reference for the functioning of the Governing Council</p> <p>(d) Appointment of 94 House Aunties, who will be trained promptly</p> <p>(e) Appointment of private psychiatrists and women</p>	

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07.09.2012	Delhi High Court	Reena Banerjee & Anr v Govt NCT of Delhi & Ors				<p>-(f) Constitution of an Advisory Expert Group Panel for regular advice, academic assistance, technical & knowledge support, and for the creation of voluntary training opportunities at the institution</p> <p>(g) Special training, workshop and sensitisation to be given to all staff members</p> <p>(h) Revision of salary structure with a guarantee of minimum wages to the staff employed at Asha Kiran</p> <p>(i) Attachment of neighbouring government hospitals with the Home for providing medical care to the Home. A team of psychiatrists, paediatricians, gynaecologists and physicians from these hospitals will pay regular and routine duties for care of the residents .</p> <p>(j) The entire health record of the residents will be digitalised for easy reference in case of any medical emergency.</p> <p>(k) Engagement of special educators for occasional training and consultation</p> <p>(l) Installation of CCTV system for proper surveillance</p> <p>(m) 26 new toilets to be</p>	

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13.09.2012	Supreme Court	Ashwani Kumar Saxena v State of MP	<p>-A roving inquiry need not be conducted to examine the correctness of school certificates that have been kept in normal course of business while determining the age of the accused in an age enquiry</p> <p>-Only in cases where the school documents/ certificates are found to be fabricated or manipulated, the Court/JJB or Committee need to go for a medical report/examination for determining the age of the juvenile.</p>		<p>-Since accused was below 18 years of age at time of the offence, while the conviction of the accused was upheld, his records were directed to be placed before the JJB for awarding suitable punishment in accordance with the law.</p>		

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10.07.2013	Supreme Court	Jitendra Singh v State of UP	<p>-Whenever an accused, who physically appears to be a juvenile, is produced before a Magistrate, he or she should form a prima facie opinion on the juvenility of the accused and record it. If any doubt persists, the Magistrate should conduct an Age Inquiry as required by Section 7A of the JJ Act 2000 to determine the juvenility or otherwise of the accused person.</p> <p>-It may be presumed, by way of a benefit of doubt that because of his/her status, a juvenile may not be able to raise a claim for juvenility in the first instance and that is why it becomes the duty and responsibility of the Magistrate to look into this aspect at the earliest point of time in the proceedings before him.</p> <p>-In such cases, it is better to err on the side of caution in the first instance and conduct an Age Inquiry, rather than have the entire proceedings vitiated or reopened at a subsequent stage or a guilty person go unpunished only because he/she is going to be a juvenile on the date of occurrence of the incident</p>	-The decision of the Supreme Court in Ashwini Kumar should be allowed wherein in cases where the accused is a juvenile should be remitted to the jurisdictional Juvenile Justice Board where his/her case should be tried.	-The Juvenile Justice Board will determine the appropriate quantum of fine that should be levied on the juvenile/appellant and the compensation that should be awarded to the family of the victim.		

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17.07.2013	Supreme Court	Salil Bali v UOI				<p>-In the absence of proper data it would not be wise to deviate from the provisions of the JJ Act 2000.</p> <p>-The Juvenile Justice (Care and Protection of Children Act, 2000, is in tune with the provisions of the Constitution and the various Declarations and Conventions adopted by the world community represented by the United Nations. The basis of fixing of the age till when a person could be treated as a child at eighteen years in the Juvenile Justice (Care and Protection of Children Act, 2000, was Article 1 of the Convention of the Rights of the Child, as was brought to our notice during the hearing. Of course, it has been submitted by Dr. Kishor that the description in Article 1 of the Convention was a contradiction in terms. While generally treating eighteen to be the age till which a person could be treated to be a child, it also indicates that the same was variable where national laws recognize the age of majority earlier.</p>	

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17.07.2013	Supreme Court	Salil Bali v UOI				<p>In this regard, one of the other considerations which weighed with the legislation in fixing the age of understanding at eighteen years is on account of the scientific data that indicates that the brain continues to develop and the growth of a child continues till he reaches at least the age of eighteen years and that it is at that point of time that he can be held fully responsible for his actions. Along with physical growth, mental growth is equally important, in assessing the maturity of a person below the age of eighteen years. In this connection, reference may be made to the chart provided by Mr. Kanth, wherein the various laws relating to children generally recognize eighteen years to be the age for reckoning a person as a juvenile/ child including criminal offences.</p> <p>-Thus, not prudent to make a distinction in regard to the definition of children u/s 2(k) and 2(l) of the JJ Act, and increase the quantum of punishment for children below the age of 18 years of age who commit heinous offences such as murder, rape, dacoity etc.</p>	

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05.02.2014	Delhi High Court	Centre for Child Rights v UOI				--Writ Petition disposed off with a direction for framing of guidelines for the effective implementation of Rule 31 of the Juvenile Justice Rules, 2007. Rule 31 obligates the Central Government, State Government, the Juvenile Justice Board, the Child Welfare Committee to ensure that every person, school or such other educational institutions abide by the guidelines issued from time to time by the Central Government and the State Government.	

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28.03.2014	Supreme Court	Subramaniam Swamy v JJB				<p>-Does not determine the correctness of the decision in Salil Bali but to consider the arguments arising on points of law.</p> <p>-In the present case, there is no difficult yin understanding the clear and unambiguous meaning of the different provisions of the Act. All persons below the age of 18 are put in one class/group by the Act to provide a separate scheme of investigation, trial and punishment for offences committed by them.</p> <p>-Classification or categorisation need not be the outcome of mathematical or arithmetical precision in the similarities of the persons included in a class and there may exist differences amongst the members included within a particular class. Thus, as long as the broad features of the categorisation are identifiable and distinguishable. And the categorisation made is reasonably connected with the object targeted, such categorisation does not violate Article 14.</p> <p>-Thus, in the present case, the Court will not enter the arena which is primarily for</p>	

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05.11.2014	Delhi High Court	A.K Asthana v UOI					<p>-Guidelines issued to various stakeholders other than media in cases involving children.</p> <p>- Guidelines for Hospitals: (a)To ensure that no detail pertaining to the identity of child is made available to the media, unless it has been ordered to do so by the JJB or the CWC (b)Constituting an Inquiry Committee to inquire about cases of lapses regarding the breach of privacy or confidentiality of children's identity</p> <p>Guidelines for Courts: (a)Court shall not disclose details pertaining to the identity of the child from judicial proceedings in any certified copy or order which has to be uploaded on the website (b)Cause Lists and Case Titles shall not mention the name of the child (c)Registry/Reader/Alhmad of the Court shall not accept any application filed by a lawyers if it contains the name of the child (d)Inspection of judicial record only permitted after undertaking is given that the child's identity will not be disclosed (e)Courts will ensure that the names of children are not</p>

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05.11.2014	Delhi High Court	A.K Asthana v UOI					<p>-Guidelines for Competent Authorities under the JJ Act: (a)Orders and cause lists shall not mention/contain the name of the child (b)Calling of names of children or juveniles is not permitted (c)Every JJB, CWC, any other institution for Children in conflict with law and children in need of care and protection, shall have notice boards stating that disclosure of the identity of the child is punishable u/s 21 of the JJ Act, 2000</p>

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11.12.2014	Supreme Court	CBI v Swapan Roy	<p>-The trial court thus erred in incorrectly applying the ratio laid down in Om Prakash.</p> <p>-The most important and relevant evidence in terms of Rule 12 sub-rule (3) of the Rules of 2007 is namely the school certificate and admission register of the school. In presence of the same, the Court does not need to rely on any medical opinion. Unless there is discrepancy/ambiguity or doubt of fabrication, school certificate should be given precedence over medical examination or medical opinion in determining the age of the accused when a plea of juvenility has been raised by him/her.</p>				
09.02.2015	Supreme Court	Sampurna Behrua v UOI				<p>-Guidelines for JJBs and CWCs:</p> <p>(a) Every district in every State must have a JJB</p> <p>(b) Appointment and selection of social workers as members of the JJB should be in accordance with the provisions of Rule 88 read with Rule 87 of the Model Rules</p> <p>(c) The Principal Magistrate as well as social workers should be trained in accordance with Rule 89 of</p>	

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09.02.2015	Supreme Court	Sampurna Behrua v UOI				<p>Also, wherever there are large number of inquiries pending, it would be worthwhile for the State Government and the High Court to consider having more than one JJB.</p> <p>(e)Need for a study to be conducted by the State Governments on whether there is adequate staff available with the JJBs.</p> <p>(f)There must be quality legal aid provided to all children and similarly, prosecutors need to be sensitised, educated and trained, keeping in the mind the primary objective of the JJ Act.</p> <p>(g)The Probation Officer plays a very important role in ensuring that a juvenile in conflict with law is given adequate representation and a fair hearing before the JJB. Thus, it is important that the Probation Officer is given adequate training, and is sensitised and aware of his/her duties and responsibilities.</p> <p>(h) All guidelines are equally applicable to the CWCs</p>	