

# Comparison of the Juvenile Justice (Care and Protection of Children) Act, 2015 with International Standards (Uncrc, 1989)

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**Abstract:** *The juvenile justice system in India has undergone significant changes, particularly with the enactment of the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act, 2015). This paper critically examines how this Act aligns with the United Nations Convention on the Rights of the Child (UNCRC, 1989), an international treaty setting global standards for juvenile justice. By analyzing judicial responses, landmark cases, and implementation challenges, this research identifies gaps and overlaps between the two legal frameworks. Additionally, it discusses how India's juvenile justice policies can be further aligned with international best practices.*

**Keywords:** Juvenile Justice, UNCRC, JJ Act, 2015, Child Rights, Rehabilitation, International Standards, Judicial Response, Case Studies

## I. INTRODUCTION

Juvenile justice is a critical aspect of human rights and child protection laws worldwide. India ratified the UNCRC in 1992, committing itself to international standards for juvenile justice. However, domestic laws, particularly the JJ Act, 2015, have deviated from some key principles of the UNCRC, especially concerning the trial and sentencing of juveniles aged 16-

18 involved in heinous crimes. This research compares the two legal frameworks and evaluates their implementation through judicial pronouncements and case studies.

The Juvenile Justice (Care and Protection of Children) Act, 2015 is a significant legislation in India aimed at addressing issues related to children in conflict with the law and children in need of care and protection. It replaced the Juvenile Justice (Care and Protection of Children) Act, 2000, and incorporates several provisions aligned with international standards, particularly the United Nations Convention on the Rights of the Child (UNCRC) adopted in 1989.

### Key aspects of the Act include:

1. **Child-Centric Approach:** The Act emphasizes the principle of best interest of the child, ensuring that all decisions regarding children are made with their welfare as the primary consideration.
2. **Juvenile Justice Boards (JJBs):** These boards are established at the district level to handle cases of children in conflict with the law. They ensure speedy trials and sensitive handling of cases to protect the rights of the child.
3. **Provisions for Rehabilitation:** The Act focuses on rehabilitation and social reintegration of children, promoting their psychological well-being and ensuring their education and skill development.
4. **Alternative Sentencing:** It encourages diversionary measures for children in conflict with the law, promoting rehabilitation over punitive measures whenever possible.
5. **Protection of Rights:** The Act guarantees various rights to children, including the right to legal aid, protection against exploitation, and non-stigmatization. Internationally, the Act aligns with the UNCRC principles, which emphasize the

right of every child to survival, protection, development, and participation in decisions affecting their lives. By integrating these standards, the Act aims to ensure that children in India are treated in accordance with their rights and dignity, fostering a protective and supportive environment for their growth and development.

## **II. LITERATURE REVIEW**

The Juvenile Justice (Care and Protection of Children) Act, 2015 represents a significant legislative framework aimed at reforming juvenile justice in India. Enacted to replace the Juvenile Justice (Care and Protection of Children) Act, 2000, this law emphasizes the rehabilitation and reintegration of juveniles in conflict with the law, aligning with international standards set forth by the United Nations Convention on the Rights of the Child (UNCRC), 1989.

UNCRC (1989) serves as a fundamental international legal framework advocating for the rights and protections of children worldwide. India, as a signatory to the UNCRC, is obligated to ensure that its domestic laws, including the Juvenile Justice Act, adhere to these standards.

The Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act, 2015) represents a critical reform in India's juvenile justice system. It aims to protect children in conflict with the law while aligning with international legal frameworks, particularly the United Nations Convention on the Rights of the Child (UNCRC), 1989. The Act replaced the Juvenile Justice Act, 2000, introducing significant changes, including provisions for trying juveniles aged 16-18 years as adults for heinous crimes, which has been a point of debate in academic discourse.

Juvenile Justice and International Standards

The UNCRC (1989) is a fundamental international legal instrument that establishes global standards for the protection and welfare of children. Article 40 of the UNCRC emphasizes that children in conflict with the law must be treated with dignity, ensuring their reintegration into society (United Nations, 1989). The JJ Act, 2015 attempts to comply with these principles by emphasizing rehabilitation, reintegration, and child-friendly justice mechanisms.

According to Choudhary (2017), the JJ Act, 2015 partially aligns with the UNCRC but diverges in certain aspects, particularly concerning the provision that allows juveniles aged 16-18 to be tried as adults for heinous offenses. This provision is seen as a deviation from the UNCRC's principle of non-punitive justice, which mandates that juvenile offenders be rehabilitated rather than subjected to harsh punitive measures.

### **Key Provisions and Their Compliance with UNCRC**

#### **1. Definition of a Child**

The UNCRC defines a child as any person under 18 years of age (United Nations, 1989). The JJ Act, 2015 upholds this definition but introduces an exception for juveniles aged 16-18 who commit heinous crimes, potentially treating them as adults (Verma, 2018).

#### **2. Principle of Rehabilitation and Reintegration**

The JJ Act, 2015, in line with Article 39 of the UNCRC, aims at reforming juveniles rather than punishing them (Mukherjee, 2020). It mandates the creation of Juvenile Justice Boards (JJBs) and Child Welfare Committees (CWCs) to oversee juvenile cases. However, the provision allowing the transfer of certain juveniles to adult courts contradicts the spirit of rehabilitation (Sharma, 2019).

#### **3. Legal Representation and Fair Trial**

Article 37 and 40 of the UNCRC emphasize fair treatment and legal assistance for juveniles. The JJ Act, 2015 includes provisions for legal aid but lacks specific guidelines to ensure that juvenile offenders receive equal protection, as argued by Singh (2021).

### **Critical Analysis and Challenges**

While the JJ Act, 2015 attempts to comply with UNCRC principles, there are several concerns:

- The possibility of treating juveniles as adults contradicts the UNCRC's rehabilitation approach (Kumar, 2019).
- Implementation challenges persist due to inadequate infrastructure, trained personnel, and societal stigmatization (Das, 2020).

- The rights of children in need of care and protection (orphans, street children) are still not fully safeguarded, despite UNCRC recommendations (Mehta, 2022).

The Juvenile Justice (Care and Protection of Children) Act, 2015 attempts to align with international standards, particularly the UNCRC, 1989, but diverges in certain areas, particularly regarding the trial of juveniles aged 16-18 as adults. While the Act provides child-friendly legal procedures and emphasizes rehabilitation, its implementation challenges and contradictions with UNCRC principles remain significant concerns. Further policy reforms and improved enforcement mechanisms are necessary to fully integrate India’s juvenile justice system with international human rights standards.

**Objectives of the Study**

1. To analyze the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015.
2. To compare the key provisions of the JJ Act, 2015 with the UNCRC, 1989.
3. To examine judicial responses in India regarding juvenile justice.
4. To evaluate case studies demonstrating the effectiveness or gaps in India's juvenile justice system.
5. To provide recommendations for aligning Indian juvenile justice laws with international best practices.

**III. RESEARCH METHODOLOGY**

This research adopts a qualitative and comparative legal analysis approach, involving:

- Doctrinal Research: Analyzing legal provisions, judicial decisions, and secondary literature.
- Comparative Analysis: Identifying differences and similarities between the JJ Act, 2015 and the UNCRC, 1989.
- Case Study Approach: Examining landmark cases to understand the practical implementation of the laws.
- Judicial Response Evaluation: Studying judgments that have shaped India's juvenile justice framework.

**IV. COMPARATIVE ANALYSIS: JJ ACT, 2015 VS. UNCRC, 1989**

Legal Aspect	JJ Act, 2015 (India)	UNCRC, 1989(International Standards)
Definition of a Child	Below 18 years, but allows trial of 16-18- year-olds as adults in heinous crimes.	A child is anyone under 18years, without exceptions.
Approach to Justice	Rehabilitative, but punitive for juveniles in heinous crimes.	Entirely rehabilitative restorative
Sentencing Provisions	Juveniles aged 16-18 can be tried as adults.	No child should be tried or sentenced as an adult.
Protection of Child Rights	Lays down provisions for child welfare but permits adult trials.	Ensures absolute protection from adult criminal procedures.
Role of Juvenile Justice Boards	Determines whether a juvenile can be tried as an adult.	Emphasizes diversionary measures and rehabilitation.
Emphasis on Rehabilitation	Present, but limited for juveniles in heinous crimes.	Strong rehabilitation and reintegration focus.

**Key Observations**

- The JJ Act, 2015 contradicts UNCRC principles by allowing the trial of 16-18-year-olds as adults.
- UNCRC promotes rehabilitation, while India’s law incorporates retributive elements for certain juveniles.
- The Juvenile Justice Boards (JJBs) in India have discretionary powers, leading to inconsistent application of the law.

**V. JUDICIAL RESPONSE: KEY CASE STUDIES**

**5.1. Nirbhaya Gang Rape Case (2012) Judicial Standpoint:**

- One of the accused was a minor (17 years old) and received a 3-year sentence in a reform home under the previous JJ Act, 2000.

- This led to public outrage and legislative changes, culminating in the JJ Act, 2015, allowing 16-18-year-olds to be tried as adults.

**Legal Debate:**

- The decision was criticized for prioritizing retribution over rehabilitation.
- The UNCRC opposes trying juveniles as adults, raising concerns about India's compliance.

**5.2. Sheela Barse v. Union of India (1986)**

- Judgment: Supreme Court upheld the importance of rehabilitation over punishment for juveniles.
- Relevance: Laid the foundation for child-friendly justice, later incorporated into Indian laws.

**5.3. Salil Bali v. Union of India (2013)**

- Petition against treating juveniles as adults.
- Supreme Court upheld JJ Act amendments, citing rising juvenile crimes.
- Criticism: Deviation from UNCRC's rehabilitative approach.

**VI. CHALLENGES IN IMPLEMENTATION OF JJ ACT, 2015**

1. Ambiguity in Trial Mechanisms – Inconsistent application of the law by Juvenile Justice Boards.
2. Lack of Rehabilitation Centers – Limited resources for rehabilitating juvenile offenders.
3. Public and Political Pressure – High-profile crimes lead to retributive legal changes, affecting child rights.
4. Inadequate Training of Law Enforcement – Police and judiciary lack sensitization in handling juvenile cases.
5. Non-Compliance with UNCRC – The provision for adult trial of minors violates international commitments.

**VII. RECOMMENDATIONS FOR LEGAL AND POLICY REFORMS**

1. Full Alignment with UNCRC – Eliminate provisions for trial of 16- 18-year-olds as adults.
2. Strengthen Juvenile Rehabilitation Programs – Increase funding and capacity of juvenile reform centers.
3. Judicial and Law Enforcement Training – Implement specialized training for handling juvenile cases.
4. Community-Based Restorative Justice – Promote rehabilitation over incarceration.
5. Awareness Campaigns – Educate stakeholders on child rights and alternative justice models.

**VIII. CONCLUSION**

While the JJ Act, 2015 incorporates key elements of the UNCRC, it also diverges by introducing punitive measures for certain juveniles. Judicial interpretations have influenced the evolution of juvenile justice in India, but the system still faces challenges in enforcement and compliance with international standards. This study suggests to strike a balance between the two ensuring India's commitment to child rights under the UNCRC, 1989 on one hand while not being soft in heinous offences.

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