

**The Juvenile Justice Act 1986,  
The Juvenile Justice (Care & Protection of Children) Act 2000  
and  
The Karnataka Rules under the same,  
in the light of  
Relevant International Standards**

**A Comparative Table**

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**2003**

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## Definition of Child or Juvenile

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<p><b>Sec 2 (h): Juvenile:</b>                      Boy under 16                      Girl under 18</p> <p><b>Neglected Juvenile:</b>  <b>Sec. 2. 1</b> i) is found <i>begging</i>, ii) is found without having any home or settled place of abode and without any ostensible means of subsistence <i>and is destitute</i>, iii) has a parent or guardian who is unfit or incapacitated to exercise control..., iv) <i>lives in a brothel or with a prostitute or frequently goes to any place used for the purpose of prostitution, or is found to associate with any prostitute or any other person who leads an immoral, drunken or depraved life</i>, v) who is being or is likely to be abused or exploited for immoral or illegal purposes or unconscionable gain</p>	<p><b>CRC Art 1:</b> Any person below 18</p>	<p><b>Sec 2 (k):</b> Person who has not completed <i>18 years of age</i></p> <p><b>CINOCAP: Sec 2 d: i)</b> Same as Sec. 2. 1. ii) of 1986, though the words 'and is destitute' have been deleted.</p> <p><b>ii)</b> <i>who resides with a person (whether a guardian of the child or not) and such person- a) has threatened to kill or injure the child and there is a reasonable likelihood of the threat being carried out, or b) has killed, abused or neglected some other child or children and there is a reasonable likelihood of the child in question being killed, abused or neglected by that person,</i></p> <p><b>iii)</b> <i>who is mentally or physically challenged or ill children or children suffering from terminal diseases or incurable diseases, having no one to support or look after,</i></p> <p><b>iv)</b> Same as Sec.2. 1. iii) of 1986,</p> <p><b>v)</b> <i>Who does not have parent and no one is willing to take care, or whose parents have abandoned him or who is a missing and run away child and whose parents cannot be found after reasonable inquiry.</i></p> <p><b>vi)</b> See Sec 2. 1. v of 1986 - who is being or is likely to be <i>grossly</i> abused, <i>tortured</i> or exploited for the purpose of <i>sexual abuse</i> or illegal acts, vii) <i>who is found vulnerable and is likely to be inducted into drug abuse or trafficking</i>, viii) who is being or is likely to be abused for unconscionable gains, ix) who is a <i>victim of any armed conflict, civil commotion or natural calamity.</i></p>	<p>Nil</p>

### Classification of offences

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
Nil	<p><b>17.1.c Beijing Rules</b> Deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offences and unless there is no other appropriate response</p>	<p><b>Sec. 8.4:</b> 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....</p> <p><b>Sec. 9.4:</b> The Rules... may also provide for the classification and separation...</p>	<p><b>Rule 18.1:</b> The juvenile shall be classified taking into consideration their age specified in Rule 14, physical and mental health conditions. Separation... taking into account the harmful offences and risk situations that may be encountered if not separated.</p> <p><b>Rule 18.2:</b> Separated according to the nature of offences - major offences such as murder, sexual offences and minor offences</p>

### Reconciliation

JJA 1986	International Standards	JJ (CPC) 2000	Rules under the JJ (CPC) Act 2000
Nil	<p><b>Beijing Rules 11.2</b> The police, prosecution or other agencies shall be empowered to dispose of such cases .....without recourse to formal hearings....</p> <p><b>CRC Art 40 (3)</b> Whenever appropriate and desirable measures for dealing with such children,without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.</p>	<p><b>Preamble:</b> Whereas the CRC emphasizes social integration of child victims, to the extent possible, <i>without resorting to judicial proceedings</i></p>	<p><b>Rule 11.2:</b> Producing agents may make report to the JJB recommending reconciliation to be facilitated by the Child Welfare Officer at the SJPU.</p> <p><b>Rule 11.3:</b> Children who have committed petty offences may be released from the SJPU itself, when one member of the Board accepts and ratifies such recommendations within the maximum 24 hour period for preliminary inquiry.</p> <p><b>Rule 13.1:</b> When a child is produced before an individual member of the Board, the order given by the member shall be ratified in the next meeting of the Board</p>

## Detention pending inquiries

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<p><b>Sec 18 (2)</b> On arrest, the person shall be kept in an Observation home, but not in a jail or in police custody</p>	<p><b>Beijing Rules 13.1</b> Detention pending trial shall be used only as measure of the last resort and for the shortest possible time.</p> <p><b>13.2</b> Whenever possible, detention pending trial shall be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home.</p> <p><b>13.3</b> Juveniles under detention pending trial shall be entitled to all rights and guarantees of the <b>Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations.</b></p> <p><b>13.5:</b> While in custody, juveniles shall receive care, protection and all necessary individual assistance – social, educational, vocational, psychological, medical and physical – that they may require in view of their age, sex and personality</p> <p>Also see Rule 12, 13, 14, 17 and 18 of the <b>UN Rules for Juveniles Deprived of their Liberty.</b> Also see Article 9 and 10 of the <b>International Covenant on Civil and Political Rights (ICCPR)</b></p>	<p><b>Sec 12 (2 and 3)</b> On arrest such officer shall cause a person accused of a bailable or non-bailable offence and apparently a juvenile to be kept only in an Observation Home in the prescribed manner until he can be brought before a Board. (Not specifically mentioned that the child cannot be kept in jail or police custody)</p>	<p><b>Rule 11:</b> Manner of sending a juvenile to an Observation Home (OH)</p> <p><b>Rule 12.2.vii:</b> Procedures to be followed by the Special Juvenile Police Unit (SJPU)</p> <p><b>Rule 13.2 and Rule 13.3:</b> Procedures to be followed by the Juvenile Justice Board (JJB) to ensure that child in detention pending trial has been treated humanely and that his rights have been protected.</p> <p><b>Rule 14.</b> Observation Homes</p> <p><b>Rule 15:</b> Management of Observation Homes</p> <p><b>Rule 18:</b> Classification of juveniles</p> <p><b>Rule 19.2:</b> Priority shall be given to expeditious processing of the cases to ensure the shortest possible duration of such detention pending inquiry.</p> <p><b>Rule 19.4:</b> Time within which a child is to be produced before the Child Welfare Committee (CWC)</p> <p><b>Rule 19.5:</b> Declaration to be made by Police</p>

**Bailable and non-bailable offences**

<b>JJA 1986</b>	<b>International Standards</b>	<b>JJ (CPC) Act 2000</b>	<b>Rules under the JJ (CPC) Act 2000</b>
<b>Sec 18 (1)</b> 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	<b>CRC Art 3 (1)</b> In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration	<b>Sec 12 (1)</b> same as Sec 18 (1) of the JJA 1986.	<b>Rule 13.9:</b> When the child is produced before the JJ Board, the Board shall immediately determine if the child can be released on bail. If the child can be released on bail, then the Board shall release the child to the care of either a parent, guardian, fit person or fit institution. Any member of the Board is competent to release the child on bail.

**Information to be provided by the police**

<b>JJA 1986</b>	<b>International Standards</b>	<b>JJ (CPC) Act 2000</b>	<b>Rules under the JJ (CPC) Act 2000</b>
<b>Sec 19 (a)</b> Information by the police officer-in-charge on arrest to be provided to the parent / guardian and probation officer.	<b>Beijing Rules 10.1</b> Upon the apprehension of a juvenile, her or his parents shall be immediately notified of such apprehension and where such immediate notification is not possible, the parents or guardian shall be notified within the shortest possible time thereafter.	<b>Sec 10:</b> As soon as a CICWL is apprehended, he shall be placed under the charge of the SJPU or the DPO who shall immediately report the matter to a member of the Board. <b>Sec 13:</b> same as Sec 19 a) of 1986 <b>Sec 32.2:</b> State Govt, to make rules for the manner of making reports <b>Sec 33: Inquiry:</b> 1) On receipt of a report under section 32, the CWC or any police officer or special juvenile police unit or the designated police officer shall hold an inquiry in the prescribed manner.....	<b>Rule 11.1:</b> On apprehension, police to immediately report the matter to a member of the JJ Board. <b>Rule 11.2:</b> Police may make a report with recommendations to the Board which may include immediate release after admonition or reconciliation to be facilitated by the SJPU. <b>Rule 12.2.viii:</b> As soon as the juvenile is taken charge of by the police, intimation to be sent to the Probation Officer and the parents/guardian <b>Rule 12.3:</b> Information to be provided to the JJB when producing a Child in conflict with law (CICWL) <b>Rule 19.</b> Information to be provide for Child in need of care and protection (CINOCAP)

**Composition of and procedures for Competent Authority for CICWL.**

<b>JJA 1986</b>	<b>International Standards</b>	<b>JJ (CPC) Act 2000</b>	<b>Rules under the JJ (CPC) Act 2000</b>
<p><b>Sec 5 read with Sec 20 read with Sec 39:</b>  <i>Juvenile Court</i> consists of such number of Metropolitan Magistrates or Judicial Magistrates of the first class as may be prescribed. Every juvenile court to be <i>assisted by</i> a panel of two honorary social workers. Prescribed procedure-summons procedure. (As far as possible)</p>	<p><b>Beijing Rules 14.2:</b> The proceedings shall be conducive to the best interest of the juvenile and shall be conducted in an atmosphere of understanding, which shall allow the juvenile to participate therein and to express herself or himself freely.</p> <p><b>Beijing Rule 7.1:</b> Basic procedural safeguards such as the presumption of innocence, the right to be notified of the charges, the right to remain silent, the right to counsel, the right to the presence of a parent or guardian, the right to confront and cross-examine witnesses and the right to appeal to a higher authority shall be guaranteed at all stages of the proceedings.</p> <p><b>UN Rules for Juveniles Deprived of their Liberty 14:</b> The protection of the individual rights of juveniles with special regard to the legality of the execution of the detention measures shall be ensured by the competent authority...</p>	<p><b>Sec 4:</b> Inquiry to be conducted by the <i>Juvenile Justice Board</i>, consisting of a Metropolitan Magistrate or a Chief Judicial Magistrate and two social workers at least one of who shall be a woman, <i>forming a bench</i> 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><b>Sec 5 (1)</b> The Board shall observe such rule of procedure in regard to the transaction of business as may be prescribed.</p>	<p><b>Rule 4, 5 and 6:</b> Selection, appointment and tenure of the JJB</p> <p><b>Rule 13:</b> Procedure to be followed in holding inquiry</p>

## Composition and Procedures for Competent Authorities for CINOCAP

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<p><b>Section 4.1):</b> The State Govt. may constitute for any area specified in the notification one or more Juvenile Welfare Boards for exercising the powers and discharging the duties conferred or imposed on such Board in relation to neglected juveniles under this Act.</p> <p>2) A Board shall consist of a Chairman and <i>such other</i> members as the State Government thinks fit to appoint, of whom not less than one shall be a woman; and every such member shall be vested with the powers of a Magistrate under the Code of Criminal Procedure, 1973 (2 of 1974)</p> <p>3) The Board shall function as a Bench of Magistrates and shall have the powers of a Magistrate under the <a href="#">Cr.P.C.</a>, on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class.</p>	NA	<p><b>Section 29:</b> 1) The State Govt. may constitute for every district or group of districts... one or more CWC's... under this Act. 2) The Committee shall consist of a Chairperson and <i>four</i> other members as the State Govt. may think fit to appoint, of whom at least one shall be a woman and another, an expert on matters concerning children.</p> <p>3) The qualifications of the Chairperson and the members and the tenure to be prescribed.</p> <p>5) Same as Section 4.3 of 1986</p> <p><b>Procedures of the CWC:</b> 1) Procedure relating to meetings to be prescribed. 2) A CINOCAP may be produced before an individual member for being placed in safe custody or otherwise when the CWC is not meeting.</p> <p>3) In the event of any difference of opinion, majority opinion prevails and if no majority, opinion of the Chairperson prevails.</p> <p>4) CWC may act in the absence of any one member and no order shall be made invalid by reason only of the absence of any one member.</p> <p><b>Sec 31.1:</b> CWC to protect <i>human rights of children</i></p>	<p><b>Rule 7:</b> Qualifications for appointment of the chairperson and members of the Committee.</p> <p><b>Rule 8: Tenure and manner of resignation of members</b></p> <p><b>Rule 9: Time and Place of sittings</b> of the Committee: 1) The Committee shall hold its sittings in the premises of a Children's Home or any other such place as may be specified by the CWC and shall meet for <i>at least two days in a week</i>.</p> <p>2) The quorum for the meeting shall be three members including the Chairperson. Any decision taken by an individual member when the Committee is not sitting, shall require ratification by the Committee in its next sitting.</p> <p>3) The final disposal of the cases shall be passed by the order of at least three members of the Committee. The CWC shall take into consideration the age, physical and mental health background, opinion of the child and recommendation of the Probation Officer, prior to such disposal.</p> <p><b>Rule 19: Procedures to be followed by the CWC in holding inquiries</b></p> <p><b>Rule 20: Manner of making the report to police and CWC</b></p> <p><b>Rule 21: Manner of sending the child to the Children's Home</b></p>



### Time for inquiry

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<p><b>Sec 27:</b> to be completed three months from the date of commencement, unless for special reasons which are to be recorded in writing</p>	<p><b>Beijing Rule 20.1</b> Each case shall from the outset be handled expeditiously, without any unnecessary delay.</p>	<p><b>Sec 14:</b> (CICWL) 4 months from date of commencement. Rest same as Sec 27 of 1986  <b>Sec. 33.2:</b> (CINOCAP) Inquiry shall be completed within four months of the receipt of the order or within such shorter period as may be fixed by the Committee.</p>	<p><b>Rule14.4:</b> (CICWL) The period of detention of a child in an Observation Home shall not normally exceed six months.  <b>Rule 21.2:</b> (CINOCAP) The detailed inquiry must be completed within four months, unless special circumstances do not permit to do so, in the interest of the child....</p>

### Institutions under the two Acts

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<p><b>Delinquent children:</b> Juvenile Court, Special Home</p> <p><b>Neglected juveniles:</b> Juvenile Home for neglected juveniles</p> <p><b>Both categories:</b> place of safety, fit person/fit institution, Observation Home, After Care Home</p>	<p>NA</p>	<p><b>CICWL:</b> Observation home and Reception Unit in the Observation Home (Sec 8) , Special home (Sec 9), any other place designated by state govt</p> <p><b>CINOCAP:</b> Shelter homes (Sec 37), Children’s Home (Sec 34)</p> <p><b>Both categories:</b> Fit person/institution, Place of safety, After Care Organization (Sec 44), Approved Place</p>	<p>NA</p>

**Post inquiry orders that may be passed for CICWL**

<b>JJA 1986</b>	<b>International Standards</b>	<b>JJ (CPC) Act 2000</b>	<b>Rules under the JJ (CPC) Act 2000</b>
<p><b>Sec 21: -a)</b>Allow juvenile to go home after advice/admonition, b) &amp; c) release on probation of good conduct to parent /guardian, fit person/institution for a period not exceeding 3 years</p> <p>d) Order juvenile to be sent to Special Home</p> <p>e)Order the juvenile to pay a fine if he is over 14 years of age and earns money</p> <p>(i) In case of a boy over 14 or girl over 16, for a period of not less than 3 years</p> <p>(ii) In the case of any other juvenile, for a period until he ceases to be a juvenile</p> <p>Provided the Court may having regard to the nature of the offence and circumstance of the case reduce the period of stay</p>	<p><b>Beijing Rules 17.1</b> Disposition to be guided by the following principles</p> <p>-The reaction taken shall always be in proportion not only to the circumstances and the gravity of the offence but also to the circumstances and the needs of the juvenile as well as to the needs of the society</p> <p>-Restrictions on the personal liberty of the juvenile shall be imposed only after careful consideration and shall be limited to the barest possible minimum;</p> <p>-Deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offences and unless there is no other appropriate response</p> <p><b>Beijing Rule 19.1</b> The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period.</p> <p><b>See also Art 37 b of the CRC</b> focusing on issues related to Juvenile Justice</p>	<p><b>Sec 15 a)</b>Same as Sec 21 a) of 1986</p> <p>b)Direct juvenile to participate in group counseling and similar activities.</p> <p>c) Order the juvenile to perform community service</p> <p>d) <i>Order parent</i> of the juvenile or the juvenile himself to pay a fine, if he is over 14 years of age and earns money</p> <p>e) &amp; f) Same as Sec 21 b) &amp; c) of 1986</p> <p>g) Same as Sec 21 d) of 1986</p> <p>(i) In case of a juvenile over 17 but less than 18 for a period of not less than 2 years</p> <p>(ii) In case of any other juvenile for the period until he ceases to be a juvenile. Provided the Court may having regard to the nature of the offence and the circumstance of the case reduce the period of stay. Additional order which can be passed is a supervision order which could include certain conditions which if violated, could result in the Board sending the child to a Special Home (Supervision by Probation Officer)</p>	<p><b>Rule 13.23:</b> The order issued by the JJ Board shall take into account the <i>views and the best interest</i> of the child and recommend detention only in the case of offences punishable under Criminal Law.</p> <p><b>Rule 13.11:</b> If the child accepts that he or she did commit the offence he or she has been accused of, then the Board shall record the acceptance and issue the appropriate order in the case. In the case of non-serious offences the Board shall whenever possible, issue a reprimand and release the child.</p>

### Orders that may not be passed

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<p><b>Sec 22:</b> Sentenced to death/imprisonment /prison in lieu of fine                      Proviso: Juvenile who has attained the age of <i>14 years</i> 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 behavior 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.                      The St. Govt. may order the juvenile to be kept under protective custody. Provided that the period of detention so ordered shall not exceed the maximum period of imprisonment for the offence committed.</p>	<p><b>CRC Art 37 c:</b> every child deprived of liberty shall be separated from adults</p> <p><b>CRC Art 37 a:</b> Neither capital punishment nor life imprisonment shall be imposed for offences committed by a child.</p> <p><b>Also see Beijing Rules 17.1, 17.2 and 17.3</b></p>	<p><b>Sec 16</b> same as Sec 22 of 1986.</p> <p><b>Sec 16</b> proviso                      Same as Sec 22 of 1986, except for only two changes:                      applies to juveniles who have attained the age of <i>16 years</i></p> <p>Juvenile Justice Board to order child in conflict with law to be detained in a <i>place of safety</i></p>	<p><b>Rule 22.1:</b> Children in conflict with law shall not be admitted in Children's Homes under any circumstances.</p> <p><b>Rule 14.4:</b> No child other than a juvenile in conflict with law shall be admitted in the Observation Home under any circumstances.</p> <p><b>Rule 20.3</b> The admission of children without maintenance charge shall be restricted to abused children, orphans, destitutes, children from single parent families and children of chronically ill persons who are unable to earn their livelihood due to incapacitation.</p>

### Joint inquiries of children with adults

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<p><b>Sec 24 (1)</b> No joint trial of juvenile and person not a juvenile.</p> <p><b>Sec 24 (2)</b> The court shall direct separate trial</p>	Nil	<b>Sec 18</b> same as sec 24 of 1986	Nil

### Removal of disqualification attached to conviction

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<p><b>Sec 25</b> Notwithstanding anything contained in any other law, a juvenile who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attaching to a conviction of an offence under such law.</p>	<p><b>Beijing Rule 21.1</b> Records of juvenile offenders shall be kept strictly confidential and closed to third parties...</p> <p><b>21.2</b> Records of juvenile offenders shall not be used in adult proceedings in subsequent cases involving the same offender.</p>	<p><b>Sec19</b> same as Sec 25 of 1986.</p> <p><b>Sec 19 (2) notes:</b> The Board shall make an order directing that the relevant records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period as prescribed under the rules</p>	<p><b>Rule 44:</b> The records or documents in respect of a juvenile or child shall be kept in a safe place for a period of seven years and thereafter be destroyed after obtaining due permission of Juvenile Justice Board/Child Welfare Committee.</p>

## Persons who may be present before Competent Authority

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<p><b>Sec 28</b> Officers of the competent authority, parents, guardians, other persons including police officers and legal practitioners.</p> <p><b>Sec 28 (2)</b> The competent authority can order all above parties to withdraw if it is in the interest of the juvenile or on grounds of decency or morality</p>	<p><b>Beijing Rule 15.2</b> The parents or the guardian shall be entitled to participate in the proceedings and may be required ... to attend the proceedings. They may be denied participation by the authority if there are reasons to assume that such exclusion is in the interests of the juvenile.</p>	<p><b>Sec 5 (1)</b> The procedure in regard to the transaction of business shall be prescribed.</p> <p><b>Sec 46:</b> Any competent authority before which a juvenile or child is brought under any of the provisions of this Act, may, whenever it so thinks fit, require any parent or guardian having the actual charge of, or control of the juvenile or the child to be present at any proceeding.</p> <p><b>Sec. 47:</b> If at any stage during the inquiry, a Competent authority is satisfied that the attendance of the child is not essential for the purpose of inquiry, the competent authority may dispense with his attendance...</p>	<p><b>Rule 13.6:</b> (CICWL) Child shall be given all possible assistance to fulfill his right to call any person of his choice, over phone or otherwise.</p> <p><b>Rule 20.1:</b> The PO shall immediately inform the parents or guardian, and ensure that they are present at the time of inquiry. Where they cannot be contacted or if the child specifically wishes that they should not be contacted the PO shall contact any other suitable person accepted by the child.</p> <p><b>Rule 20.2:</b> The PO shall make every attempt to trace and associate the family in the inquiry.</p>
<b>Attendance of juvenile at hearings</b>			
JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<p><b>Sec 30:</b> Competent Authority <b>may dispense with attendance of juvenile</b></p>	<p>Nil</p>	<p><b>Sec 47</b> same as sec 30 of 1986</p>	<p><b>Rule 23:</b> (CICWL) Orders shall take into account the views and the best interest of the child....</p> <p><b>Rule 19.7:</b> (CINOCAP) Committee may release the child to parent/guardian pending final disposition....</p>

**Children suffering from disease**

<b>JJA 1986</b>	<b>International Standards</b>	<b>JJ (CPC) Act 2000</b>	<b>Rules under the JJ (CPC) Act 2000</b>
<p><b>Sec 31</b> Juvenile requiring prolonged treatment may be committed to an approved place</p> <p><b>Sec 31 (2)</b> A juvenile found to be suffering from leprosy or is of unsound mind to be dealt with under the Leprosy Act, or the Indian Lunacy Act.</p> <p><b>Sec 31(3)</b> Child suffering from infectious or contagious disease to be restored to guardian or partner if it is found to be in the interest of the juvenile and satisfied that such person will not reinfect the juvenile</p>	<p><b>Beijing Rule 13.5:</b> While in custody, juveniles shall receive care, protection and all necessary individual assistance – social, educational, vocational, psychological, medical and physical – that they may require in view of their age, sex and personality.</p> <p><b>Also See Art 37 b CRC</b></p> <p><b>Also see Rule 49, 50, 51, 52, 53, 54, 55, 56, 57 of the UN Rules for Juveniles Deprived of their Liberty.</b></p>	<p><b>Sec 48 (1)</b> same as Sec 31 of 1986. List of diseases expanded to include sexually transmitted diseases, Hepatitis B, open cases of tuberculosis and such other diseases. The affected juvenile will be dealt with through various specialized referral services or under the relevant laws.</p> <p><b>Sec 31 (3)</b> of 1986 dropped.</p>	<p><b>See Rule 33.15 – 33.26</b></p>

**Circumstances to be taken into account by the competent authority in making orders**

<b>JJA 1986</b>	<b>International Standards</b>	<b>JJ (CPC) Act 2000</b>	<b>Rules under the JJ (CPC) Act 2000</b>
<p><b>Sec 33:</b> Age, health, circumstances, probation report, religious persuasion, any other circumstances</p>	<p><b>Beijing Rule 17</b> Guiding principles in adjudication and disposition (See above)</p> <p><b>Beijing Rule 16.1:</b> In all cases except those involving minor offences, before the competent authority renders a final disposition prior to sentencing, the background and circumstances in which the juvenile is living or the conditions under which the offence has been committed shall be properly investigated so as to facilitate judicious adjudication of the case by the competent authority.</p>	<p><b>Sec 15.2:</b> The Board shall obtain the social investigation report on juvenile either through a probation officer or a recognized voluntary organization or otherwise, and shall take into consideration the findings of such report before passing an order.</p>	<p><b>Rule 9.3:</b> The Committee shall take into consideration the age, physical and mental health background, opinion of the child and the recommendation of the Probation Officer, prior to such disposal.</p> <p><b>Rule 13.23:</b> The order issued by the JJB shall take into account the views and best interest of the child and recommend detention only in case of offences punishable under Criminal Law.</p> <p><b>Rule 13.10:</b> In examining a child and recording his statement the competent authority shall be free to address the child in any manner that may seem suitable in order to put the child at ease and to elicit the true fact, not only in respect of the offence of which the child is accused, but also in respect of the home and social surroundings and the influence to which the child may have been subjected.</p> <p><b>Rule 13.14:</b> JJB to order PO to conduct a social investigation to report on character and antecedents with the view to assessing the best possible placement...</p>

### Presumption and determination of age

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<b>Sec 32</b> The competent authority shall make inquiry and record finding of age	Nil	<b>Sec 49</b> same as Sec 32 of 1986	<p><b>Rule 13.8:</b> The Board shall obtain a birth certificate given by a Corporation or Municipal authority or a date of birth certificate from the school first attended; if available, and in the absence of the above, the medical opinion regarding the age of the child, his physical and mental conditions and when passing orders in such case, shall, after taking into consideration such evidence...record a finding in respect of age.</p> <p><b>Rule 19.3:</b> Within 48 hours, the age of the child shall be determined and in case of any doubt, the opinion of the medical Officer shall be taken</p>

### Power to amend orders

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<b>Sec 40:</b> Without prejudice to the provisions for appeal and revision, any competent authority may, either on its own or on application received ...amend any orders...	Nil	<b>Sec 55 (same as Sec 40 of 1986)</b> Proviso that at least two members and the parties or its defense are present during the course of hearing	Nil



**Advisory Board**

<b>JJA 1986</b>	<b>International Standards</b>	<b>JJ (CPC) Act 2000</b>	<b>Rules under the JJ (CPC) Act 2000</b>
<p><b>Sec 53.1:</b> May be constituted by state govt. which advises state government.</p> <p><b>Sec. 53.2:</b> It shall consist of such officers and other persons as the state govt thinks fit and <i>may</i> include experts and the representatives of voluntary organizations engaged in the relevant areas.</p>	<p>Nil</p>	<p><b>Sec 62.2:</b> Both central and state govt. may constitute Advisory Boards.</p> <p><b>Sec 62.2:</b> The Advisory Board shall consist of such members as the Central or State Government may think fit and <i>shall</i> include eminent social workers, representatives of voluntary organizations in the field of child welfare, corporate sector, academicians, medical professionals and the concerned department of state government.</p>	<p><b>See Rule 43</b></p>

## Monitoring, Inspection and Evaluation

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<p><b>Sec 54:</b> State government nominates three non officials who periodically visit homes and report to the state governments</p>	<p><b>See UN JDL 72 - 78</b></p>	<p><b>Sec 36</b> State Government or Central Government may monitor and evaluate the functioning of the children's homes though such persons and institutions as may be specified by the government</p> <p><b>Sec 35.1:</b> The State Government may appoint Inspection Committees for the children's homes for the state, district and city as the case may be, for such period and purposes as may be prescribed.</p> <p><b>Sec 35.2:</b> The Inspection Committees shall consist of representatives of government, local authorities, Committee, voluntary organizations, social workers, and medical professionals.</p>	<p><b>See Rule 25:</b> <i>District level</i> Inspection Committees for Children's Homes</p> <p><b>Rule 25.6:</b> Any facts discovered by an Inspection Committee that appear to indicate that a <i>violation of legal provisions concerning the rights of children</i> has occurred shall be communicated to the Competent Authority for further investigation.</p> <p><b>See Rule 26.</b> Monitoring and Evaluation Committee <i>shall</i> be constituted in <i>each</i> institution....</p> <p><b>Rule 27: Social Audit:</b> The State Government shall commission professional research based social institutions or institutions working with children to audit the Homes <i>annually</i>.</p>

## Role of NGOs, Linkages and Contacts with the wider community

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<p><b>Sec 54.1:</b> The State Government may nominate not more than three non-officials to be Visitors for each of the homes established under this Act.</p> <p><b>Sec. 52:</b> Fund to be created to collect voluntary donations...</p> <p><b>Sec. 9, 10, 11, 12:</b> <i>Fit institution</i> status may be granted to non-governmental organizations who provide services required.</p>	<p><b>See UN JDL 59 - 62</b></p> <p><b>UN JDL 60:</b> Every juvenile should have the right to receive regular and frequent visits, in principle once a week and not less than once a month, in circumstances that respect the need of the juvenile for privacy, contact and unrestricted communication with the family and the defense counsel.</p> <p><b>See UN JDL 79.</b></p>	<p><b>Sec 45:</b> The State Government may make rules to ensure effective linkages between various governmental, non-governmental, corporate and other community agencies for facilitating the rehabilitation and social integration of the child.</p> <p><b>Sec 36: Social Audit</b></p> <p><b>Sec 8, 9, 34, 37 and 44:</b> Voluntary Organizations may be <i>certified</i> to manage Homes under the Act</p> <p><b>Sec 61: Juvenile Justice Fund:</b> Same as Sec. 52 of 1986</p> <p><b>Production of a child before the CWC:</b> <b>Sec 32:</b> Any CINOCAP may be produced before the CWC by</p> <p>ii) Any public servant</p> <p>iii) Child line or such other voluntary organization or an agency as may be recognized by the State Government</p> <p>iv) any social worker or a public spirited citizen authorized by the State Government</p> <p><b>Inspection Committees: Sec 35.2)</b> IC shall consist of such number of representatives from the State Govt., local authority, Committee, voluntary organizations and such other medical experts and social workers as may be prescribed.</p>	<p><b>Rule 23.3.i)</b> All CH's shall be open to visitors....</p> <p><b>Rule 23.2.</b> The nature of services to be provided to children to include – <b>iii)</b> To establish linkages with organizations and individuals who can provide support services to children</p> <p><b>Rule 37.9 a), b) and c):</b> Visitors and correspondence</p> <p><b>Rule 32. 1. i):</b> The Suptd of CH's and Sh.H's shall encourage participation of NGO's, Social Workers in the various programs and activities.</p> <p><b>Rule 37.5.c:</b> Based on the care plan appropriate linkages may be established with specialists and community based welfare agencies.</p> <p><b>Rule 39.2.viii:</b> Probation Officers to establish linkages with voluntary workers and organizations to facilitate rehabilitation and social reintegration of children....</p> <p><b>Rule 23.2.iii:</b> Nature of services to children shall include... to establish linkages with organizations and individual who can provide support services to children</p> <p><b>Voluntary Organizations and Management of Homes:</b> OH – Rule 15.2, Sp.H – 17.2, CH – 24.1, Sh.H – 24.1, After Care Home – 31.1, Fit person or Institution – 36, SJPU – 12.1.b.</p> <p><b>See Government order</b> concerning the involvement of NGOs in Home Committees in Karnataka</p> <p><b>Rule 21:</b> Social Audit</p>

## Special Juvenile Police Units

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
NIL	<p><b>Beijing Rules 12.1:</b> In order to best fulfill their functions, police officers who frequently or exclusively deal with juveniles or who are primarily engaged in the prevention of juvenile crime shall be specially instructed and trained. In large cities, special police units should be established for that purpose.</p>	<p><b>Sec 63 (2)</b> In every police station at least one officer with aptitude and training <i>may be</i> designated as the Juvenile or the Child Welfare Officer (JPO or CWO) who will handle the juvenile in coordination with the police</p> <p><b>Sec 63 (3)</b> Special Juvenile Police Unit (SPJU) may be created in every city and district to coordinate and upgrade the police treatment of juveniles and the children</p>	See Rule 12

## Child Participation

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<p><b>Sec. 21.2.3:</b> The Juvenile Court shall while making a supervision order under sub-section 21.2.2, explain to the juvenile.....the terms and conditions of the order and shall forthwith furnish one copy of the supervision order to the juvenile....</p> <p><b>Sec. 35:</b> The report of the Probation Officer or Social Worker...shall be treated as confidential; provided that the Competent authority may, if it so thinks fit, communicate the substance thereof to the juvenile or child.... and may give such child an opportunity of producing such evidence as may be relevant to the matter stated in the report.</p>	<p><b>Article 12:</b> The right of the child who is capable of forming his or her own views to express those view freely in all matters concerning him or herself, with those views being given weight depending on the age and maturity of the child.</p> <p><b>Article 13:</b> The child's right to obtain and make known information and to express his or her views unless this would violate the rights of others.</p> <p><b>Article 15:</b> The right of children to meet with other and to join or set up associations unless the fact of doing so violates the rights of others.</p>	<p><b>Sec. 15.4:</b> Right to information about Supervision order - Same as Sec 21.2.3 of 1986</p> <p><b>Sec. 31:</b> The Committee.... to provide for their basic needs and protection of human rights.(Read with Article 19 of the Universal Declaration of Human Rights providing for the right to freedom of expression and Article 1 of the ICCPR guaranteeing the right of self-determination)</p> <p><b>Sec 32.1.v:</b> The child may produce himself before the Committee.</p> <p><b>Sec 36:</b> Social Audit</p> <p><b>Sec 40 . 5.c:</b> Consent (for adoption) of the child who can understand and express his consent.</p> <p><b>Sec 51:</b> Same as Sec. 35 of 1986</p> <p><b>Sec 53:</b> High Court not to pass an order under this Sec. unless a reasonable opportunity to be heard is given.</p>	<p><b>Rule 9.3:</b> The Committee shall take into consideration the opinion of the child... prior to such disposal.</p> <p><b>Rule 12.2.i)</b> The SJPU shall inform the child promptly and directly of the charges against him in the language and manner that he understands so as to ensure full comprehension of the same.</p> <p><b>Rule 13.6:</b> The child shall be given all possible assistance to enable him to fulfill his right to call any person of his choice, over the phone or otherwise.</p> <p><b>Rule 14.23:</b> The order issued by the Board shall take into account the views and the best interest of the child...</p> <p><b>Rule 20.1:</b> Where a child's parents or guardian cannot be contacted or if the child specifically wishes that they should not be contacted, the PO shall contact any other suitable person accepted by the child.</p> <p><b>Rule 25.4.d)</b> The purpose of the Inspection Committee is to interact with the children and determine their well being</p> <p><b>Rule 25.6:</b> Any facts discovered by an Inspection Committee that appear to indicate that a violation of legal provisions concerning the rights of children has occurred shall be communicated to the Competent Authority for further investigation</p> <p><b>Rule 25.7:</b> Each institution shall maintain a grievance box that is freely accessible to children to deposit anonymous complaints. Children shall not be subjected to any punishment for having accessed these grievance redressal systems.</p> <p><b>Rule 27:</b> Social Audit</p> <p><b>Rule 28.5.e:</b> No child above seven years who can understand and express her/his opinion shall be placed in adoption without his consent.</p> <p><b>Rule 31.4.e:</b> There shall be provisions for a Peer counselor for After Care Homes who will be in regular contact with these children to discuss the rehabilitation plans and to provide creative outlets for their energy, to tide over crisis periods in their life.</p> <p><b>Rule 37.1.c:</b> The immediate needs and apprehensions of the child such as the need for urgent medical care and the need to contact parents, shall be attended to in a prompt, efficient and nurturing manner.</p> <p><b>Rule 37.1.e:</b> A copy of the Rules are to be given to the child, and if illiterate the matter should be conveyed in a manner enabling full comprehension.</p> <p><b>Rule 37.5.b:</b> Children should be consulted for their care plan.</p> <p><b>Rule 37.12.g:</b> Marriage for the girl may be arranged but written consent must be obtained from her.</p> <p><b>Rule 38.4.iii.b:</b> If the child reports sexual abuse/rape after leaving the institution to any person, the person shall bring the same to the notice of the JJB who will then institute an inquiry</p> <p><b>Rule 23.2.ii:</b> Provision of Child line and emergency outreach service - a free phone facility for children</p> <p><b>Form X:</b> Pre-release report: 12) Opinion of the child to be taken into account</p>

### Punitive action for Employment of children

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<p><b>Sec. 44:</b> Whoever ostensibly procures a juvenile for the purpose of any employment and withholds the earnings of the juvenile or uses such earnings for his own purposes shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine</p>	<p><b>CRC: Art. 32:</b> State parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education.....</p> <p><b>CRC 32.c:</b> Provide for penalties and other sanctions to ensure the effective enforcement of the present Article.</p>	<p><b>Sec 24:</b> Whoever employs or uses any juvenile or the child for the purpose or causes any juvenile to beg, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine</p>	<p><b>Rule 39.2.c:</b> The Probation Officer/Superintendent or other staff shall not employ children under their supervision for their own purposes, or take any private service from them.</p>

## Institutionalization and Restoration into the Community

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<p><b>Delinquent children:</b> See <b>Sec. 21</b> for orders that may be passed.</p> <p><b>Neglected Children:</b> <b>Sec. 15.2:</b> The Board may make an order directing the juvenile to be sent to a juvenile home for the period <i>until he ceases to be a juvenile.</i></p> <p><b>Sec. 15:</b> Power to commit a child to suitable custody such as parent, guardian or other fit person</p> <p>See <b>Sec. 49:</b> for placing children out on license.</p>	<p><b>CRC: Article 3.1:</b>the best interest of the child shall be of primary consideration.</p> <p><b>Art. 3.2:</b> ...taking into account the rights and duties of his or her parents, legal guardians....</p> <p><b>Art. 9.3:</b> .. the right of the child who is separated from one or both parents to maintain persona relations and direct contact with both parents on a regular basis except if it is contrary to the child's best interests.</p> <p><b>Art. 20:</b> A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.</p> <p><b>Art. 20.3:</b> Such care should include, <i>inter alia</i>, foster placement, <i>kafala</i> of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.</p> <p><b>Art. 21.a:</b> Ensure that adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status...</p> <p><b>Beijing Rule 19.1</b> The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period.</p>	<p><b>CICWL: See Sec 15:</b> Orders that may be passed</p> <p><b>CINOCAP:Sec. 33.3:</b> After completion of the inquiry if the Committee is of the opinion that the said child has no family or ostensible support, it <i>may allow</i> the child to remain in the Children's home or Shelter home <i>till suitable rehabilitation is found for him or till he attains the age of eighteen years.</i></p> <p><b>Sec. 39:</b> Restoration and protection to a child shall be the <i>prime objective</i> of any Children's home or the Shelter home.</p> <p><b>Sec. 39.3:</b> Children may be restored to his <i>parent, guardian, fit person or fit institution.</i> Restoration means to <i>parents, adopted parents and foster parents.</i></p> <p><b>Sec. 41.1:</b> The primary responsibility for providing care and protection to children shall be that of his family.</p> <p>See <b>Sec. 40, 41, 42, 43 and 44</b> for restorative strategies of Adoption, Foster Care, Sponsorship and After care.</p>	<p><b>CINOCAP: Rule 21.3:</b>... If the child is ordered to continue in the Children's Home, the Committee shall carry out an <i>annual review</i> of the progress of the child in such home.</p> <p><b>Rule 37.5.b:</b> The care plan shall be reviewed from time to time, for appropriate development and rehabilitation, including options for restoration to family/foster care/adoption. Review shall not be delayed beyond a year. The <i>focus should be on providing family and community based re-integration programs.</i> Children should be consulted while determining their care plan.</p> <p><b>Rule 24.f:</b> No child shall ordinarily stay in the Shelter Home/Drop in Centre for more than a year.</p> <p>See <b>Rules 28 – 31</b> for Adoption, Sponsorship, Foster care and After care</p> <p><b>Rule 32.5.9.d:</b> The receipt of letters by the children of the institution shall not be restricted and they shall have freedom to write letters at reasonable times. The Superintendent shall ensure that where parents, guardians or relatives are known, at least one letter is written by the child every week for which the postage shall be provided.</p> <p><b>Rule 39.1. s:</b> Duties of the Superintendent/PO to take suitable rehabilitation measures.</p> <p><b>Rule 39.2.viii:</b> Duty of the PO to facilitate rehabilitation and social reintegration of children...</p>

## Child Rights perspective

JJA 1986	International Standards	JJ (CPC) Act 2000	Rules under the JJ (CPC) Act 2000
<p><b>Sec. 18:</b> Right to bail</p> <p><b>Sec. 21. 4:</b> Right to freedom of religion</p> <p><b>Sec. 22.1:</b> Right not to be put to death or be imprisoned...</p> <p><b>Sec. 23:</b> Right to justice under the JJA. Proceeding under Chapter VIII of the <a href="#">Cr.P.C</a> not competent against juvenile</p> <p><b>Sec.24:</b> Right not to be charged with or tried for, any offence together with a person who is not a juvenile.</p> <p><b>Sec. 25:</b> Right not to suffer any disqualification, if any, attaching to a conviction of an offence under such law.</p> <p><b>Sec.28:</b> Right to have parent/guardian and legal practitioners present before Competent Authority.</p> <p><b>Sec. 35 and 36:</b> Right to confidentiality</p> <p><b>Sec. 37:</b> Right to Appeal</p>	<p><b>UN CRC :</b> All rights guaranteed under the Convention.</p> <p>Additional recommendations under the Beijing Rules and UN Rules for Juveniles Deprived of their Liberty.</p>	<p><b>Preamble invokes the CRC</b></p> <p><b>Right to bail</b> Sec. 12.1:</p> <p><b>Right to information</b> about the supervision order - Sec. 15.4</p> <p><b>Right not to be put to death or be imprisoned</b> Sec. 16.1- Same as Sec. 22.1 of 1986</p> <p><b>Cr. P. C and JJA</b> Sec. 17: Same as Sec. 23 of 1986</p> <p><b>Right not to be tried with an adult</b> Sec. 18 - Same as Sec. 24 of 1986</p> <p><b>Removal of disqualification</b> Sec. 19: Same as Sec. 25 of 1986</p> <p><b>Right to confidentiality</b> – Sec.21 and 51: Same as Sec. 35 and 36 of 1986</p> <p><b>Protection of human rights:</b> The Committee <i>shall</i>...provide for their basic needs and protection of <i>human rights</i> Sec.31</p> <p><b>Participation Rights:</b> See Comparative chart for details on Sec. 32, 36, 40, 51 and 53</p> <p><b>Right to have parent/guardian present during any proceedings</b> - Sec.46.</p> <p><b>Right to appeal</b> – Sec. 52: Same as Sec. 37 of 1986</p> <p><b>Child's rights in situations of armed conflict, national calamity or civil commotion</b> by virtue of Def. 2.d.ix) read with Sec 31</p>	<p><b>Protection of child rights: Rule 25. 6:</b> Inspection Committee to report all child rights violations to Competent Authority,<b>Rule 39.1</b> – The Probation Officer/Superintendents shall ensure that the rights of the child are protected.</p> <p><b>Protection from harassment, torture, ill treatment and from being handcuffed, corporal punishment, secondary victimization:</b> Rule 11.8, 11.11, 12.2.ii,12.2.vi),12.3.vi),13.3, 19.6, 37.15 a), 37.15.b), 37.15.c), 37.15.d) 38.4.d)</p> <p><b>For all Participation Rights</b> – See relevant Comparative Chart.</p> <p><b>Qualifications</b> of Chairperson and members of the Child Welfare Committee includes experience in the field of child rights – Rule 7.</p> <p><b>Child Rights training</b> to be given to SJPU – Rule 12.1</p> <p><b>Right to safety, basic amenities, medical attention, counselling:</b> Rule 11.13, 11.14</p> <p><b>Right not to be forced to give a confession or testimony</b> – <a href="#">Rule12.2.ii</a></p> <p><b>Child friendly procedures and environment</b> Rule13.7, 13.10, 33.1, 37.1.a), 37.1.c), 39.4.a)</p> <p><b>Views and Best interests of the child</b> – Rule 13.23</p> <p><b>Right against arbitrary or unlawful interference of privacy, family, home or correspondence</b> – Rule 37.9.d, 37.1.b)</p> <p><b>Right to use own clothing</b> – Rule33.12</p> <p><b>Right to education (attend school outside the institution)</b> – Rule33.14</p> <p><b>Right to adequate health care</b> – Rule 33.15 – 33.27, 37.11.a.ii),</p> <p><b>Right to freedom of religion</b> – 36.2</p>