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# THE TRANSFORMATIVE POWER OF RESTORATIVE JUSTICE: SHIFTING PARADIGMS IN YOUTH DEVELOPMENT AND CRIMINAL JUSTICE

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## ABSTRACT

This study investigates the implementation and potential of restorative justice approaches within the Indian juvenile justice system. Given that the Juvenile Justice Act of 2015 aims to promote the rehabilitation and reintegration of juveniles into society, and its core principles are inspired by the fundamentals of restorative justice, the paper analyzes the Act's implementation and any shortcomings or challenges. A comparative analysis is drawn from the effective and well-established juvenile justice system in New Zealand, which has long embraced restorative justice practices. Data from the National Crime Records Bureau has been analysed to determine the rate of juvenile delinquency in India and identify relevant trends. Additionally, the conditions of juvenile care homes have also been examined to assess the environment and support available for rehabilitating young offenders. The paper concludes by emphasizing the importance of restorative justice in victim rehabilitation and how its effective implementation can yield transformative results for both individuals and the broader criminal justice system

**Keywords:** Restorative Justice, Rehabilitation, Juvenile, Victim, Crime

## 1. Introduction

When a crime is committed, it has an impact not only on the victim but also on the offender, their family, bystanders, and broader society. Restorative justice brings together all parties affected by a crime to collectively determine how to address the incident and its future implications. The term, coined by Albert Eglash in 1977, is based on reparation and focuses on providing a structured environment that enables the offender to make restitution to the victim and reintegrate into society.<sup>1</sup> It seeks to aid the offender in understanding the repercussions of their actions and offers them an opportunity to rejoin society after improvement, with the aim of reducing the risk of reoffending.<sup>2</sup>

Restorative justice encompasses a range of approaches, including apologies, restitution, communication, and reintegration. The core elements of this concept are the four R's: repairing, restoring, reconciling, and reintegrating. It emphasizes repairing the harm caused by the criminal offence. It attempts to assess the nature of the offence's outcome and the measures that can be taken to make up for the harm caused to the victim and society.<sup>3</sup>

The restorative justice process involves a personalized and direct dialogue between the offender and victim to discuss the nature, reasons, and circumstances of the harm caused. It includes the offender's acknowledgement of their fault and the harm they have inflicted. The focus is on understanding the root cause of the offense and exploring ways to potentially correct the situation and rebuild new relationships and communities. This concept seeks to create novel opportunities within society for both the offender and the victim, fostering personal, communal, and societal growth. It also seeks to reintegrate offenders into society by transforming them into constructive members and providing them with positive roles.<sup>4</sup>

Recent trends<sup>5</sup> also represent an increasing inclination of victims towards restorative justice as the mode of justice, reasons being, lack of will for participating in never-ending traditional court hearings, as they do not always provide the desired outcome, or from the victim's

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<sup>1</sup> Tony F. Marshall, *Restorative Justice: An Overview* (Center for Restorative Justice & Mediation 1998).

<sup>2</sup> Howard Zehr, *The Little Book of Restorative Justice* (Good Books 2015).

<sup>3</sup> Daniel W. Van Ness (ed), *Restoring Justice: An introduction to restorative justice* (5 edn, Taylor & Francis 2014).

<sup>4</sup> Carrie Menkel-Meadow, 'Restorative justice: What is it and does it work?' (2007) Georgetown Public Law Research Annual Review <<https://ssrn.com/abstract=1005485>> accessed 12 September 2025.

<sup>5</sup> Alliance for Safety and Justice, 'Crime Survivors Speak: National Survey of Victim's View on Safety and Justice' (2022) ASJ <<https://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>> 12 September 2025.

perspective, they are of no use as they do not make the situation of the victim any better. In addition, the victims are retraumatized by the criminal trial, whereas restorative justice mechanisms focus on the approach the victim prefers, emphasising a non-adversarial process that seeks to make the best of the amends to the victim.

In a review conducted by 'Community Work West' in their 'Restorative Community Conference'<sup>6</sup>It was concluded by them that ninety-one percent of the victims who were surveyed said they found the restorative justice programs to be efficient and provided them with a more inclusive and interactive procedure.

This research examines the feasibility of restorative justice programs in the Indian criminal justice system for juvenile offenders across different types of offences, ranging from petty to heinous.

## 2. Analysis

### 2.1. Juvenile Offences: Trend Over Years

As released by the National Crime Records Bureau in their report titled 'Crimes in India 2022', a total of 30,555 cases were filed against juveniles. In 2021, the number was 31,170, highlighting a 2.0% decline in 2022 compared to 2021. Most of the cases were registered under the 'Indian Penal Code, Special and Local laws' and were committed by teenagers aged 16 to 18.<sup>7</sup> Out of 30,555, around 33 cases were registered for carrying deadly weapons, which are prohibited under the Arms Act.

As of the data published by the 'Global Initiative against transnational organized crime' in the year 2021, India was ranked 64th with a criminality score of 5.53.<sup>8</sup>The data is released every year, marking a continuous upsurge in the commission of offences by juveniles. There are various factors that govern the commission of the offence, ranging from the family's socioeconomic situation to the level of education and peers. As per the data released by the

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<sup>6</sup> Sujata Baliga, 'Restorative Community Conferencing A study of Community Works West's restorative justice youth diversion program in Alameda County' (2017) Impact Justice <[https://impactjustice.org/wp-content/uploads/CWW\\_RJreport.pdf](https://impactjustice.org/wp-content/uploads/CWW_RJreport.pdf)>

<sup>7</sup> 'Crime in India 2022' (2022) National Crime Records Bureau 21 <<https://ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/1701607577CrimeinIndia2022Book1.pdf>> accessed 12 September 2025.

<sup>8</sup> 'Global Initiative Against Transnational Organized Crime' *Global Organized Crime Index* (India, 2021) <<https://ocindex.net/country/india>> 12 September 2025.

‘National Crime Records Bureau’, the delinquency in juveniles is higher in boys as compared to girls. The data indicates that juvenile delinquency is higher in the societal groups who have poor socio-economic conditions as compared to other strata of society.

The offences committed by them include burglary, shoplifting, rioting, rape, and molestation. There are various offences under special laws that are increasing amongst juvenile delinquents, ranging from narcotics to the use of weapons. According to NCRB data, Madhya Pradesh had the highest number of juvenile delinquents apprehended in 2021, followed by Maharashtra and Rajasthan.

According to the report, in the national capital, Delhi, the offences of rape, molestation, burglary, etc. have increased, and the reasons attributed to it could be poor income of the families, easy access to social media, etc. According to NCRB, in the period 2017-21, the children in the age group of 16-18 have emerged as the most active in committing crimes as compared to the children below the age of 16.

## **2.2. Type of Crimes Committed**

Crimes committed by juveniles are not limited to any particular category, such as offences against property or public tranquillity; rather, they have expanded and are now present in every type of crime. As per NCRB data, it can be said that over the past 5 years, there has been a drastic rise in juvenile delinquency, especially in the age group of 16-18.

The data also indicates that in the preceding five years, juvenile delinquency was highest in offences committed against the human body, followed by offences against property.<sup>9</sup> Delinquency has decreased in the age groups 7 to 12 and 12 to 16. The largest number of apprehensions occurred among individuals aged 16 to 18.

## **2.3. Background of the Offenders**

To analyse the background of juvenile delinquents, we analysed the NCRB reports published from 2017 to 2021. As per the analysis and the observations made thereafter, there are higher

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<sup>9</sup> Raghu Abhishek & J Balamurugan, ‘Factors and Patterns Associated with Juvenile Delinquency with reference to Juvenile Crimes in India’ (2023) ResearchGate <[https://www.researchgate.net/publication/375733408\\_Factors\\_and\\_Patterns\\_Associated\\_with\\_Juvenile\\_Delinquency\\_with\\_reference\\_to\\_Juvenile\\_Crimes\\_in\\_India](https://www.researchgate.net/publication/375733408_Factors_and_Patterns_Associated_with_Juvenile_Delinquency_with_reference_to_Juvenile_Crimes_in_India)> 12 September 2025.

tendencies of committing an offence in the children who live with their parents as compared to those who are either homeless or living under the guidance of any guardian.<sup>10</sup>

The reason for the children living with parents having higher tendencies is because of the parental rejection, the lack of participative nature of parents, along with the sour relationships between parents and the family behaviour.<sup>11</sup> The various factors that lead a child towards criminal tendencies include unstable family arrangements, abusive environments, visible violence, and arguments between parents, as these factors hinder the natural development of a child's brain and negatively impact their personality.<sup>12</sup>

These factors contribute to the increase in delinquency among youngsters. Falling off of the traditional joint family structures into the nuclear families also sometimes relates to the mental development of the child, as there are higher chances of being under supervision in the joint families.<sup>13</sup>

#### 2.4. Factors Leading to Juvenile Delinquency

Bernburg<sup>14</sup> emphasis on various factors, including the socio-economic factors like poverty, lack of education, social exclusion, income disparities, and other social atrocities and inequalities, which push a person towards having higher criminal tendencies. Other reasons include diverse communication with different types of peers, decreasing discipline and moral

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<sup>10</sup> 'Crime in India 2017' (2017) *National Crime Records Bureau* <[https://ncrb.gov.in/sites/default/files/Crime%20in%20India%202017%20-%20Volume%201\\_0\\_0.pdf](https://ncrb.gov.in/sites/default/files/Crime%20in%20India%202017%20-%20Volume%201_0_0.pdf)> ; 'Crime in India 2018' (2018) *National Crime Records Bureau* <<https://ncrb.gov.in/sites/default/files/Crime%20in%20India%202018%20-%20Volume%201.pdf>>; 'Crime in India 2019' (2019) *National Crime Records Bureau* <<https://ncrb.gov.in/sites/default/files/CII%202019%20Volume%201.pdf>> ; 'Crime in India 2020' (2020) *National Crime Records Bureau* <<https://ncrb.gov.in/sites/default/files/CII%202020%20Volume%201.pdf>> ; 'Crime in India 2021' (2021) *National Crime Records Bureau* <[https://ncrb.gov.in/sites/default/files/CII-2021/CII\\_2021Volume%201.pdf](https://ncrb.gov.in/sites/default/files/CII-2021/CII_2021Volume%201.pdf)> accessed 12 September 2025.

<sup>11</sup> Rosemary Kakonzi Mwangangi, 'The Role of Family in Dealing with Juvenile Delinquency' (2019) 7 *Open Journal of Social Sciences* <<https://doi.org/10.4236/jss.2019.73004>> 12 September 2025.

<sup>12</sup> A. Gupta, O.S. Biddala & Mandavi Dwivedi, 'Sociodemographic characteristics and aggression quotient among children in conflict with the law in India: A case-control study' (2015) *ResearchGate* <(PDF) Sociodemographic characteristics and aggression quotient among children in conflict with the law in India: A case-control study (researchgate.net)> accessed 13 September 2025.

<sup>13</sup> Prakash D.Haveripeth, D, 'Contributing factors of juvenile delinquency' (2013) *International Journal of Innovative Research and Development* <Contributing Factors of Juvenile Delinquency | International Journal of Innovative Research and Development (internationaljournalcorner.com)> 13 September 2025.

<sup>14</sup> Jon Gunnar Bernburg, 'Anomie Theory (Oxford Research Encyclopedia of Criminology and Criminal Justice)' (2019) <(PDF) Anomie Theory (Oxford Research Encyclopedia of Criminology and Criminal Justice) (researchgate.net)> 13 September 2025.

conduct, reducing surveillance, and early access to the technology.

Children from very early ages start to have encounters with illicit drugs and alcoholic substances either through family or peers, and sometimes they witness instances of violence in the family or find themselves the victim of abuse, whether mental or physical. Irregular and distributed parenting and lack of attention and care also contribute to the increasing juvenile delinquency.<sup>15</sup>

## 2.5. Types of Punishments Given to Juveniles

As per the data released by the NCRB from the year 2017 to 2021, it can be concluded that juveniles apprehended for committing crimes under the 'Indian Penal Code' (now *Bhartiya Nyaya Sanhita*) amounted to 91% of the juvenile delinquents, and only 9 percent were apprehended under the special laws. Boys were on top, followed by girls and transgender individuals, if a breakdown based on gender is done among the juvenile delinquents. Though by every passing year, the percentage of boys and girls falling into this category is increasing and witnessing an upsurge.<sup>16</sup>

To deal with the juvenile delinquents, India has enacted special legislation, the very first enacted in the year 1986<sup>17</sup>, titled as *Juvenile Justice Act (JJ Act, 1986)*, then in 2000<sup>18</sup> titled *Juvenile Justice (Care and Protection) of Children Act (JJ Act, 2000)*, and the latest in 2015<sup>19</sup> titled *Juvenile Justice (Care and Protection) of Children Act, (JJ Act, 2015)*. The legislation enacted in the year 1986 termed the juvenile delinquents as 'child in conflict with law (CICL)', which prohibited sentencing of children to prisons, no matter what the situation.<sup>20</sup> Since India later ratified the 'United Nations Convention on the Rights of the Child (UNCRC).'<sup>21</sup> To implement it into the domestic legal framework, the legislature introduced the Juvenile Justice

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<sup>15</sup> Aasim Ur RRehman, Jangam & V. Kavita, 'Family support and well-being programme (FSWP): A specialized family strengthening psychosocial services for parents of children in conflict with law' (2022) *Journal of Family Medicine and Primary Care* <[Journal of Family Medicine and Primary Care \(lww.com\)](https://www.lww.com)> 13 September 2025.

<sup>16</sup> 'Crime in India 2022' (2022) *National Crime Records Bureau* 21 <<https://ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/1701607577CrimeinIndia2022Book1.pdf>> 13 September 2025.

<sup>17</sup> The Juvenile Justice Act 1986

<sup>18</sup> The Juvenile Justice (Care and Protection of Children) Act 2000

<sup>19</sup> The Juvenile Justice (Care and Protection of Children) Act 2015

<sup>20</sup> Rajesh Sagar, Prashant Gupta & Bichitra Patra, 'Gaps Analysis in Mental Health Care Services in Child Care Institutions: a Delhi based Study' (2017) *ResearchGate* <(PDF) Gaps Analysis in Mental Health Care Services in Child Care Institutions: a Delhi based Study ([researchgate.net](https://www.researchgate.net))> 13 September 2025.

<sup>21</sup> United Nations Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) UNTS 1577 (UNCRC).

Act of 2000, which introduced various provisions to abide by the international standards while dealing with juvenile delinquents.<sup>22</sup>

The legislation focused on means and methods that cater to ensuring the care and protection and overall development of the delinquent in order to provide rehabilitation to them so as to safeguard the best interests of the child. It also mandated the commission of various institutions and committees to ensure compliance with the Act and proper implementation of the purposes of the legislation. It emphasized the various rights of the children, which include treating them with respect and dignity, maintaining confidentiality by not releasing their names in the public domain, and helping them reach the right institution and shield them from the hardcore criminal justice system in order to prevent any type of social stigma from being created against them.

They are not tried in the regular courts rather the legislation provided for a juvenile justice board which was instituted to specifically deal with juvenile matters whose focus was not retribution rather rehabilitation, reformation and providing for a punishment which could improve a child and turn them into a better person to be reintroduced in the society and give life a chance again and to carry out a dignified life. The reform centres conduct various activities, ranging from welfare initiatives to healthcare and education.

## **2.6. Mode of Punishing Juveniles Under the 2015 Act**

The JJ Act, 2015 provides for a special process to be followed for juveniles falling in the category of 16-18 years that have committed any heinous offence, heinous offence being the offence whose prescribed minimum punishment is 7 years or more. The procedure provides that when a juvenile aged 16-18 years is presented before the JJB for committing a heinous offence, the board may refer him to the children's court for trial as an adult.<sup>23</sup>

But before referring him to the court, the board needs to take several factors, such as his maturity level and understanding of the offence, into consideration by conducting a preliminary assessment.<sup>24</sup> While conducting the assessment of the child, the board must consider the child's

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<sup>22</sup> Snehil Gupta & Rajesh Sagar, 'Juvenile Justice System, Juvenile Mental Health, and the Role of MHPs: Challenges and Opportunities' (2020) PubMed Central <Juvenile Justice System, Juvenile Mental Health, and the Role of MHPs: Challenges and Opportunities - PMC (nih.gov)> 13 September 2025.

<sup>23</sup> The Juvenile Justice (Care and Protection of Children) Act 2015 s 19.

<sup>24</sup> Aditi Malhotra, 'Indian Cabinet Gives Nod to Changes in Juvenile Age for Serious Crimes' (2015) WSJ <<http://blogs.wsj.com/indiarealtime/2015/04/23/indian-cabinetgives-nod-to-change-in-juvenile-age-for-serious-crimes>> 13 September 2025.

mental and physical capacity, along with his maturity level, to comprehend the outcome and consequences of the overt act.

But in my opinion, this provision violates international standards, the act's chief objective, and the implicit essence of the constitution. Though it cannot be denied that the juvenile committing a heinous offence requires more attention and a very severe scrutiny, it is not as harsh as being subjected to the regular criminal justice system.

In my view, it violates 'Article 14 of the constitution' by infringing upon the child's right to equality, though we better understand that using intelligible differentia categorization can be done, but this provision cannot be said to be exercise of intelligible differentia as children are immature and require special attention and care and they have their whole life in front of them. This provision is prima facie violative of the very principle of fresh start as embedded in the JJ Act, 2015, which in its entirety focuses on reformation and reinstating of the child into society.<sup>25</sup> This ousts the child from getting the benefit of special treatment meant for children and exposes them to the hardcore criminal system.

### **2.7. Restorative Justice for the 16-18 age group: A Lacuna**

The provision of punishing children aged 16-18 for heinous offences completely goes against the concept of restorative justice and reintegrating them into society. Exposing a child to the harsh criminal justice system and the regular prisons hampers their development and leads to social stigmatization against them, jeopardising their entire remaining life and increasing the chances of making them a perpetual offender. The criterion for assessing the child's maturity and understanding is full of flaws. Scientific research does not back this assessment.

Various research that has been conducted in the field of psychology prima facie shows that a commission of serious or heinous crimes cannot be relied on the maturity level of the juvenile. Neuroscience research finds that, despite children over 16 years of age having cognitive abilities similar to those of adults, they still lack maturity.<sup>26</sup> The maturity level of calculating the probability of an outcome of any act is controlled by both cognitive and psychological capabilities of the brain cells.

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<sup>25</sup> The Juvenile Justice (Care and Protection of Children) Act 2015 s15(1).

<sup>26</sup> Laurence Steinberg, 'Adolescent Development and Juvenile Justice' (2009) Pub Med <Adolescent development and juvenile justice - PubMed (nih.gov)> 13 September 2025.

When we talk about psychological activities of the brain, these govern a person's ability to control their impulses by using factors that guide their behaviour and the assessment of the long-term outcome of the act they are about to commit. Children above the age of 16 lack these psychological activities in their brains, which actually assess decision-making skills, because they are still under development.<sup>27</sup> According to research, children only think about the present, not the future implications of any act.<sup>28</sup>

Decisions made by children are based on various emotions that they feel and go through at a particular moment. They make decisions out of fear or anger rather than reason, logic, or correctness.

Hence, it can be said that, due to the lack of psychological development of brain cells, children, including those above the age of 16, lack this capacity and are therefore unable to make decisions, resulting in their decisions being based solely on emotions. Also, one should not equate the seriousness of the offence committed with a child's level of maturity, since their level of maturity remains constant. Commission of heinous crimes is the outcome of the various circumstances or neglect, abuse, or any exploitation that a child goes through.<sup>29</sup>

Hence, in my opinion, instead of trying them as adults and punishing them for the offence, the board should also try the child above the age of 16. They should focus more on what led to the commission of the offence and on how the juvenile delinquent can be brought out of that dark pit, reformed, and reintegrated into society so that he can be an asset to himself and the nation.

The procedure of restorative justice should be utilised for the delinquents of this age group to facilitate both the victim and the accused in getting out of the trauma and finding the best solutions possible, so as to put the victim or their family in a better position and to turn the accused into a reformed person and protect them from becoming a perpetual offender.

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<sup>27</sup> Ibid.

<sup>28</sup> Catherine C. Lewis, 'How Adolescents Approach Decisions: Changes over Grades Seven to Twelve and Policy Implications' (1981) 52 JSTOR <<https://doi.org/10.2307/1129172>> 13 September 2025.

<sup>29</sup> 'Submission on Clauses 14, 17(3), and 19 of the Juvenile Justice (Care and Protection of Children) Bill' (2014) Centre for Child and the Law, National Law School of India University <<https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uac=t=8&ved=OahUKEwjGxIDXglTQAhUBLY8KHZdIDGcQFggkMAE&url=https%3A%2Fwww.nls.ac.in%2Fwww.nls.ac.in%2Fdocuments%2FMWCDNLSIUNIMHANS.docx&usg=AFQjCNFdiRozNjspQXVSY9DRsUJgencWNg&sig2=Lxk6YOAAGCs8WtMHetRew>> 14 September 2025.

## 2.8. Principle of Restoration in International Instruments and Its Application in India

The central idea of restorative justice is to reintegrate the offender into society after reform and to prevent any stigmatisation of the offender. In international law and the Indian juvenile justice system, the concept of restoration is embedded, but whether it is being implemented effectively remains a matter of debate.

The principle providing for a fresh start embodies the concept of restorative justice. This principle states that the names and other identities of the offender, including their criminal record, should be erased to facilitate their smooth reintegration into society and provide a new start. This also aims to protect the right to privacy, which is embodied in the UNCRC.<sup>30</sup> This principle protects children from stigmatisation and aims to prevent any prejudicial impact on their future education and career.

In the case of '*United States v. Danc*'<sup>31</sup> The Supreme Court of the United States enriched this principle and remarked that '*the stigma of a criminal conviction may itself be a greater handicap in later life than an entire misspent youth.*' The concept aligns well with the concept of reform, which underpins the juvenile justice system.<sup>32</sup>

Though the JJ Act, 2015 provides for the provisions which elucidate upon the erasing of criminal records of children, it also provides for an exception that the deviation can be made from the provision of erasing the record in the 'special circumstances'<sup>33</sup> without elucidating as to what these special circumstances will actually be. This creates the lacunae in law, which go against the international standards and also against the 'principles of restorative justice.' The exception can be used in a negative way against a particular class or group of society based on race, religion, or caste.<sup>34</sup>

The 2015 act provides for a provision that provides immunity to the juveniles from getting disqualified by any disqualification provided under any other law<sup>35</sup>. But the act does not extend

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<sup>30</sup> United Nations Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) UNTS 1577 (UNCRC).

<sup>31</sup> *United States v. Dancy* 640 F 3d 455

<sup>32</sup> *United States v. Moore* 1975 SCC OnLine US SC 191

<sup>33</sup> The Juvenile Justice (Care and Protection of Children) Act 2015 s3 (xiv).

<sup>34</sup> Pinki Virani, 'Crime and Commensurate Punishment' (*The Hindu*, 22 July 2015) <Crime and commensurate punishment - The Hindu> 14 September 2025.

<sup>35</sup> The Juvenile Justice (Care and Protection of Children) Act 2015 s 24.

this provision's benefit to the juveniles of the age group 16-18, creating a prejudice against them and exposing them to other atrocities.<sup>36</sup> This hampers their right of rehabilitation and reinstatement into society, as it will create a permanent stigmatization against them, violating the principles of restorative justice.'

Hence, to further the effective implementation of restorative justice, the lacunae in these provisions should be addressed.

## 2.9. Restorative Justice- Implementation Mechanism and Their Feasibility

The system of juvenile justice embodies the principle of the best interest of the child. It focuses on protecting the child's best interests, which are the child's reformation and reinstatement into society, thereby abiding by the concept of restorative justice.<sup>37</sup>

In '*Re: Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India*'<sup>38</sup>, the Supreme Court observed:

*'The importance of rehabilitation and social reintegration clearly stands out if we appreciate the objective of the JJ Act, which is to foster restorative justice. There cannot be any meaningful rehabilitation, particularly of a child in conflict with the law, who is in need of care and protection, unless the basic elements and principles of restorative justice are recognized and practised.'* (para 45)

The procedures for achieving the objectives of restorative justice are well suited to providing punishment and rehabilitation to juveniles, as well as to children who need care and protection. Restorative processes can also be encompassed as part of the Individual Care Plan '*to restore the child's self-esteem, dignity and self-worth and nurture [the child] into a responsible citizen.*'<sup>39</sup>

To enable the fulfilment of restorative justice, the JJ Act, 2015, authorizes the JJB to conduct a multidisciplinary inquiry into the offence committed by the juvenile. They should consider

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<sup>36</sup> The Juvenile Justice (Care and Protection of Children) Act 2015 s 24(1).

<sup>37</sup> (Committee on the Rights of the Child, General Comment No.10 (2007) Children's Rights in Juvenile Justice, CRC/C/GC/10, 25 April 2007, para 10

<sup>38</sup> AIR 2017 SC 2546.

<sup>39</sup> Rule 2(1)(ix), JJ Model Rules, 2016

why the act occurred, how it occurred, and its future implications for both the juvenile and the victim.

To ensure their restoration, the act provides that CICL during investigation should be kept in observation homes and not regular jails in order to cater to the needs and requirements of the children and to isolate them from hardcore criminals. The act also provides for the creation of safe places, which are also observation homes. Based on the offender's age and the type of crime they committed, it is determined where to keep them during the investigation.

There are several other initiatives developed and carried out by schools and various social groups that are completely independent of the criminal justice framework and create separate platforms for society to respond to petty offences and issues rather than submitting them to the criminal justice system.<sup>40</sup>

Various shelter homes are run by nonprofit organisations, as well as by the state and central governments. Hence, it can be said that a framework has been established for providing restorative justice. But once again, this is a debatable topic, up to what extent these institutions are achieving their goals of rehabilitation and reinstating.

### **2.10. Conditions of Shelter Homes: Are They Really Helping In Any Positive Way?**

Children are like flowers, which require a lot of care, attention, and love to ensure their proper development. Likewise, juveniles require extensive care and active supervision to be reformed and reintegrated into society. It requires assessment of their physical and psychological needs. In this regard, various NGOs work with the government to find creative solutions to achieve the goal of rehabilitation and reform. The 'Ministry of Women and Child Development' is constantly working to achieve its set goals.

According to data from various online sources, there are approximately 815 juvenile homes in India. According to the information available, most of them are filled with juveniles beyond their capacity. There are around 1.7 million juveniles surviving in these homes who are in need of instant counselling.

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<sup>40</sup> Manu Singh & Purnima Bhardwaj, 'Restorative Justice under Juvenile Justice System' (2022) The Law Bridge Group <Dr.-Manu-Purnima.pdf (thelawbrigade.com)> 14 September 2025.

According to the report titled, 'India's Hell Holes: Child Sexual Assault in Juvenile Justice Homes' published by the Asian Centre for Human Rights<sup>41</sup>, *'It will not be an exaggeration to state that the role of juvenile justice has become a hell in India where there are young inmates subjected to sexual abuse, exploitation, torture and mistreatment, as well as being forced to live in subhuman conditions.'*

According to the above-quoted report, 39 cases where minors living in juvenile homes or other government-managed shelter homes or foster homes have been victims of sexual abuse are mentioned.

As per Kjelsberg<sup>42</sup> The perceptions and attitudes we have towards juveniles also play a major role in their rehabilitation. According to a survey conducted by him, shelter homes or prisons for adult offenders with a prevalence of positive behaviour towards them have shown higher reformation rates and lower crime rates. Programs which are based on educational ideas, and which emanate information, have been shown to have an influence in inculcating a positive attitude.

A study was conducted by Meghna Dasgupta in 2010 titled 'Rehabilitation through Education for Juveniles in Conflict with Law'<sup>43</sup> In which she analysed and concluded that the implementation of the goals set out in the JJ Act, 2000, has been hindered by infrastructure impediments, resulting in a halt to the entire rehabilitation system. Though regular attempts are made to overcome these impediments, they very rarely see the sunshine of success.

To ensure a successful rehabilitation system, it is crucial for various agencies, officials, and government departments to join hands and work in harmony to create a robust rehabilitation framework. There is a need for a responsible, effective, and efficient monitoring framework to regulate the operations of rehabilitation centres, ranging from observation homes to foster care homes.

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<sup>41</sup> Aarti Dhar, 'Juvenile homes are hellholes, says report on child rape' (*The Hindu*, 21 April 2013) <Juvenile homes are hellholes, says report on child rape - The Hindu> 15 September 2025.

<sup>42</sup> Ellen Kjelsberg, Tom Hilding Skoglund & Aase Bente Rustad, 'Attitudes towards prisoners, as reported by prison inmates, prison employees and college students' (2007) PubMed <Attitudes towards prisoners, as reported by prison inmates, prison employees and college students - PubMed (nih.gov)> 15 September 2025.

<sup>43</sup> Meghna Dasgupta, 'Rehabilitation through education for juveniles in conflict with law' (2010) Centre for Civil Society <Microsoft Word - meghna-dasgupta\_rehabilitation-through-education-for-juveniles.docx (ccs.in)> accessed 15 September 2025.

As per the NCRB report published in 2022, various states have juvenile homes in the worst conditions and in no way cater to the functions for which they were created. There are many instances where cases have been registered against these juveniles' homes for deviating from their functions and for instead committing crimes against the juveniles kept there.

Gujarat has been ranked 3<sup>rd</sup> in 2022 and 1<sup>st</sup> in 2019 in the list of juvenile homes against which cases have been registered, as officials and caretakers there committed and exposed juveniles to various offences.<sup>44</sup>

According to the 'National Crime Records Bureau', the states of Kerala and Rajasthan have reported the highest number of offenses against juvenile homes in the past 4 years, with a total of 91 cases. In 2022 alone, 68 such offenses were registered against juvenile homes in Kerala, 59 in Odisha, and 100 in Rajasthan.

Furthermore, the data shows that in 2022, the number of offenses against the caretakers of juvenile homes in Rajasthan decreased to 100 cases. In the years 2016 to 2021, nearly 9600<sup>45</sup> children were wrongly confined in adult prisons, as per the report titled 'Incarceration of Children in Prisons in India', in which the data was obtained by filing an RTI.

## **2.11. Stakeholders In Juvenile Reintegration**

The restorative justice process, which aims to deliver holistic justice for the victim and the offender, requires a well-established framework to achieve its goals. It is necessary to have an established framework for rehabilitation, reform, and reintegration. The Indian juvenile justice system, whose underlying principle is also to achieve the restorative justice system, provides for various stakeholders, which are as follows-

### **2.11.1. Juvenile Justice Board:**

The board can be considered the chief stakeholder. It is a 3-member body, comprising a judicial

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<sup>44</sup> Tushar Tere, 'Juvenile Homes Unsafe for Kids' (*Times of India*, 7 December 2023) <Juvenile Homes: Juvenile Homes in Gujarat: A Disturbing Trend of Unsafety for Kids | Vadodara News - Times of India (indiatimes.com)> accessed 15 September 2025.

<sup>45</sup> 'Over 9,600 children jailed in adult prisons between January 2016 and December 2021: Study' (*The Economic Times*, 13 May 2024) <<https://economictimes.indiatimes.com/news/india/over-9600-children-jailed-in-adult-prisons-between-january-2016-and-december-2021-study/articleshow/110087860.cms?from=mdr>> 15 September 2025.

magistrate and 2 experienced social workers.<sup>46</sup> It is the designated authority responsible for dealing with children in conflict with the law, or, simply put, juvenile delinquents.<sup>47</sup> The board's key function is to make decisions after considering the various factors required for the development and rehabilitation of a juvenile.

### ***2.11.2. Child Welfare Committee (CWC):***

The committee is designed to address issues related to children in need of care and protection. It focuses on conducting programs and providing facilities to accelerate the growth and development of these children and to provide them with assistance, where required, in matters of care and protection. It consists of 5 persons, one of whom is the chairperson, and one of them needs to be a woman.<sup>48</sup>

### ***2.11.3. Probation Officer:***

One of the very important players in the juvenile justice scheme is the probation officer, who remains part of the investigation from the juvenile's apprehension to the final disposal of the case. He ought to be a skilled person, as he needs to perform the role of a friend, philosopher, and guide to the juvenile delinquent. Under the juvenile scheme, probation is an order that carries a rehabilitative feature. Probation officers' functions are sometimes extended to provide services to children in need of care and protection also.

### ***2.11.4. Civil Societies Organisation (CSO):***

Civil society organisations, or popularly called non-governmental organisations, are formed with the aim of developing society and bringing about social change. In a highly populated, democratic country like India, these organisations play a crucial role in achieving the government's welfare objectives. Hence, they also play a crucial role in achieving the goals of the juvenile justice framework. These societies work in coordination with juvenile homes to research and provide programs and activities to rehabilitate and reform these delinquents, thereby developing future goals for these children, boosting their confidence, and reforming

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<sup>46</sup> The Juvenile Justice (Care and Protection of Children) Act 2015 s 4(2).

<sup>47</sup> Maharukh Adenwalaa, 'Child Protection and Juvenile Justice System for Juvenile Conflict with Law' (2006) Child Line India Foundation <Child protection and juvenile justice system for [special title]. by Maharukh Adenwalla | Open Library> 15 September 2025.

<sup>48</sup> The Juvenile Justice (Care and Protection of Children) Act 2015 s 27(2).

them. They play a very active role in raising demands for the rights of children and raising voices against any kind of inequalities or injustice against these children.<sup>49</sup>

## 2.12. Comparative Analysis

The concept of restorative justice, though, was laid formally in the 1970s, but its traces can be found in ancient cultures around the world. Anecdotes represent that the principles of restorative justice have been used for ages in various communities of New Zealand, the United States of America, and across Canada also. The cultures and communities that used these principles focused on the interconnection of the person as a community, and that is why they did not focus solely on the individual's fault. In modern times, the USA's courts also place reliance on these principles. In the case of *Miller v. Alabama*, the SC held that children are very different from adults, and while trying them, the focus should be on decreased homicide and increased rehabilitation.<sup>50</sup>

### 2.12.1. New Zealand

In the 1980s, juvenile delinquency in New Zealand was at its peak, and the authorities were not able to deal with it. The courts were overburdened, and the crime rate was continuously increasing, which further made New Zealand the country with the highest incarceration rate of young children in the world.<sup>51</sup>

To find solutions, the legislators conducted research and learned about the concept of “Marae” prevalent in the Maori community. Maori was the concept that enriched the principles of restorative justice.<sup>52</sup> This process involved the whole community as stakeholders in the crime, and all the people together addressed it. They placed emphasis on why a certain act was committed and how it was done, rather than solely blaming and punishing the offender. Drawing inspiration from this procedure, the legislators in the country enforced the legislation titled “Children, Young Persons and their Families Act”, resulting in which New Zealand

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<sup>49</sup> Mohua Nigudkar, ‘Information for Juvenile Justice Board and Juvenile in Conflict with Law’ (2011) TISS <Dr Mohua Nigudkar | Tata Institute of Social Sciences (tiss.edu)> 15 September 2025.

<sup>50</sup> *Miller v. Alabama* Miller 567 U.S. 460 (2012)

<sup>51</sup> Allan MacRae & Howard Zehr, *The Little Book of Family Group Conferences: New Zealand Style* (Good Books 2004) 13-14

<sup>52</sup> V.E. Jantzi, ‘Restorative Justice in New Zealand: Current Practice, Future Possibilities’ (2001) Massey University Centre for Peace and Justice Development <<https://emu.edu/cjp/docs/rj-in-newzealand.pdf>> 15 September 2025.

became the first country in the West to make the use of restorative justice for juveniles mandatory.<sup>53</sup>

They adopted the Family Group Conference model, which drew inspiration from the Maori community's practices.<sup>54</sup> This conference brought together the offenders aged 14 to 17, the victim, and their families on a facilitation platform, using it to seek solutions for the future, to make the offenders realise the consequences of their actions, and to hold them accountable.<sup>55</sup> So, these conferences are being used in New Zealand to deal with the cases of juveniles and shield them from the hardcore criminal justice system.<sup>56</sup> They work independently of the court setting and deal with the matter effectively as their main objective is rehabilitation.<sup>57</sup>

After the implementation of the abovementioned legislation, the number of children appearing in court was 16 per 1000, whereas before the Act, the average was 63 per 1000.<sup>58</sup> As per various research conducted therein, the crime rate amongst the youth has decreased post the enactment of the abovementioned legislation. In 2017, only 1884 children were charged in the regular court. Around 75% of their juvenile matters are addressed solely through restorative justice.<sup>59</sup> Hence, New Zealand can be said to be setting an example for other nations.

### 2.13. Why Restorative Justice is Necessary for Juveniles?

Advocates argue that restorative justice principles should be applied to all juvenile cases. As previously noted, juvenile offenders often lack cognitive maturity and are vulnerable to

<sup>53</sup> Emily Watt, 'A History of Youth Justice in New Zealand' (2003) New Zealand Ministry of Justice <<https://www.justice.govt.nz/assets/Youth-Court-History-of-the-Youth-Court.pdf>> 16 September 2025.

<sup>54</sup> F.W.M. McElrea, 'Justice in the Community: The New Zealand Experience' in Jonathan Burnside and Nicole Baker, eds., *Relational Justice: Repairing the Breach* (Waterside Press, 1994) 93-103. <<https://www.napierlibrary.co.nz/assets/Judge-McElrea/RJ-as-relationships-chapter-1994.pdf>> 16 September 2025.

<sup>55</sup> Allison Morris, 'Youth Justice in New Zealand' (2004) 31 *Youth Crime and Youth Justice: Comparative and Cross-National Perspectives* <<https://www.jstor.org/stable/3488348>> 16 September 2025.

<sup>56</sup> F.W.M. McElrea, 'The New Zealand Youth Court: A Model for Development in Other Courts?' (1994) National Conference of District Court Judges <<https://www.napierlibrary.co.nz/assets/Judge-McElrea/Rethinking-punishment-DCJJ-199404.pdf>> 16 September 2025.

<sup>57</sup> F.W.M. McElrea, 'Twenty Years of Restorative Justice in New Zealand – Reflections of a Judicial Participant' (2011) *Journal of Commonwealth Criminal Law* <[www.napierlibrary.co.nz/assets/Judge-McElrea/Twenty-years-of-rj-in-NZ-Jnl-of-Commonwealth-Crim-Law-2011.pdf](http://www.napierlibrary.co.nz/assets/Judge-McElrea/Twenty-years-of-rj-in-NZ-Jnl-of-Commonwealth-Crim-Law-2011.pdf)> 16 September 2025.

<sup>58</sup> Allison Morris & Gabrielle Maxwell, 'Restorative Justice in New Zealand: Family Group Conferences as a Case Study' in Andrew von Hirsch et al., eds., *Restorative Justice & Criminal Justice: Competing or Reconcilable Paradigms?* (Hart Publishing, 2005) 219-236

<sup>59</sup> Melissa Coretz Goemann, 'New Zealand's Youth Justice Transformation: Lessons for the United States' (2018) National Juvenile Justice Network <<https://www.njjn.org/uploads/digital-library/New%20Zealand's%20Youth%20Justice%20Transformation%20-%20Lessons%20for%20the%20United%20States%20Final%204.25.18.pdf>> 16 September 2025.

external influences, necessitating their redirection from the conventional criminal justice system. Instead, alternative approaches must be implemented to facilitate their rehabilitation and reintegration.

Restorative justice concentrates on healing the victim, reintegrating the offender, and restoring community harmony, in contrast to the punitive approaches of the traditional criminal justice system. Contemporary society has recognized the limits of the current criminal justice system in effectively addressing the requirements of the offender, the victim, and the community.

The integration of restorative justice principles within juvenile justice systems has demonstrated promise in delivering more equitable and effective outcomes. While restorative justice programs have gained broader acceptance for less serious offenses, their utility in cases involving more severe and violent crimes remains a subject of ongoing debate.<sup>60</sup> The concept of restorative justice has also grown in the past few decades in its application to juvenile matters.<sup>61</sup>

Children have their whole lives ahead of them; given this, they should not be exposed to regular courts, and alternative measures to promote restorative justice and remove social stigma should be developed.<sup>62</sup> Restorative justice is well-suited for juvenile offenders as it emphasizes early intervention strategies that yield long-term benefits and positive outcomes in addressing the consequences of their actions. According to a meta-analysis conducted in 2017, juvenile delinquency rates were lower among those who participated in restorative justice programs compared to those who went through the traditional juvenile justice system.<sup>63</sup> In another report, it was shown that resolving the matter with restorative justice reduced juvenile recidivism by 26 percent.<sup>64</sup>

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<sup>60</sup> Pamela Cantor & David Osher, 'Malleability, plasticity, and individuality: How children learn and develop in context' (2019) Taylor & Francis <<https://www.tandfonline.com/doi/full/10.1080/10888691.2017.1398649>> 17 September 2025.

<sup>61</sup> Jane Bolitho, *Restorative Justice: Adults and Emerging Practice*, (Federation Press 2014) 1-16

<sup>62</sup> Richard Mendel, 'Why Youth Incarceration Fails: An Updated Review of the Evidence' (2023) The Sentencing Project <<https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence>> 17 September 2025.

<sup>63</sup> David B. Wilson, 'Effectiveness of Restorative Justice Principles in Juvenile Justice: A Meta-Analysis' (2017) Office of Justice Programs <<https://www.ojp.gov/pdffiles1/ojdp/grants/250872.pdf>> 17 September 2025.

<sup>64</sup> William Bradshaw & David J. Roseborough, 'Restorative justice dialogue: The Impact of Mediation and Conferencing on Juvenile Recidivism' (2005) Social Work Faculty Publications <[http://ir.stthomas.edu/ssw\\_pub/24?utm\\_source=ir.stthomas.edu%2Fssw\\_pub%2F24&utm\\_medium=PDF&utm\\_campaign=PDFCoverPages](http://ir.stthomas.edu/ssw_pub/24?utm_source=ir.stthomas.edu%2Fssw_pub%2F24&utm_medium=PDF&utm_campaign=PDFCoverPages)> 17 September 2025.

Restorative justice approaches have been found to provide greater benefits not only for offenders but also for victims. Empirical studies have shown that victims who receive justice through restorative programs report higher levels of satisfaction than those who receive justice through traditional judicial methods. Furthermore, satisfied victims tend to have stronger beliefs in the fairness of the justice system and experience various psychological benefits.<sup>65</sup>

A comprehensive meta-analysis published in 2023 found that victims who participated in restorative justice conferences experienced significantly less negative emotions and perceptions compared to those who sought justice through the traditional criminal justice system.<sup>66</sup> The involvement of victims in the resolution process and the offender's rehabilitation has also been shown to reduce feelings of helplessness and increase their sense of security and control.<sup>67</sup> Therefore, this two-way approach is beneficial for both the juvenile offender and the victim, ensuring fairness and justice for all parties.<sup>68</sup>

### 3. Conclusion

Restorative justice offers a compelling alternative to conventional punitive approaches for juvenile offenders. By emphasising rehabilitation, accountability, and community well-being, this model has demonstrated effectiveness in reducing recidivism and enhancing victim satisfaction. While India's legal framework recognizes the need for rehabilitation, its full potential remains largely untapped. To harness the benefits of restorative justice, the country must reconcile inconsistencies in its juvenile justice system, strengthen community-based restorative programs, and invest in improving the physical and rehabilitative conditions in juvenile detention facilities.

By aligning its policies and practices with international standards on juvenile justice and prioritising the rights, needs, and unique circumstances of young offenders, India can create a more equitable, effective, and socially responsible criminal justice system. Ultimately, the

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<sup>65</sup> Bailey Maryfield, 'Research on Restorative Justice Practices' (2020) Justice Research and Statistics Association <<https://www.jrsa.org/pubs/factsheets/jrsa-research-brief-restorative-justice.pdf>> 17 September 2025.

<sup>66</sup> Ana M. Nascimento, Joana Andrade & Andreia de Castro Rodrigues, 'The Psychological Impact of Restorative Justice Practices on Victims of Crimes—a Systematic Review' (2022) PubMed <[The Psychological Impact of Restorative Justice Practices on Victims of Crimes-a Systematic Review - PubMed \(nih.gov\)](https://pubmed.ncbi.nlm.nih.gov/35412345/)> 17 September 2025.

<sup>67</sup> Jane Bolitho, 'Putting justice needs first: a case study of best practice in restorative justice' (2005) Taylor & Francis Online <<https://doi.org/10.1080/20504721.2015.1069531>> 17 September 2025.

<sup>68</sup> Rod Brunson & Brian Wade, 'Oh hell no, we don't talk to police: Insights on the lack of cooperation in police investigations of urban gun violence' (2019) Criminology & Public Policy <<https://nicjr.org/wp-content/uploads/2020/09/NYC-Study-2019.pdf>> 17 September 2025.

successful application of restorative justice holds the promise of transforming the lives of juvenile offenders, fostering safer and more cohesive communities, and cultivating a stronger, more resilient nation

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