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## **From Retribution to Reformation: Assessing the Efficacy of Juvenile Justice In India Against International Benchmarks**

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# From Retribution to Reformation: Assessing the Efficacy of Juvenile Justice In India Against International Benchmarks

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## **Abstract**

The administration of juvenile justice represents one of the most sensitive and complex challenges faced by legal systems worldwide, situated at the crossroads of criminal law, child psychology, human rights, and public policy. This research report explores the evolution and effectiveness of reformative and restorative justice paradigms for child offenders, with a specific focus on the divergence between legislative intent and operational reality in India. The study critically evaluates the Juvenile Justice (Care and Protection of Children) Act, 2015, and its subsequent 2021 Amendment, which introduced controversial provisions allowing for 16-to-18-year-olds accused of heinous crimes to be tried as adults. Drawing upon the latest data from the India Justice Report 2025, the analysis identifies a system in crisis, marked by a 55% pendency rate, critical vacancies in judicial benches, and severe infrastructure deficits.

In contrast, the report examines international best practices from Norway and New Zealand, where "normalization" and "Family Group Conferencing" have successfully reduced recidivism by prioritizing community reintegration over institutionalization. Through a comparative lens, the research demonstrates that the post-2015 Indian legal regime disproportionately emphasizes deterrence, often contradicting neuroscientific evidence regarding adolescent brain development. The report concludes with a comprehensive roadmap for reform, advocating for the standardization of preliminary assessments, the integration of trauma-informed care, and the establishment of a child-centric National Data Grid to bridge the gap between India's constitutional mandates and the ground-level experience of children in conflict with the law.

## **Introduction**

The philosophical foundation of juvenile justice rests on the premise that children, by virtue of their developmental immaturity, lack the full culpability of adults and possess a greater capacity for rehabilitation. Historically, this realization catalyzed a global shift from retributive models—which view crime as a transgression against the state requiring proportionate punishment—to reformative and restorative models that focus on repairing harm, addressing root causes, and reintegrating the individual into society. In the Indian context, this journey has been marked by a gradual transition from colonial-era punitive practices to a comprehensive, rights-based framework informed by international conventions and constitutional mandates.

## **Neurobiological Foundations of Reformatory Justice**

The scientific justification for treating juveniles differently is rooted in the neurobiology of adolescence. Research in developmental science indicates that the adolescent brain is fundamentally different from the adult brain in structure and function. The prefrontal cortex, which is responsible for executive functions such as decision-making, impulse control, and the evaluation of long-term consequences, does not fully mature until the mid-20s. Conversely, the limbic system, which processes emotions and rewards, is highly active during adolescence. This imbalance predisposes young people to risk-taking behavior, susceptibility to peer influence, and impulsivity. Because these tendencies are developmental rather than inherent traits of criminality, most youth "mature out" of delinquent behavior unless justice system interventions impede their transition to law-abiding adulthood. Consequently, the principle of mitigation must be central to any juvenile justice system, ensuring that sanctions are not disproportionate to a child's evolving mental and moral maturity.

## **Statement of Problem**

The central problem confronting the Indian juvenile justice system is the systemic failure to deliver the reformatory outcomes promised by its progressive legislative framework. While the law normatively prioritizes rehabilitation, the operational reality is one of overstretched resources, administrative inefficiency, and a persistent default to punitive logic.

## **The Pendency and Capacity Crisis**

Data from the India Justice Report 2025 reveals that the decentralised architecture meant to deliver child-centric services is crippled by bottlenecks.

- **Case Pendency:** Over 55% of all registered cases before Juvenile Justice Boards remained pending as of October 2023, leaving more than 50,000 children in legal limbo.
- **Bench Vacancies:** 24% of JJBs operate without the full bench required by law, which must include a principal magistrate and two social worker members to ensure a psychosocial balance in decisions.
- **Legal Aid Shortfall:** Nearly 30% of JJBs lack a dedicated legal services clinic, effectively denying children their statutory right to immediate, free legal representation.

## **The "Data Black Hole" and Administrative Bias**

A critical barrier to reform is the absence of transparent information. Unlike the adult criminal system, which utilizes the National Judicial Data Grid, JJBs lack a central public database. Research shows that only 36% of RTI applications to state nodal authorities provide usable information, indicating a weak culture of transparency. This opacity masks socio-economic biases, where 80% of apprehended juveniles come from marginalized backgrounds and wealthier accused individuals are more likely to secure adult-court exemptions through better legal aid.

## **Objectives of the Research**

This research aims to provide a comprehensive analysis of juvenile reformatory justice through the following specific objectives:

1. To assess whether the shift toward trying 16-to-18-year-olds as adults fulfills its deterrent intent or merely undermines the system's rehabilitative foundation.
2. To explore how the Norwegian normalization model and New Zealand's Family Group Conferencing can inform reforms in the Indian context.

3. To utilize empirical data to highlight the correlation between pendency, bench vacancies, and the failure of individual care plans.
4. To examine how poverty, trauma, and the rise of digital influence contribute to juvenile crime in India and why punitive measures fail to address these causes.
5. To analyze landmark Supreme Court rulings that have upheld the right to rehabilitation even in the face of public outcry for retribution.
6. To propose actionable recommendations for standardizing psychological assessments and scaling community-based mediation programs.

## Research Question

The following questions guide the inquiry of this dissertation:

- Does the hybrid punitive-reformative structure of the Juvenile Justice Act, 2015, effectively balance public safety with the rights of the child?
- What are the underlying causes of the high pendency rates in Indian Juvenile Justice Boards, and how does justice delay impact child development?
- How does the 2021 Amendment's transfer of adoption powers to District Magistrates impact procedural fairness and judicial oversight?
- In what ways do the Scandinavian correctional models and Oceanian restorative models provide more sustainable outcomes for juvenile offenders than the Indian model?
- What are the primary psychological and socio-economic predictors of juvenile delinquency in India, and how can trauma-informed care be integrated into rehabilitation?
- Can restorative justice initiatives, such as victim-offender mediation, be effectively scaled in India to reduce reliance on institutionalization?

## Research Gap

Existing scholarship on Indian juvenile justice often focuses on normative critiques of the 2015 Act without sufficient integration of frontline capacity data. There is a significant gap in robust, longitudinal evaluations of rehabilitation outcomes in India, particularly recidivism rates compared against matched controls. While many studies point to infrastructure deficits, few explore the specific administrative bottlenecks created by the 2021 Amendment, such as the impact of making certain serious offences non-cognizable on investigation timelines and victim safety. Furthermore, while international models like those of Norway and New Zealand are frequently cited, there is a lack of deep-dive research into the *cultural feasibility* of adapting these indigenous-inspired models (like Maori FGC) within the complex caste and class hierarchies of the Indian social landscape. The India Justice Report 2025 highlights a "data black hole" that represents a critical gap for researchers, judges, and policymakers attempting to formulate evidence-based policy. This dissertation seeks to bridge these gaps by combining doctrinal legal analysis with a systematic evaluation of current institutional capacity and international restorative paradigms.

## Chapterisation Plan

### Chapter 1: Theoretical Foundations: Retribution vs. Reformation

This chapter establishes the conceptual framework for the study by exploring the competing philosophies of justice. It analyzes the retributive "just deserts" model alongside the reformative and restorative paradigms. A significant portion of the chapter is dedicated to the developmental science of adolescence, arguing that the neuroplasticity of the juvenile brain necessitates a shift from punishment to support. It concludes by discussing the "Welfare" vs. "Justice" models of

juvenile systems and how different nations prioritize child development versus criminal accountability.

## **Chapter 2: The Historical Trajectory of Juvenile Law in India**

This chapter traces the evolution of Indian juvenile jurisprudence from the colonial Apprentices Act of 1850 to the modern JJ Act, 2015. It highlights key milestones such as the 1960 Children Act and the 1986 Act, which first institutionalized Juvenile Welfare Boards. A critical analysis is provided for the 2000 Act's rights-based approach and the subsequent societal factors—specifically the Nirbhaya case—that triggered the 2015 legislative shift.

## **Chapter 3: International Best Practices: Norway and New Zealand**

Chapter 4 provides an in-depth comparative study of successful international models. It explores Norway's normalization principle, which focuses on emotional and moral rehabilitation through humane living conditions and "dynamic security". It then analyzes New Zealand's Family Group Conferencing (FGC) model, demonstrating how involving the whānau (extended family) and the community in a bilateral process of healing offers a superior alternative to adversarial court proceedings. Recidivism rates and reintegration outcomes are compared across these jurisdictions to provide a benchmark for India.

## **Chapter 4: The Judicial Role and the Roadmap for Restorative Reform**

The final chapter synthesizes the legal and empirical findings. It reviews landmark Indian Supreme Court judgments that have balanced accountability with reformative rights, such as *Om Prakash v. State* and *Shilpa Mittal v. State*. It concludes by proposing a comprehensive reform agenda, including the standardization of psychological assessments, the creation of a child-centric National Data Grid, and the integration of community mediation pilots into the statutory framework.

## **The 2021 Amendment: Administrative Expansion and Regulatory Gaps**

The 2021 Amendment aimed to strengthen the child protection setup by empowering District Magistrates (DMs), but it has introduced new procedural concerns.

- **Shift in Adoption Primacy:** The power to issue adoption orders was moved from civil courts to DMs to address judicial delays. However, critics argue that DMs, who are primarily administrative officials, lack the judicial training to determine if an adoption is in the "best interests of the child". DMs also chair approximately 75 different committees, raising concerns that the added burden may lead to further administrative paralysis.
- **Classification of Offences Against Children:** Crimes under the "Other Offences Against Children" section carrying 3 to 7 years of imprisonment were made non-cognizable and non-bailable. This prevents police from initiating investigations without a court order, which child rights advocates argue weakens the law's ability to confront grave offences like trafficking, begging, and exploitation, as delays in investigation can provide perpetrators with opportunities to influence child witnesses or tamper with evidence.

### **Case Law: The Judiciary as a Safeguard for Rehabilitation**

Indian courts have played a vital role in interpreting the hybrid model and ensuring that the fundamental right to rehabilitation is not sacrificed for deterrence.

- **Shilpa Mittal v. State (NCT of Delhi) (2020):** The Supreme Court held that offences with no prescribed minimum sentence, even if the maximum exceeds seven years, do not qualify as "heinous," preventing the arbitrary transfer of juveniles to adult courts.
- **Rahul Kumar Yadav v. State of Bihar (2024):** The Court established that a claim regarding an individual's minor status (juvency) can be raised at any stage of the legal process, even after a final judgment of guilt.
- **Om Prakash v. State of Uttarakhand (2025):** In a landmark ruling, the Supreme Court affirmed the retrospective application of juvenile laws and mandated the release of a convict who was a minor at the time of an offence in 1981, stating that "substantive justice must override procedural rigidity".
- **Unnamed CCL v. State of Karnataka (May 2024):** The court ruled that the three-month statutory limit for preliminary assessments is "directory" rather than mandatory, but required that any delays be recorded with specific reasons to prevent technical dismissals that could harm the child's interests.

### **Comparative Analysis: International Best Practices**

The efficacy of the Indian system is best analyzed when contrasted with countries that have prioritized restorative and rehabilitative outcomes over incarceration.

#### **Norway: The Normalization and Bastoy Island Model**

Norway's approach is considered one of the most comprehensive and effective models in the world.

- **Philosophy of Normalization:** Life inside correctional facilities is designed to mirror life in the community. Inmates have individual cells with private bathrooms and access to communal workshops, libraries, and fitness facilities.
- **Dynamic Security:** Correctional staff receive extensive training to serve as psychologists and guidance counselors, building purposeful relationships with inmates to facilitate behavioral change.
- **Open Prisons (Bastoy Island):** After serving time in regular prisons, inmates may apply for transfer to Bastoy island, where they woodcut, farm, and fish. This model teaches responsibility and creates "good neighbors" rather than hardened criminals.
- **Recidivism and Economics:** Norway has a recidivism rate of approximately 20% within two years of release, the lowest in the world, compared to ~50% in the United States. While effective, this system is expensive, with Norway spending ~\$93,000 per prisoner per year, compared to ~\$31,000 in the USA.

#### **New Zealand: Family Group Conferencing (FGC)**

New Zealand revolutionized its juvenile justice in 1989 through the Children, Young Persons, and Their Families Act.

- **Family Inclusion:** FGCs are mandatory decision-making meetings that include the young person, their extended family (whānau), the victim, and police. This model empowers families to deal with their own problems and addresses the harm caused to victims.

- **Police Diversion:** A specialist youth police division ensures that approximately 80% of youth offending is dealt with through prompt community-based intervention without court charges.
- **Victim Healing:** FGCs provide a platform for victims to express anger and receive apologies and reparation, resulting in 85% victim satisfaction and significantly reduced reoffending.

### Comparison of Recidivism and Responsibility

Country	Age of Criminal Responsibility	Recidivism Rate (2-Year Follow-up)	Key Practice
Norway	15 years	20.0%	Normalization; small community facilities
New Zealand	10 years (charged only for serious)	19.0% (1-year follow-up)	Family Group Conferencing
United Kingdom	10 years (England/Wales)	38.9% (England/Wales)	Youth Offending Teams (YOTs)
United States	Varies by state (as low as 6)	76.6% (long-term national)	Historically retributive; "Tough on crime"
India	18 years (16 for heinous)	Data Gaps (NCRB reports ~1.2% arrest share)	Institutionalization; vocational training

### The Implementation Gap in India: Data from IJR 2025

The India Justice Report 2025 provides a high-fidelity assessment of the frontline deficits of the Indian juvenile system, mapping the contradiction between a law built on rehabilitation and a ground reality of carceral inefficiency.

### Systemic Pendency and Capacity Deficits

As of late 2023, the backlog of cases before Juvenile Justice Boards reached critical levels.

- **Pendency Rates:** 55% of the over 100,000 cases before 362 JJBs were unresolved. States show extreme variation: Odisha (83%), West Bengal (71%), and Jharkhand (68%) are the worst performers, while Karnataka (35%) and Tamil Nadu (38%) perform better but still carry significant backlogs.
- **Bench Constitution:** 24% of boards (111 out of 470 studied) operated without a full bench. This missing psychosocial balance slows down hearings and leads to children being held in institutional custody for extended periods, sometimes beyond the legal limit.
- **Legal Aid Clinics:** 30% of JJBs do not have an attached legal services clinic, depriving children of their statutory right to immediate representation

## **Infrastructure and Safety Deficits**

The 2015 Act's mandate for specialized facilities remains largely unfulfilled across the country.

- **Places of Safety:** Mandatory for 16-to-18-year-olds accused of heinous crimes, 14 major states (including Andhra Pradesh, Maharashtra, and West Bengal) lack even one such facility. This forces older juveniles into ordinary observation homes or adult settings, directly violating the Act's principles.
- **Observation Home Deficits:** States like Bihar and Rajasthan face deficits of over 60% in required homes for child protection
- **Gender Gap:** Out of 292 districts studied, only 40 residential institutions exist exclusively for girls, leading to their transfer across states and severance of community ties.

## **The Data Deficit and Accountability**

The report identifies the lack of reliable, public-facing data as the biggest structural weakness of the system. Unlike the National Judicial Data Grid for mainstream courts, civil society and even judges are dependent on RTIs to understand system performance. Of the RTI responses received, 11% were rejected and 24% received no response, illustrating a weak transparency ecosystem that makes accountability hollow.

## **Psychological and Socio-Environmental Causes of Delinquency**

A reformative approach must be grounded in an understanding of the factors that drive children into conflict with the law.

### **Socio-Economic Marginalization**

NCRB data consistently shows that juvenile offending is often a reflection of structural deprivation rather than inherent criminality.

- **Economic Background:** 80% of apprehended juveniles come from families earning less than ₹25,000 per year.
- **Education:** Nearly 60% are school dropouts or have never received formal education.
- **Environmental Factors:** Poverty, lack of positive role models, and "shattered households" where parental neglect or abuse is present are primary sociological motivators.

## **Contemporary Triggers and the Digital Era**

The advancement of digitalization has introduced new risks for adolescents.

- **Virtual World Addiction:** Children addicted to PS4s or Xboxes are often lost in virtual environments where they exert total control, potentially resenting real-life authority and becoming susceptible to inappropriate material or influence by individuals harboring criminal intentions through social media.
- **Cyber-Related Crimes:** There is a sharp rise in children being used as perpetrators or victims in cyberbullying and cyber-enabled abuse.
- **Peer Pressure:** Adolescents are highly susceptible to peer affiliates during the period of identity formation, making them more likely to take risks if rewarded by social status.

## **Roadmap for Reform: Toward a Truly Reformative System**

To align India's juvenile justice system with international best practices and constitutional mandates, a comprehensive reform agenda is required.

## Legislative Fine-Tuning and Standardization

- **Guidelines for Preliminary Assessments:** The Ministry of Women & Child Development should issue binding guidelines for Section 15 assessments, mandating the use of validated psychological tools, establishing minimum qualifications for experts, and requiring videographed proceedings to ensure transparency.
- **Restoring Judicial Oversight:** Power over adoption orders should be returned to the judiciary, or Additional District Magistrates must be required to undergo intensive training in child rights and development.
- **Amending Section 18:** Consideration of victim-offender mediation should be mandated for serious but non-heinous cases to reduce reliance on institutionalization.

## Institutional Strengthening

- **Filling Vacancies and Ring-Fencing Budgets:** State governments must mandate the timely filling of JJB and CWC vacancies to ensure legal quorum. Budgets specifically for child psychologists and social workers should be "ring-fenced" to ensure their permanent presence
- **Increasing ICPS Grants:** Integrated Child Protection Scheme grants, currently at roughly ₹2,000 per child per month, are insufficient for holistic services. These costs must be raised to reflect inflation and the need for trauma-informed care.
- **Establishing Places of Safety:** Investment is urgently needed to create specialized residential facilities in the 14 states currently lacking them.

## Data-Driven Governance

- **Child-Centric National Data Grid:** A central database integrating information from the police (CCTNS), Department of Women and Child Development (TrackChild 2.0), and legal services authorities is essential to ensure institutional coordination and real-time oversight.
- **Standardized Outcome Indicators:** NCRB should publish disaggregated dashboards tracking rehabilitation indicators such as education completion, employment outcomes, and recidivism at 1, 3, and 5-year intervals.

## Conclusion

The Indian juvenile justice system stands at a critical historical juncture, attempting to balance a long-standing reformative ethos with contemporary punitive shifts. While the statutory framework has evolved significantly since independence, the reality on the ground—defined by high pendency, infrastructure shortages, and systemic vacancies—undermines the best interests of the child. International models from Norway and New Zealand demonstrate that superior outcomes are achieved not through deterrence, but through human-centered systems prioritizing normalization and community involvement.

For India to fulfill its constitutional duty to protect its children, it must move beyond adult carceral logic and embrace a truly restorative model. Strengthening institutional capacity, standardizing assessments, and leveraging real-time data will be essential steps in ensuring that every child in conflict with the law receives a genuine second chance at becoming a productive citizen. Ultimately, justice for juveniles must be measured by the effectiveness of their transformation and successful reintegration into the social fabric.

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