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# **RESTORATIVE JUSTICE FOR JUVENILE OFFENDERS IN INDIA: ASSESSING EFFECTIVENESS AND LESSONS FROM INTERNATIONAL MODELS**

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## **CHAPTER 1: INTRODUCTION**

### **1.1 INTRODUCTION**

The treatment of juvenile offenders is a serious depiction of a society's commitment to justice, human rights and child development. In India, though the Juvenile Justice (Care and Protection of Children) Act, 2015 shows a forward transition towards rehabilitation and restoration, in practice, the system yet relies on punitive responses that fail to tackle the main sources of juvenile offending. Numerous young offenders are handled by adversarial methods that emphasizes humiliation rather than offering an opportunity for sincere transformation. Restorative justice, which denotes dialogue, accountability, healing and community involvement, provides a meaningful substitute that comes together with the progressive understanding of child psychology and juvenile rehabilitation<sup>1</sup>. Restorative justice within

India's juvenile justice system is essential to study because it offers a child-centric method that not only addresses harm but also motivates victims and rehabilitates offenders<sup>2</sup>. Disdain references to transformation and rehabilitation in Indian law, restorative justice is till now not institutionalized or uniformly practiced across jurisdictions. In this background, comparing

India's model with successful restorative justice models in countries such as New Zealand, Australia, Netherlands and Germany become highly appropriate. These countries have executed organized programs which have established positive results in reducing repetitive offenders and enlightening community-based restoration. Studying these international model aids evaluate their applicability, adaptability and cultural feasibility within the Indian setup.

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<sup>1</sup> P. Priya Raghavendra, The Effectiveness of Restorative Justice on Juvenile Justice System: An Analysis, 7 INT'L J.L. MGMT. & HUMAN. 1695 (2024).

<sup>2</sup> Olexandra Kaminska, Analysis of Applying Restorative Justice to Juveniles in Some Countries (2022).

This research focuses to analyse the effectiveness of restorative justice in India's juvenile justice system, evaluate the degree to which the current legal framework supports its implementation and assess the prospect of adapting international best practices. The decisive objective is to give suggestions for making restorative justice as a main element of juvenile justice in India, guaranteeing a more rehabilitative and humane system for young offenders.

## **1.2 STATEMENT OF PROBLEM**

The old juvenile justice system in India, was based on punitive and retributive theories, has frequently failed to address the main causes of juvenile delinquency or to give rehabilitation for young offenders. In spite of noteworthy statutory reforms under the Juvenile Justice (Care and Protection of Children) Act, 2015, children in conflict with the law continue to face stigmatization, exclusion and inadequate support for reintegration. This punitive measure not only restricts their progressive opportunities but also rises the chances of becoming repetitive offenders, emphasizing a series of crime and ostracism.

In disparity, restorative justice provides a victim-cantered, community-based approach that emphasizes accountability, healing, and reintegration over punishment. Though restorative justice has obtained global popularity and has been incorporated into juvenile justice systems in countries like Australia, Germany, Netherlands and New Zealand, its application in India continues to be underdeveloped.

Even though the JJ Act, 2015 recognizes restorative models it does not clearly institutionalize restorative justice mechanisms like victim-offender mediation, family group conferencing, or community-based restitution. The absence of proper guidelines, trained professionals and institutional frameworks limits the Act's capability to apply restorative justice in a purposeful way.

Given these inconsistencies, there is a vital necessity to study the effectiveness of restorative justice in India's juvenile justice system, assess the permitting and restricting traits of the prevailing legal framework and assess the practicability of adopting best international restorative justice models that are socially and legally adaptable to the Indian context.

## **1.3 RESEARCH OBJECTIVES**

1. To evaluate the effectiveness of restorative justice in reducing repetitive juvenile

offenders in India in comparison to traditional punitive methods.

2. To examine the extent to which the Juvenile Justice (Care and Protection of Children) Act, 2015 integrates principles and mechanisms of restorative justice.
3. To compare the best international models of restorative justice with that of Indian model and evaluate their viability and adaptability for implementation in the Indian juvenile justice system.

#### **1.4 RESEARCH QUESTIONS**

1. Whether restorative justice practices are more effective than traditional punitive measures in reducing repetition of crimes among juvenile offenders in India?
2. Whether existing provisions in the Juvenile Justice (Care and Protection of Children) Act, 2015 sufficiently enable the application of restorative justice?
  - i. If yes, to what extent the provisions within the Act applies the principles of the restorative justice in the Indian context?
  - ii. If not, what are the legislative, institutional and procedural gaps that limits the practical application of restorative justice and what reforms are required to overcome these inadequacies?
3. Whether international models of restorative justice, such as Family Group Conferencing and Victim-Offender Mediation, could be workably adapted and implemented within India's legal framework?

#### **1.5 HYPOTHESIS**

This study adopts the hypothesis that restorative justice is more effective than punitive approaches in reducing repeat offenses within the juvenile offenders in India. It presumes that the Juvenile Justice Act, 2015, while including restorative principles, does not completely back their implementation. The research also suggests that restorative practices improve victim satisfaction and offender rehabilitation and that international models such as Family Group Conferencing and Victim-Offender Mediation can be adapted to India's context with appropriate legal and institutional support.

## **1.6 RESEARCH METHODOLOGY**

This research is doctrinal and analytical in nature, relied completely on primary and secondary sources such as statutes, case laws, academic articles, and international guidelines and principles. It scrutinizes the Juvenile Justice (Care and Protection of Children) Act, 2015 and associated rules to evaluate the incorporation of restorative justice in India. A comparative analysis of restorative justice models in countries such as Australia, Germany, Netherlands and New Zealand are undertaken to evaluate their relevance for India.

## **1.7 SCOPE AND LIMITATIONS**

This study focuses on the application, effectiveness and challenges of restorative justice practices within the juvenile justice system in India. It inspects the theoretical foundations of restorative justice as an alternative to retributive juvenile justice and analyses the legal and policy framework in India, especially the Juvenile Justice (Care and Protection of Children) Act, 2015, to comprehend how its provisions replicate or limit restorative justice. The study also looks into international restorative justice models of countries like Australia, Germany, Netherlands and New Zealand and assesses their viability for adaptation in India's legal landscape. However, the study is primarily doctrinal and analytical in nature, it does not involve any sort of empirical work. It is confined to the juvenile justice system and does not address restorative justice in the context of adult criminal law or civil matters.

## **1.8 REVIEW OF LITERATURE**

### **1. P. Priya Raghavendra, The Effectiveness of Restorative Justice on Juvenile Justice System: An Analysis, (2024)**

This article gives a comprehensive analysis of how restorative justice mechanisms have been implemented within the juvenile justice framework in India. It delves into statutory developments under the Juvenile Justice (Care and Protection of Children) Act, 2015, and evaluates how principles of repair, reintegration and victim-offender mediation have worked in practice. The author uses a doctrinal method, reinforced by few empirical references, to contend that restorative justice suggestions a more efficient alternative to retributive juvenile justice. The article does not provide comparative analysis from other jurisdictions or empirical evaluation.

## **2. Ajay George, Applicability of Restorative Justice in India: An Overview, (2022)**

This article looks into the theoretical fundamentals of restorative justice and maps its evolution in India. It highlights institutional inconsistency, cultural difficulties and legal blocks in applying restorative justice broadly across the criminal justice system, including juvenile cases. The author reviews present legal frameworks but does not recommend specific reforms. Though informative in placing the base, the article fails to discuss its treatment of the juvenile system precisely and does not examine practical implementation models.

## **3. J. Jance Vinolia, Restorative Justice and Juvenile Delinquency: Rethinking Rehabilitation in the Face of Rising Youth Crimes, (2025)**

Vinolia's article discusses the growing trend of juvenile crimes and scrutinizes how the Indian justice system, even though having a distinct juvenile framework, frequently lacks in true rehabilitation. The paper assesses restorative justice as an alternative to the traditional model and examines how it may aid re-socialize young offenders. The article includes case studies but generally from secondary sources. The focus is narrow in terms of jurisdictional comparison, which is limited only to India and no other countries.

## **4. Archana, Sakshi and Teena, System of Restorative Justice and Juvenile Justice in India: A Brief Comparative Study with Latin American System, (2024)**

This article takes a cross-jurisdictional comparison between India and Latin American countries, especially Brazil and Colombia, where restorative justice has been institutionalized more steadily. It identifies best practices and how they differ from Indian models. The study finds India's approach lacking in community participation and victim inclusion. While the comparative aspect is appreciated, the study breaks short of providing a strong model or roadmap for how India can adapt those practices within its legal context.

## **5. Olexandra Kaminska, Analysis of Applying Restorative Justice to Juveniles in Some Countries (2022)**

Kaminska's analysis emphasizes on juvenile justice systems in European countries, New Zealand and the USA. She highlights the importance of custom-made restorative programs for juveniles, like victim-offender mediation and restorative conferencing and presents numerical

data from experimental programs. The paper does not discuss the cultural aspect and does not contemplate how these models would work in developing country like India.

## CHAPTER 2: CONCEPT AND EVOLUTION OF RESTORATIVE JUSTICE

### 2.1 CONCEPT OF RESTORATIVE JUSTICE

The idea of restorative justice came into the criminal law picture during the 1970s as an alternative response to usual punitive models. Contrasting from the traditional system that mainly advocates punishment, restorative justice gives a stable method which includes all stakeholders, like the State, victim, offender and community.

The definition most popular definition of restorative justice is given by Tony Marshall, who defines restorative justice as a process in which all parties associated to an offence come collectively decide on what is the best way to address its consequences and determine future repercussions<sup>3</sup>. This model is a collaborative structure which targets to ensure accountability, restoring harm and social harmony. The ground rules of restorative justice are to:

- i. Hold the offenders directly liable for their actions
- ii. Restoring harm caused to the victim and society
- iii. Promoting the victim's and community's welfare
- iv. Reintegration of offenders into the community<sup>4</sup>.

In this concept restoration does not amount to compensate the offense, but also involves social and individual well-being. The result of the model is considered successful when stakeholders feel convinced with the process. This method's goal is to redefine criminal justice and protect victims, so that they can have a more prominent role while protecting the rights of offenders which is assured through fair trial principles<sup>5</sup>.

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<sup>3</sup> Ajay George, Applicability of Restorative Justice in India: An Overview, 2 INDIAN J. INTEGRATED RSCH. L. 1 (2022).

<sup>4</sup> Supra note 1

<sup>5</sup> Supra note 2

As per the Black's Law Dictionary, justice is defined as the protection of rights and rectify the wrongs in harmony with fairness<sup>6</sup>. Providing justice has at all times been one of the primary duties of the State, but most systems globally focus on proving guilt and imposing punishment in the name of fairness, deterrence and security. This eventually made the justice as dominant according to law instead of justice in practice.

Victims and their families are often unnoticed in confrontational proceedings, where the goal is to punish the offenders and ensue community safety. This in turn questions law that whether it should discuss all perceptions of justice. Subsequently the Indian system is mainly offender-centric, victims' desires are ignored. To rectify these loopholes, many countries have adopted restorative justice, which has acquired global acknowledgement in the last four decades, which is also backed by the United Nations<sup>7</sup> and other bodies.

Howard Zehr, the father of modern restorative justice, has defined restorative justice as a mechanism that includes all those affected by a crime in acknowledging harms, needs and responsibilities in order to ensure balance "as much as possible"<sup>8</sup>.

## 2.2 EVOLUTION

At the time of independence, India's juvenile justice system was made in a punitive point of view. Such practices gave no room for rehabilitation and only focused on punishing criminals.

At the advent 1980s, legislators and advocates of child rights started enquiring about the efficiency of punishment<sup>9</sup>. This period marked a shift toward specialised juvenile courts, welfare boards and observation homes<sup>10</sup>. Rather than penalties, young offenders were given access to education, vocational training and counselling. These reforms recognized the need for care and support instead of criminalisation.

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<sup>6</sup> J. Jance Vinolia, Restorative Justice and Juvenile Delinquency: Rethinking Rehabilitation in the Face of Rising Youth Crimes, 5 JUS CORPUS L.J. 303 (2025).

<sup>7</sup> The United Nations' ECOSOC Resolutions (2000/14 and 2002/12)

<sup>8</sup> Archana, Sakshi and Teena, System of Restorative Justice and Juvenile Justice in India: Brief Comparative Study with Latin American System, 26, Mexican Law Review. 131-143 (2024)

<sup>9</sup> Kumar, S. and Sonkar, A., Balancing Justice: Evaluating the Effectiveness of Juvenile Reform Homes in India for Rehabilitation and Reintegration, 2(1) Motherhood International Journal of Research & Innovation, 23-30 (2025)

<sup>10</sup> Ibid

The shift from punishment to rehabilitation is based on the concept that children's behaviour is moulded by progressive and social factors instead of inborn criminality. Poverty, abuse, or neglect often leads to delinquency and appropriate interventions can redirect young lives.

India's advancement has been supported by prominent legislation. The Juvenile Justice Act, 1986 was the first exclusive law distinguishing juveniles from adult offenders. This was succeeded by the Juvenile Justice (Care and Protection of Children) Act, 2000, which advocated rehabilitation, introduced Child Welfare Committees, and redefined juveniles as "children in conflict with the law."<sup>11</sup> The Act was modified in 2015 and 2021 which advanced the procedures<sup>12</sup>. Nevertheless, the 2015 Act allowing trial of 16 to 18-year-olds as adults in heinous crimes flickered debates on evaluating rehabilitation with public security<sup>13</sup>.

The existing juvenile justice framework in India, progressively integrates restorative methods, concentrating on associated victims, offenders and communities in restoring the harm. The goal is not just to rehabilitate children but also to reconstruct trust and relationships among the society.

## **CHAPTER 3: LEGAL FRAMEWORK OF JUVENILE JUSTICE IN INDIA**

### **3.1 INDIAN LAWS AND INTERNATIONAL STANDARDS**

The Juvenile Justice (Care and Protection of Children) Act, 2015 reproduces certain restorative justice principles, but in an unorganised way. The Act focuses on rehabilitation and social reintegration of children in conflict with law, as given in Sections 39 and 40 of the JJ Act, 2015, which ensures for counselling, education, vocational training and skill development. These sections align with Article 40 of the UN Convention on the Rights of the Child (CRC), 1989, which mandates States to support reintegration of juveniles into society so they can undertake a positive role. Likewise, the formation of Juvenile Justice Boards (JJBs) under the Act reflects the Beijing Rules, 1985<sup>14</sup>, which suggested separate juvenile courts implementing child-friendly measures instead of strict atmosphere. In addition to it, Section 18 of the Act authorizes JJBs to execute distracting measures such as counselling, community service and group

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<sup>11</sup> Sahni, A., Balancing Punishment and Support: An Analysis of the Juvenile Justice System. 3 LawFoyer Int'l J. Doctrinal Legal Rsch., 106 (2025)

<sup>12</sup> Ibid

<sup>13</sup> Supra note 6

<sup>14</sup> Rule 11.1 and Rule 14.2 2., United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), 1985



conferencing, which follows the UN Economic and Social Council (ECOSOC) foundational principles on the Use of Restorative Justice Programmes in Criminal Matters<sup>15</sup>, which promoted community-based substitutes over punitive measures. The substitution of the term juvenile delinquent with child in conflict with law also echoes with the Riyadh Guidelines, 1990, which supported a non-discriminatory and developmental strategy to youth justice.

Though Act has seen various advanced aspects, but it falls short in incorporating restorative justice in its framework. Distinct from the CRC<sup>16</sup>, which necessitates that children have a right to be heard and the ECOSOC Resolutions<sup>17</sup> that encourage victim–offender discourse, the Indian Act does not offer a statutory apparatus for victim participation in restorative procedures. Sections concerning victim compensation prevails, yet there are no organized provisions for victim–offender mediation, family group conferencing or community circles, which are widely practised in foreign countries. Moreover, the 2015 amendment, which permits for juveniles aged 16 to 18 years to be tried as adults in heinous crimes, diverges from the rehabilitative method enshrined in CRC<sup>18</sup> and the Beijing Rules<sup>19</sup>, both of which presses that detention should be a last resort and for the shortest possible duration.

### 3.2 INDIAN COURTS ON RESTORATIVE JUVENILE JUSTICE

Even though Indian courts have not yet recognised restorative justice as a doctrinal principle in matters relating to juveniles and there has been a strong and stable shift towards reformatory and rehabilitative tactics. This movement is constant with constitutional backing as provided under Articles 15(3), 39(e) and (f), and 45, which highlight the necessity to protect children's welfare and overall development<sup>20</sup>.

In *Dr. Subramanian Swamy v. Raju*<sup>21</sup>, the Supreme Court reiterated that the juvenile justice Act must emphasis on reformation and reintegration instead of punishment. The Court said that children, who were suspects of serious offences, should not be compared with adults and should be given opportunities for reform. Though the judgment did not specifically incorporate

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<sup>15</sup> Resolution (2002/12) United Nations Economic and Social Council

<sup>16</sup> Article 12 United Nations Convention on the Rights of the Child (CRC), 1989,

<sup>17</sup> Resolutions (2000/14 and 2002/12) United Nations Economic and Social Council

<sup>18</sup> Article 37 and Article 40 United Nations Convention on the Rights of the Child (CRC), 1989,

<sup>19</sup> Rule 17.1, United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), 1985

<sup>20</sup> The Constitution of India, 1950

<sup>21</sup> 2014 (8) SCC 390

the concept of restorative justice, its prominence on dignity, rehabilitation and second chances replicate the principles of restorative justice.

High Courts have also developed this rehabilitative approach. In *Court on Its Own Motion v. Department of Women and Child Development*<sup>22</sup>, the Delhi High Court emphasized systemic inadequacies in dealing with juvenile cases and called for child-friendly, non-adversarial measures. It underscored the requirement to incorporate counselling, family involvement and psychological assistance as replacements to punitive approaches.

Previously, in *Sheela Barse v. Union of India*<sup>23</sup>, the Supreme Court made guidelines for specialised care, free legal aid, and psychological rehabilitation of children in conflict with the law. Even though the concept of restorative justice was not applied, the remedy given in this case predict many of its contemporary principles.

In practice, some juvenile courts, habitually works with NGOs, which have unofficially experimented with mediation, community conferencing and victim–offender discourse. These programmes, despite the fact not yet part of binding precedent, expose an increasing judicial will to explore other and restorative methods within the juvenile system.

Nevertheless, the lack of a devoted statutory legislation for restorative justice retains these developments and reliant on judicial discretion. To ensure consistency and legitimacy, there is a persistent want for statutory acknowledgement of restorative justice, so that courts may legally discuss appropriate cases to restorative procedures with well-defined procedural protections and institutional backing.

Institutionally, India battles with the insufficient trained professionals like counsellors, psychologists and mediators, which acts as a road block for achieving the participatory and therapeutic goal of restorative justice. Observation and Special Homes frequently operates as custodial instead of rehabilitative place, which differs from the Havana Rules, 1990, that endorse an environment nurturing health, self-respect and social skills for juveniles underprivileged of liberty<sup>24</sup>. Procedurally, India does not have a national guideline on diversion, which makes the implementation ineffective and reliant on individual choice.

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<sup>22</sup> 2012 SCC OnLine Del 2774

<sup>23</sup> 1986 SCC (3) 596

<sup>24</sup> Supra note 9

Hence reforms are crucial to address these loopholes. In the legislative context, clear integration of restorative justice procedures like victim–offender mediation, conferencing and community circles is mandatory to bring India’s framework to the international standards<sup>25</sup>. Institutionally, Juvenile Justice Boards must be backed by trained restorative justice facilitators, as envisioned by the ECOSOC Basic Principles, whereas Observation Homes must be converted into sincere centres of rehabilitation. Procedurally, well defined and standardised guidelines on diversion and community participation are required to make sure consistency.

## **CHAPTER 4: COMPARITIVE STUDY OF INTERNATIONAL RESTORATIVE JUSTICE MODELS FOR JUVENILES**

### **4.1 NEW ZEALAND**

New Zealand’s restorative juvenile justice model, recognised under the Oranga Tamariki Act, 1989 (previously called the Children, Young Persons, and Their Families Act), is extensively considered as one of the best in the world<sup>26</sup>. The Act advocates for Family Group Conference (FGC), a legally directed procedure that safeguards young offenders through discussion, accountability and rehabilitation instead of punishment.

Before the youth court gets involved, the Act usually refers FGC for most cases relating to young offender. The Act applies youth justice system to children between 10 to 13 years, who have committed the most serious crimes like homicide or serious sexual assault, but for young people aged 14–16 years, FGC method is applied automatically. After the 2019 amendment, the jurisdiction of the Youth Court applies to persons till 17-years, thus expanding the scope of restorative practices to older adolescents.

The legislation highlights guiding principles that moulds the process under Sections 4 and 4A of the Act which highlights the importance of welfare, accountability, cultural appropriateness, and victim participation, but Section 208 upholds detention as a last option and emphasises the rights of victims<sup>27</sup>. Procedural aspects are given in Sections 247 to 263, which provides details

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<sup>25</sup> Supra note 11

<sup>26</sup> Polglase, L. and Lambie, I., A sharp decline in youth crime: Reviewing trends in New Zealand's youth offending rates between 1998 and 2019, 36(1), Current Issues in Criminal Justice, 42-62, (2024)

<sup>27</sup> Polglase, L. and Lambie, I., A sharp decline in youth crime: Reviewing trends in New Zealand's youth offending rates between 1998 and 2019, 36(1), Current Issues in Criminal Justice, 42-62, (2024)

on how FGCs are organized, how families are allotted private time to make a rehabilitation plan, and how the decided plan is accepted and supervised by the court as per Section 284<sup>28</sup>.

Studying the New Zealand model demonstrates its efficiency, where almost 40% of young people are not chronic offenders, following their first FGC and victims constantly report greater levels of satisfaction, unlike the traditional punitive measures<sup>29</sup>. Courts have also recognised the restorative principles beyond the statutory context, using them unofficially to young adults till 21 years, particularly by diversion or sentencing methods, however the obligatory mandate of the Act extends to only to persons below the 17 years.

## 4.2 AUSTRALIA

Ever since 1990s the Australia have adopted restorative justice in juvenile justice system<sup>30</sup>. Different states in Australia have different restorative practices like conferencing and mediation programs into their youth justice statutes. In New South Wales, restorative justice is provided under the Young Offenders Act 1997, which bestows Part 5 (sections 34–57) to Youth Justice Conferences<sup>31</sup>. These sections allow referrals by police, the Director of Public Prosecutions, or the Children's Court, and deliver results such as apologies, restitution, or community service agreements.

In Victoria, the Children, Youth and Families Act 2005 (section 414 to 427) allows Youth Justice Group Conferencing, where courts may postpone sentencing which allows young offenders (aged 10 to 18) to connect with victims, families and community members<sup>32</sup>. If they take part and accept to an outcome plan, the court may provide a liberal sentence.

Queensland follows this model under Part 2 Division 3 (sections 22 to 24A) of the Youth Justice Act 1992, which provides for both police and court referrals. Further the restorative justice processes are provided in Part 3 of the Act (Section 30 to 41)<sup>33</sup>. Likewise other states

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<sup>28</sup> Ibid

<sup>29</sup> Hāpaitia te Oranga Tangata, New Zealand Ministry of Justice, <https://www.justice.govt.nz/justice-sector-policy/key-initiatives/key-initiatives-archive/hapaitia-te-oranga-tangata/> (2024)

<sup>30</sup> Ewing, B. and Sarra, G., *Educating Indigenous Children in Australian Juvenile Justice Systems*. 31, Springer, 1-24, (2023)

<sup>31</sup> Ibid

<sup>32</sup> Muchtar, S., Irwansyah, I., Yunus, A., Arifin, A.P. and Faried, M., *Juvenile Criminal Responsibility in Justice Systems: A Comparative Study of Judicial Interpretations in Indonesia and Australia*. 7(2) *Jambe Law Journal*, (2024)

<sup>33</sup> Ibid

like South Australia have specific provisions Family Conferences in Young Offenders Act 1993 (sections 9 to 12).<sup>34</sup>

In Western Australia, restorative justice is achieved by Juvenile Justice Teams (JJTs) as given in Part 5 of the Young Offenders Act 1994 (WA). Sections 24 to 33 permits recommendations from police, prosecutors, or courts, but section 67 provides for JJTs including the young person, family, victim, and a convenor. Outcomes are given in section 70 to 72 which contains apologies, restitution, community service or rehabilitation programs.

Tasmania's Youth Justice Act 1997 talks about diverting youths from court system in Part 2 of the Act (Division 2 talks about Diversionary procedure by police and Division 3 talks about Community Conferences),

All the above-mentioned act applies to children among the age of 10 and 17 years, which is made in accordance with the minimum age of criminal liability fixed nationally at 10. But certain states like Victoria and Queensland give restoration even to young adults (till 21 years), in cases where offence was committed prior turning 18

During 2023–24, over 4,200 young children were under youth justice care on an average day and most of them were preoccupied into conferencing and other restorative programs, redirecting the continued implication of restorative justice in practice<sup>35</sup>. Over the years Australia has seen reduced recidivism, improved victim satisfaction, and encouraging offender rehabilitation makes it a suitable model.

### **4.3 GERMANY**

Germany has come up with a more effective restorative justice statute in Europe, focusing on Victim–Offender Mediation (Täter-Opfer-Ausgleich- TOA). The lawful groundwork is initiated as per the Youth Courts Act, 1974 (Jugendgerichtsgesetz-JGG), which applies offenders among the age 14–17, with likely extending to young adults till 21 years if their

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<sup>34</sup> Ibid

<sup>35</sup> Measuring juvenile recidivism in Australia (2023-2024) <https://www.aic.gov.au/sites/default/files/2020-05/tbp044.pdf>

maturity is same like juveniles<sup>36</sup>.

The Act clearly promotes restorative procedures. Section 10 JGG (Educational Measures) lets juvenile courts to order a young offender to take part in mediation or repair the harm done to the victim<sup>37</sup>. Section 45 JGG authorizes prosecutors to discontinue cases and cease proceedings if the young person participates in TOA or other rehabilitative procedures<sup>38</sup>. Section 47 JGG permits courts to perform the same even after proceedings were ongoing<sup>39</sup>. These provisions integrate mediation into both prosecutorial and judicial discretion, making restorative processes a standard rather than exceptional response to juvenile offending.

In practice, TOA comprises of trained mediators communicate with victims, offenders, and sometimes families to mutually come to agreements like apologies, restitution, or community service. If fruitful, the agreement is submitted to the prosecutor or to the court, which may then cease or continue formal proceedings. Studies show that almost 70% of juvenile cases in Germany are decided by diversionary or restorative procedures, whereas custodial sentences are awarded in just 2% of cases<sup>40</sup>. Research points out lower recidivism rates for diverted youths is 25% contrasting with sanctioned youths with 37%, along with high victim satisfaction.

#### 4.4 NETHERLANDS

The Netherlands is known for one of the progressive restorative justice systems in Europe, which incorporated mediation a rehabilitative procedure straight into the criminal law statute. The idea resides on the thought that children or young people are in developing stage and the law should aim on liability, restoration and reintegration than that of punishment.

Juvenile justice laws extend to offenders among the age of 12–18, whereas in Article 77c of the Dutch Criminal Code (*Wetboek van Strafrecht*)<sup>41</sup>, courts might expand the scope of juvenile

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<sup>36</sup> Gunawan, M.M., Suwadi, P. and Rustamaji, M, Comparison of restorative justice implementation in Indonesia, USA, Germany, Poland and Switzerland, 18(1), *Revista de Gestao Social e Ambiental*, 18(1), 1-15 (2024).

<sup>37</sup> Ibid

<sup>38</sup> Willms, C. and Malzahn, R. The 'Deadly Embrace' of Restorative Justice in Germany. In *Restorative Justice at a Crossroads*, Routledge 189-210 (2024)

<sup>39</sup> Ibid

<sup>40</sup> The Younger Prisoner's Dilemma: Juvenile Recidivism in Germany (2025)

<sup>41</sup> *Wetboek van Strafrecht* [Dutch Criminal Code], Act, 1881

law even young adults till 23 years where their maturity and situations rationalize it<sup>42</sup>. This exclusive flexibility admits developmental psychology and permits restorative methods to help young adults and juveniles<sup>43</sup>.

The Dutch Criminal Code gives exact provisions on restorative goals. Articles 77g–77hh of the Dutch Criminal Code highlights the educational measures, training orders, community service, and compensation responsibilities as substitutes for usual sentencing.

Significantly, Article 51h of the Dutch Code of Criminal Procedure (*Wetboek van Strafvordering*)<sup>44</sup> clearly allows mediation among victim and offender at any stage of criminal proceedings. Agreements made via mediation should be submitted to the prosecutor or judge and these are considered legitimately while awarding sentence.

The Netherlands follows victim–offender mediation, family group conferencing (FGC), and restoration-based sanctions. FGC, however not clearly codified, is extensively utilised in juvenile cases matters and courts may postpone sentencing to allow a family-led reintegration plan to be organised, frequently implementing such plans in concluding judgments. The Council for Child Protection (*Raad voor de Kinderbescherming*) and the Public Prosecution Service (OM) enthusiastically backs recommendations to mediation and conferencing, linking restorative results with welfare and education schemes.

Study shows restorative justice in the Netherlands very effective, where high victim satisfaction is above 70 % and enhanced offender responsibility<sup>45</sup>. Juveniles associated with mediation show high compassion and reduced recidivism that those convicted through traditional punishments.

#### 4.5 COMPARATIVE ANALYSIS

New Zealand is extensively considered as the global pioneer in restorative juvenile justice, where Family Group Conferencing is the vital procedure. It makes the young offenders, victims

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<sup>42</sup> Wolthuis, A. and Stentoumi, I., Restorative justice Practices for children in contact with the law in the Netherlands & Greece, Child Hub, (2023).

<sup>43</sup> Meulen, P., Koning, N., Assink, M., van Hooren, S., Kolthoff, E. and Heynen, E., Letting Work What Works Effectively Preventing Juvenile Delinquency in the Netherlands: A Meta-Analysis of the Evidence, International Journal of Offender Therapy and Comparative Criminology, (2025).

<sup>44</sup> *Wetboek van Strafvordering* [Dutch Code of Criminal Procedure], Act, 1921

<sup>45</sup> Recidivism Rates by Country 2025 <https://worldpopulationreview.com/country-rankings/recidivism-rates-by-country> (2025)

and families to make accountability and rehabilitation plans, then has revealed solid results in victim satisfaction and reducing recidivism. Australia has a decentralised structure where states utilise conferencing and mediation in youth justice, safeguarding victims' voice and wrongdoers take liability. These agendas have importantly decreased recidivism and enhanced rehabilitation consequences.

Germany advocates on victim–offender mediation, making it as a conventional reply instead of a substitute. Usually, juvenile matters are solved via distracting or restorative procedures, with very little dependence on detention. The Netherlands links mediation with durable welfare integration and exclusively covers juvenile justice principles to young adults, demonstrating progressive measures. All the countries taken for study has high victim satisfaction and best restoration practices

By disparity, India's juvenile justice law advocates rehabilitation but does not have specific framework for restorative procedures. Though courts and laws acknowledge the status of improvement, restorative practices such as mediation or conferencing are not properly incorporated. India still appears to be punitive and less participatory, with partial or inadequate space for victim participation or community-based restoration.

## **CHAPTER 5: CONCLUSION AND SUGGESTIONS**

The study of restorative justice and its development the Indian and international legal context discloses a noteworthy discrepancy among principle and practice. Though India's Juvenile Justice (Care and Protection of Children) Act, 2015, adopts rehabilitative principles aligns with constitutional directives and international conventions, but there is an absence of separate legal and institutional outline to incorporate restorative values successfully. In difference, international practices, mainly those in New Zealand, Australia, Germany and the Netherlands, validate the concrete aids of including restorative justice as a basic factor of their juvenile systems. These countries have fruitfully decreased recidivism, improved victim satisfaction, and nurtured community welfare by changing the attention from penalty to restoration.

Following are certain recommendations to improve India's juvenile justice system:

1. Legislative measures: The utmost serious step is to properly incorporate restorative measures into the Juvenile Justice Act. This includes making specific provisions for Victim-



Offender Mediation, Family Group Conferencing and community welfare. These provisions must not be left to judicial will nonetheless must act as a main and lawfully instructed reply to juvenile crimes. The law should also create an official procedure for victim participation

2. Institutional and Procedural Strengthening: Like the New Zealand model, Juvenile Justice Boards must be authorized to discuss cases to well-structured restorative justice plans. This necessitates noteworthy asset in training a specific professional, involving mediators, facilitators, and counsellors, who are trained with the proficiency to guide these procedures. Moreover, Observation and Special Homes should be transformed to act as honest rehabilitative centres, giving mental support and skill development instead of just acting as custodial services. A uniform, national guidelines for diversion would make sure reliability and decrease reliance on distinct judicial choices.

3. Refining a Restorative Culture: The definitive success of restorative justice in India will be based on cultural change within the legal arena and the community. The Indian system, which is now basically offender-based, must change its method to include victims and the community as participants in the justice procedure. Endorsing a culture and understanding, as perceived in the German and Dutch structure, will make sure that justice is not just a legal verdict but a procedure that heals harm and reconstructs social harmony.

By implementing these practices, India can make a juvenile justice system that is not just humanitarian and reconstructive but also restorative. Such an outline may not just align with international practices but also accomplish the constitutional promise of protecting the welfare and developmental rights of children in conflict with the law. This change would make sure that justice in practice is as strong as justice in principle, forming the society more robust and fairer.

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### **Abbreviation**

1. Täter-Opfer-Ausgleich- TOA
2. Jugendgerichtsgesetz-JGG
3. Juvenile Justice (Care and Protection of Children) Act, 2015- JJ Act
4. Family Group Conferencing -FGC
5. Juvenile Justice Teams- JJT

### **Conventions**

1. The United Nations Convention on the Rights of the Child (UNCRC), 1989
2. United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), 1985
3. United Nations Rules for the protection of Juveniles deprived of their Liberty (Havana Rules), 1990

### **Legislations**

1. Juvenile Justice (Care and Protection of Children) Act, 2015
2. Oranga Tamariki Act, 1989
3. Young Offenders Act 1997
4. Children, Youth and Families Act 2005
5. Youth Justice Act 1992
6. Young Offenders Act 1994
7. Youth Justice Act 1997

8. Youth Courts Act, (Jugendgerichtsgesetz) 1974
9. Wetboek van Strafrecht [Dutch Criminal Code], Act, 1881
10. Wetboek van Strafvordering [Dutch Code of Criminal Procedure], Act, 1921

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2. Court on Its Own Motion v. Department of Women and Child Development 2012 SCC OnLine Del 2774
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