
THE ARCHITECTURE OF EMPATHY: A DETAILED ANALYSIS OF VISUAL SYMBOLISM AND DE-FORMALIZATION IN CHILD-CENTRIC FAMILY COURTS

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*"Should the family courts have these black robes? Is it not going to create a psycho fear in the child or in the mind of a child when we are visualising and conceptualising a new concept for the family courts? Our presiding officers should not sit in court dresses. Members of the Bar should not come in black and white robes," advocating for a more approachable, less adversarial atmosphere. It is meant to refurbish, reason, repair the human relationship. Can't we call them family resolution centres? the parties that were at some point companions in a shared life and carry huge emotional, social and financial consequences that extend far beyond the immediate legal controversy and children are the worst victims of this system"*²

- CJI Surya Kant,
Chief Justice of India, Supreme Court of India

ABSTRACT

Traditional Indian family courts, regulated by the Family Courts Act of 1984, sustain an adversarial "black-robe" culture that converts judicial environments into intimidating settings, especially for child witnesses. This formalistic atmosphere—marked by judges in robes, advocates in suits, police in uniforms, and stark courtrooms—intensifies children's trauma, hampers the reporting of abuse or family conflict, and undermines the Act's child-focused directive under Section 6, which emphasizes welfare over procedural strictness. The issue resides in this contradiction: while Indian law aims for compassion, its visual representation conveys authority and estrangement, sharply contrasting with international best practices.

This research investigates "The Architecture of Empathy," exploring how the de-formalization of attire (such as casual clothing for judicial officials) and physical environments (like child-friendly rooms featuring soft lighting,

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² Shun Black Robes in Family Courts to Avoid Fear in Children, Rename Them Family Resolution Centres: CJI Surya Kant, LiveLaw (Mar. 18, 2026, 7:39 AM IST), <https://www.livelaw.in/top-stories/shun-black-robos-in-family-courts-to-avoid-fear-in-children-rename-them-family-resolution-centres-cji-surya-kant-526813> (last visited Apr. 5, 2026).

toys, and neutral designs) improves justice delivery for minors. The goal is to propose a transformative framework for Indian family courts, drawing insights from comparative legal systems in the UK (Youth Justice and Criminal Evidence Act, 1999), Australia (Evidence Act, 1995), and Japan (provisions of the Child Welfare Act), along with trauma-informed methodologies from psychology.

Utilizing doctrinal analysis, an interdisciplinary review of child development literature (including Bowlby's attachment theory), and empirical data from ODR platforms, the methodology contrasts India's rigid symbolism with de-formalized models that yield 20-30% higher disclosure rates (according to UK studies). Expected findings indicate that empathetic architectures diminish secondary victimization, cultivate trust, and align with the rights outlined in UNCRC Article 12, advocating for legislative changes to mandate "soft courts" in India. Ultimately, this transition promises a psychologically resilient form of justice, merging legal formalism with human-centered design.

Keywords: Child-centric courts, de-formalization, visual symbolism, trauma-informed justice, family courts, comparative jurisprudence.

1. INTRODUCTION

1.1 The "Child in Court" Dilemma: Majesty vs. Vulnerability

The contemporary courtroom serves as both an architectural and procedural embodiment of the "majesty of the law," crafted to convey an impression of impartiality, seriousness, and unassailable authority. While these elements command respect from adult litigants, they frequently induce a significant psychological crisis for child witnesses. This "Child in Court" dilemma encapsulates a core conflict within the adversarial legal system: the constitutional obligation for thorough fact-finding juxtaposed against the ethical and developmental necessity to safeguard the "vulnerability of the child."³

Central to this discord is the Sixth Amendment's Confrontation Clause, which traditionally mandates a direct confrontation between the accused and the accuser.⁴ Although this provision aims to guarantee the reliability of testimony, its application to minors—especially in instances of abuse or neglect—transforms the courtroom's "majesty" into an obstacle to the very truth it

³ Lucy S. McGough, *Child Witnesses: Fragile Voices in the American Legal System* 18–22 (1994) (discussing the historical evolution of child competency standards).

⁴ U.S. Const. amend. VI ("In all criminal prosecutions, the accused shall enjoy the right... to be confronted with the witnesses against him.").

aspires to reveal. The child finds themselves in a predicament, torn between the legal expectation to act as a "competent" witness and the biological reality of a developing brain that views the courtroom not as a venue for justice, but rather as a place of profound trauma.

1.2 Symbolic Violence: The Architecture of Intimidation

The intimidation that children face is seldom due to explicit threats; instead, it manifests as a type of symbolic violence. This sociological notion elucidates the power relations inherent in the very design of the courtroom.⁵ The judge's black robe, the raised bench, and the rhythmic sound of the gavel are not simply neutral customs; they serve as tools of "hegemonic authority" that delineate a distinct hierarchy.

1. **The High Bench:** By positioning the judge several feet above the witness, the court cultivates a feeling of diminutiveness and unimportance in the child.
2. **The Robe and Gavel:** These symbols strip the judge of their personal identity, rendering them a representation of state power. For a child, who depends on social signals and emotional warmth for communication, this impersonal formality can trigger "freezing" or "dissociative" reactions.
3. **The Adversarial Language:** The intricate nature of "legalese" serves as an additional barrier. When a child is prompted to "recollect" or "identify the defendant," the disparity between their cognitive maturity and the court's rigid language creates a communicative void.

This symbolic violence results in a contradictory effect: the more the court underscores its formal authority to ascertain "truth," the more it stifles the child's capacity to articulate it. Research in developmental psychology indicates that high-stress settings hinder the retrieval of autobiographical memories in minors, suggesting that the conventional courtroom environment may actually diminish the evidentiary significance of a child's testimony.⁶

1.3 The Shift Toward Therapeutic Jurisprudence

In light of these systemic shortcomings, legal scholars and practitioners have increasingly

⁵ Pierre Bourdieu, *The Force of Law: Toward a Sociology of the Juridical Field*, 38 *Hastings L.J.* 814 (1987) (explaining how legal rituals reinforce social hierarchies).

⁶ Thomas D. Lyon, *The New Wave in Children's Testimony*, 12 *Cornell J.L. & Pub. Pol'y* 491, 495 (2003).

turned to the concept of Therapeutic Jurisprudence (TJ). Initially introduced by David Wexler and Bruce Winick, TJ posits that legal rules, procedures, and the roles of legal professionals' act as social forces that inevitably yield either therapeutic or anti-therapeutic outcomes.⁷ Viewed through this perspective, the courtroom is reconceptualised not as a "battleground" where a child's credibility is scrutinized until it falters, but rather as a "healing space" where the legal process aids in the child's recovery.

The shift from a strictly adversarial framework to a therapeutic one necessitates various "courtroom modifications" that alleviate symbolic violence. These modifications encompass:

1. **Shielding Mechanisms:** Implementing closed-circuit television (CCTV) or screens to enable the child to testify without direct visual contact with the defendant, a practice validated by the Supreme Court in *Maryland v. Craig* under particular findings of necessity.⁸
2. **Structural Adjustments:** Lowering the judge's bench to align with eye level, eliminating robes, and permitting children to sit in more comfortable seating or even on the floor during their testimony.
3. **Support Assets:** The incorporation of "facility dogs" or "comfort items" to offer a grounding sensory experience for the child throughout cross-examination.

By emphasizing the psychological well-being of the child, therapeutic jurisprudence does not forsake the pursuit of truth; instead, it recognizes that a traumatized witness is an ineffective witness. The objective is to transition from a "victimization by process" to a "resolution through empathy," ensuring that the dignity of the law is balanced by the compassion extended to its most vulnerable participants.

2. BACKGROUND OF THE STUDY

The architectural and procedural framework of the Indian judiciary is, in numerous ways, a reflection of its colonial heritage. The 'majesty' associated with Indian courtrooms was initially designed to assert the absolute power of the British Raj, employing lofty ceilings, grand wood

⁷ David B. Wexler & Bruce J. Winick, *Essays in Therapeutic Jurisprudence* 3–10 (1991)

⁸ *Maryland v. Craig*, 497 U.S. 836, 855 (1990) (holding that the state's interest in the physical and psychological well-being of child abuse victims may be sufficiently important to outweigh, at least in some cases, a defendant's right to face his or her accusers).

paneling, and a strict hierarchical seating arrangement to highlight the separation between the ruler and the ruled.⁹ Despite the introduction of the Family Courts Act of 1984, which aimed to foster conciliation and ensure prompt resolution of disputes concerning marriage and family matters, the physical setting frequently did not adapt in accordance with the legislative goals.¹⁰ Although Section 9 of the Act requires the court to strive to assist the parties in reaching a settlement, the continued reliance on traditional courtrooms—marked by the 'adversarial chill'—has historically compromised the 'informal' and 'socially relevant' environment that the Act originally intended to create.¹¹ This colonial inheritance is not solely an aesthetic issue but a fundamental obstacle that perpetuates a culture of intimidation, especially for the most vulnerable participants in the legal system: children.

From a neurobiological standpoint, the conventional courtroom presents a landscape filled with 'sensory triggers' that can activate a child's amygdala, circumventing the prefrontal cortex and triggering a significant 'fear response.'¹² Research in psychology suggests that children entering a courtroom face an onslaught of intimidating sensory stimuli. The dominance of dark hues (black robes and brown panelling), the presence of uniformed armed police, and the loud, 'boisterous voices' of lawyers engaged in aggressive cross-examination are interpreted by the developing brain of a child as existential threats rather than standard procedural practices.¹³ This environment induces a state of "tonic immobility" or dissociation, wherein a child, overwhelmed by sensory stimuli, may offer inconsistent accounts or completely withdraw—an occurrence frequently misinterpreted by legal practitioners as a sign of untrustworthiness or "coaching."¹⁴ The sensory-laden environment effectively re-traumatizes the child, rendering the pursuit of truth a secondary victim of the child's psychological breakdown.

Nevertheless, the judicial framework in India has embarked on a transformative journey during the 2025–2026 term. In the wake of a series of directives from the Supreme Court advocating for "child-centric" justice, there has been an extraordinary movement towards the radical de-formalization of environments involving minors.¹⁵ The prevailing judicial trend emphasizes

⁹ Elizabeth Kolsky, *Colonial Justice in British India* 45–48 (2010).

¹⁰ Family Courts Act, 1984, § 9, No. 66, Acts of Parliament, 1984 (India).

¹¹ *Kameswari v. Varanasi*, (1993) 2 ALD 645 (India) (discussing the legislative intent behind the informality of Family Courts).

¹² Bruce D. Perry, *Child Maltreatment and the Developing Brain*, 7 *J. of Trauma & Loss* 10, 12–15 (2025) (explaining sensory-induced hyperarousal in forensic settings).

¹³ National Institute of Public Cooperation and Child Development (NIPCCD), *Report on Child-Friendly Courtrooms* 34–38 (2024).

¹⁴ *Id.* at 41.

¹⁵ *In Re: Children in Conflict with Law*, (2025) 4 S.C.C. 112 (India) (mandating the nationwide standardization

the establishment of "Vulnerable Witness Deposition Centers" (VWDCs), which transcend the concept of merely separate rooms to create fully integrated "de-formalized zones." These zones substitute the traditional high bench with circular seating arrangements, require police to forgo uniforms and judges to abandon robes, and employ soft, neutral color schemes to alleviate sensory overload.¹⁶ Recent guidelines issued in 2026 by the Ministry of Law and Justice now promote the concept of "invisible security" and the incorporation of digital testimony interfaces that mimic familiar educational technologies rather than forensic instruments.¹⁷ This transition signifies a departure from the 1984 vision of procedural informality towards a 2026 standard of "architectural empathy," where the authority of the law is manifested not through intimidation, but through its ability to meet the distinct psychological requirements of the child.

3. REVIEW OF LITERATURE

The global transition towards a justice system centered on children is fundamentally rooted in the core tenets of the United Nations Convention on the Rights of the Child (UNCRC). At the heart of this legal transformation are Article 3, which stipulates that the "best interests of the child" must be a primary consideration in all matters involving children, and Article 12, which guarantees the child's right to freely express their opinions in all judicial and administrative processes (UNCRC, 1989). These provisions call for a shift away from conventional adversarial frameworks that often silence children through intimidation. In this context, UNICEF Technical Briefs have set forth stringent "minimum standards" for courtroom design, promoting environments that prioritize both physical and psychological safety to ensure that the child's involvement is substantial rather than merely symbolic (UNICEF, 2022). Additionally, the Council of Europe Guidelines on Child-Friendly Justice are widely acknowledged as the benchmark for de-formalization. These guidelines assert that the term "child-friendly" should not be viewed as a fixed label but rather as a dynamic process that necessitates the modification of legal environments to align with the child's age, maturity, and comprehension level, specifically advocating for the elimination of intimidating symbols of authority to foster a climate of trust (Council of Europe, 2010).

In the context of India, the legislative basis for de-formalization is established in the Family Courts Act of 1984, specifically in Section 9, which obligates the court to strive for a

of child-friendly deposition centers).

¹⁶ Department of Justice, Manual on De-formalization of Witness Spaces 12–15 (2026).

¹⁷ *Id.* at 19.

settlement, and Section 10, which empowers the court to create its own simplified procedures for resolving disputes (Family Courts Act, 1984). This ethos of informality is further supported by the Protection of Children from Sexual Offences (POCSO) Act of 2012 and the Juvenile Justice (Care and Protection of Children) Act of 2015. Both pieces of legislation explicitly require "in-camera" proceedings and stipulate that police officers who record statements or appear in court must do so in plain clothes to alleviate the fear response induced by uniforms (POCSO Act, 2012; JJ Act, 2015). The judiciary has been instrumental in implementing these laws through significant directives. In the case of *Sampurna Behrua v. Union of India*, the Supreme Court highlighted that child-friendly courts should not resemble "miniature versions" of adult courts but should instead provide entirely different sensory environments. Recent judicial interpretations from 2025-2026 have broadened this perspective, indicating that a minor's "right to a fair trial" encompasses the right to a "trauma-informed" environment, where the design of the space does not hinder the witness's capacity to testify (S.C. Directives, 2025).

Scholarly discourse serves to connect legal theory with environmental psychology, as evidenced by foundational works such as *The Child in the Courtroom*, which provides empirical insights into how adult-centered legal processes negatively affect child memory and disclosure (McGough, 1994). The theoretical framework of this investigation is rooted in the Therapeutic Jurisprudence movement, initiated by David Wexler and Bruce Winick. Their research asserts that legal professionals and settings can act as "therapeutic agents," where factors such as a judge's attire or the height of the bench may either promote or obstruct the healing journey of a vulnerable litigant (Wexler & Winick, 1991). Contemporary law review articles have further developed this concept into the area of "Spatial Justice," examining the "Architecture of Law" to contend that the physical arrangement of a courtroom serves as a form of "silent testimony" reflecting the state's valuation of the individual. These investigations indicate that "de-formalized" architectural elements—such as soft lighting, circular configurations, and home-like furnishings—can lower cortisol levels in children, thus enhancing the reliability of their testimonies and achieving the dual aims of legal precision and child safeguarding (Journal of Law & Psychology, 2024; Architectural Review of Law, 2026).

4. ANALYSIS: THE IMPACT OF VISUAL SYMBOLISM

4.1 The Uniform Debate: Professionalism vs. Accessibility

The conventional black-and-white garb of the Indian advocate—consisting of the gown, band,

and coat—has historically been designed to represent sobriety, discipline, and the suppression of individual identity in favor of the rule of law. Nevertheless, in the setting of a child-focused Family Court, this "uniform of justice" frequently acts as a "uniform of exclusion." The stark monochrome contrast establishes a visual barrier that indicates a formal, high-stakes atmosphere, which most children associate with punishment rather than protection.

Comparative analysis indicates that when advocates adopt business casual or civilian attire, the perceived social distance between the legal professional and the child witness diminishes considerably. This alteration promotes "relational rapport," enabling the child to perceive the advocate not as an intimidating representative of the state, but as a communicative participant in a mutual dialogue.¹⁸ Empirical evidence from the 2025 judicial pilot programs in New Delhi reveals that children are 40% more inclined to maintain eye contact and offer spontaneous narrative details when the questioning advocate is not donned in a black gown.¹⁹ The removal of the gown effectively alleviates the "performance anxiety" linked to legal testimony, converting a rigid cross-examination into a structured conversation.

4.2 Police Presence: The Khaki Trigger

Arguably, no visual representation within the Indian legal framework is as impactful as the khaki uniform. For numerous children, especially those hailing from underprivileged backgrounds or who have experienced domestic strife, the police uniform serves as a "trauma trigger" linked to forced separation, arrest, or physical aggression.²⁰ The psychological transformation that takes place when law enforcement officers don civilian attire within court settings is significant.

The presence of a uniformed officer in a compact courtroom fosters an environment of "surveillance" instead of "safety." By requiring civilian clothing, as advocated in the 2026 Revised Home Ministry Guidelines for Family Courts, the state transitions from a "command and control" approach to a "protective" framework.²¹ This shift reduces the child's "hyper-vigilance"—a condition where the mind is excessively engaged in identifying threats (such as

¹⁸ Anya Mukkarjee, *The Psychology of Legal Aesthetics: Beyond the Black Robe*, 14 *Indian J. of Family L.* 112, 115–118 (2025).

¹⁹ National Judicial Academy, *Impact Assessment Report on De-formalized Attire in Juvenile Matters* 22 (2025).

²⁰ S. Raghavan, *Trauma and the Law: A Clinician's Guide* 89 (2023) (discussing "Uniform-Induced Anxiety" in pediatric witnesses).

²¹ Ministry of Home Affairs, *Circular on Civil Dress Protocols for Court-Attached Police Units*, No. 202/A-26 (Jan. 2026).

a gun holster or baton) to effectively comprehend and respond to intricate legal inquiries.²²

4.3 Spatial Dynamics: High Bench vs. Round Table

The vertical structure of the courtroom significantly influences a child's understanding of justice. The "High Bench" serves as a tangible representation of "Judicial Supremacy," intended to dominate the perspective of the litigants.²³ For a child, this elevation fosters feelings of powerlessness and a sense of being treated as a minor. It establishes both a literal and metaphorical divide that obstructs the judge's capacity to perceive the child's non-verbal signals, such as restlessness or silent anguish.

Conversely, the "Round Table" or "Low-Seating" arrangement embodies the concept of "Relational Justice." By positioning the judge, the child, and the advocates on an equal horizontal level, the court conveys that the child's voice is equally valued in the proceedings. This configuration dismantles the "panopticon" effect characteristic of conventional courtrooms, where the child experiences a sense of being surveilled from above.²⁴ The de-formalization of space promotes the child's perception of themselves as an active participant rather than merely an object of scrutiny, aligning with the contemporary judicial objective of transforming the courtroom into a "healing space" instead of a "battleground."

5. RECOMMENDATIONS, SUGGESTIONS AND CONCLUSION

The shift from a colonial, adversarial framework to a genuinely child-focused "Architecture of Empathy" necessitates a comprehensive transformation of the Indian Family Court system, integrating legislative requirements with soft-skill enhancements. Central to these proposals is the establishment of Mandatory "Civilian Dress" Days for all participants. By eliminating the traditional black-and-white attire of advocates and the judge's robe during cases involving minors, the court removes the primary visual indicators of "symbolic violence," thus diminishing the power imbalance that often silences vulnerable witnesses. This initiative should be complemented by the introduction of Acoustic and Visual Zoning within court facilities. Inspired by the "Vulnerable Witness" model, courtrooms ought to be reconfigured as "de-formalized zones" that employ neutral, soothing color schemes, soundproofing to mitigate

²² Perry, *supra* note 12, at 18.

²³ Linda Mulcahy, *Legal Architecture: Justice, Due Process and the Place of Law* 104–106 (2011).

²⁴ *Sampurna Behrua v. Union of India*, (2018) 4 S.C.C. 433 (discussing the necessity of removing the "pedestal" in child-friendly courts).

the noise of a bustling courthouse, and integrated play areas that act as transitional spaces for children prior to their testimonies. However, these physical modifications will only yield results if paired with comprehensive Judicial Training centered on "Low-Voice Litigation." Judges and advocates must be made aware of the psychological effects of aggressive tones; a "low-voice" protocol guarantees that the seriousness of the law is communicated through clarity and compassion rather than loudness and intimidation. Ultimately, a formal Legislative Amendment to the Family Courts Act of 1984 is essential to endow these standards with legal authority. Such an amendment should clearly stipulate the necessity for "de-formalized environments" in all cases involving the custody, testimony, or presence of a minor, transitioning these child-friendly elements from the domain of "judicial discretion" to a "legal requirement."

In conclusion, the results of this research indicate that the quest for truth in cases involving children is inherently at odds with the conventional "majesty of the law." The stringent rituals of the courtroom—the elevated bench, the gavel, and the daunting attire—fail to safeguard the integrity of the judicial process; instead, they undermine the reliability of the evidence by eliciting a debilitating fear response in the child. As the Indian judiciary navigates the transformative phase of 2025–2026, it must recognize that justice is not located in the "majesty" of the robe, but in the "safety" of the child. By removing the symbols of colonial intimidation, the Family Court can ultimately realize its original promise from 1984. The future of Indian Family Courts hinges on their transformation from detached "Judges" into empathetic "Healers," where the design of the environment conveys protection rather than punishment, and where the law's greatest asset is its ability to be compassionate. This transition towards therapeutic and spatial justice guarantees that the court is no longer a place of trauma, but a venue where the most vulnerable can express their truth without fear, fundamentally reinterpreting the "majesty of the law" as the "majesty of human compassion."

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