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# RESTORATIVE JUSTICE AS A VICTIM-CENTRIC PARADIGM: A CONTEMPORARY ANALYSIS UNDER VICTIMOLOGY

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Sornalakshmi V S, The Tamilnadu Dr. Ambedkar Law University

## ABSTRACT

Restorative justice is a significant paradigm shift and one fundamentally important for the field of contemporary criminal justice systems, shifting from the retributive approach that has defined justice through a model centred around perpetrators and the state, to an approach with victims at the forefront of justice. Restorative justice is rooted in the principles of victimology and aims to repair harm, maintain accountability, and re-establish relationships through participatory methods, such as victim–offender mediation, conferencing, and community-based reparative strategies.

This article presents an update on restorative justice as a victim-oriented model of justice, drawing upon its theoretical foundations, procedural models, opportunities and limitations from the point of view of victim rights and empowerment. It reviews how restorative justice approaches victims of emotional, psychological as well as socio-economic damage in correlation with emerging trends in India and comparative jurisdictions, and how far restorative justice is embedded into the system.

The article shows that restorative justice provides a truly transformative and holistic method for increasing victims' voices and a more humane and inclusive justice system when integrated with necessary protections.

**Keywords:** Restorative Justice; Victimology; Victim Rights; Reparative Justice; Victim–Offender Mediation; Community Conferencing; Victim Participation; Criminal Justice Reform; Accountability; Victim-Centric Approaches.

## INTRODUCTION

Restorative justice is part of a broader paradigm change, moving away from punitive styles of criminal justice and toward an understanding of crime as the harm done not just to the state but primarily to the victim and the community. Common criminal justice systems are based on the principle of punishment, deterrence, and retribution, neglecting the emotional, psychological, and material consequences of violence. Victims, in effect, become passive actors in a regime characterized by state actors and legal actors.<sup>1</sup>

It is victimology which resists this marginalization and insists the victim should be placed at the centre of all justice and that they are to have their experience, needs, and rights recognised as a relevant component of legal responses to crime.

Restorative justice plays a role in this transformation by embodying principles of victim empowerment, offender responsibility, and community engagement as the foundation of the discussion. This replaces "what law was broken" and begins "who was harmed" with "how the harm can be repaired".<sup>2</sup> Restorative justice techniques such as mediation, conferencing, and reparative agreements enable victims to explain why they suffered, to be informed of a perpetrator's behaviour on the level of experience of others who have suffered harm, to seek out apology and to seek redress directly from those who wronged them.<sup>3</sup>

This interactive process fosters healing, increases the satisfaction level of victims and assists in offender rehabilitation by creating increased responsibility from everyone involved. We will elaborate upon the introduction, providing a basis for a holistic investigation into restorative justice when viewed through victimology: its theoretical underpinnings, conceptual models, advantages, deficiencies, and applicability within contemporary legal systems. But as we increasingly recognise the importance of victim-focused models, restorative justice can be seen as a viable and humane alternative that holds the potential to reinforce justice outcomes and restore social harmony.

## CONCEPTUAL FRAMEWORK: VICTIMOLOGY AND RESTORATIVE JUSTICE

- **Understanding Victimology**

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<sup>1</sup> Howard Zehr, *Changing Lenses: A New Focus for Crime and Justice* (3d ed. 2005).

<sup>2</sup> John Braithwaite, *Restorative Justice & Responsive Regulation* (2002).

<sup>3</sup> United Nations Office on Drugs & Crime, *Handbook on Restorative Justice Programmes* (2006).

I know that victimology involves the systematic examination of victims of crime and their experiences, rights and the socio-legal reaction to victimization. It also looks at the victims – how crime affects individuals, the forms in which victims are marginalized in conventional justice systems and how they have to be protected. Contemporary victimology argues for a justice framework that recognises the victims as participants, not just as witnesses and has to address the victims in any other way: it must remember their suffering and take action to address their injuries, to recognize it and compensate for it.<sup>4</sup>

Victimology is also concerned with validation, emotional and psychological safety, economic and material satisfaction and procedural fairness. It provides an intellectual framework for victim-centered reforms and is an important contribution to the global trend for a more inclusive and compassionate system of justice.

- **Idea of Restorative Justice**

Restorative justice is the practice of treating criminal activity as a violation of human relationships and people, rather than just a crime. It centres on repairing harm, restoring social balance and returning both victim and offender to regular life.<sup>5</sup> In contrast to retributive justice, which seeks to impose punishment on perpetrators, restorative justice focuses on dialogue, accountability, reconciliation, and healing. Restorative justice is underpinned by essential components such as:

**Participation of Victims:** Victims take an active role in the process of justice, allowing individuals to express their harm, seek redress, and obtain reparations.

**Responsibility For Offenders:** The offender is accountable to the crime they perpetrate, understands the harm caused, and engages in efforts to repair the damage.

**Community Participation:** The community assists with reconciliation and encourages reintegration with less stigmatization and further offending.

- **The Relation between Victimology and Restorative Justice**

There is also a common philosophical base between victimology and restorative justice in that

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<sup>4</sup> Tony F. Marshall, *Restorative Justice: An Overview* (Home Office Research Development & Statistics Directorate, 1999).

<sup>5</sup> Mark S. Umbreit, *Victim-Offender Mediation: Conflict Resolution and Restorative Justice* (1994).

both promote a justice system that responds genuinely to victim harm, and in which the rights of victims are prioritized.<sup>6</sup> Victimology challenges the over reliance on punitive systems and restorative justice provides means to remedy some of those failings. Both push back against conventional state-cantered approaches by emphasizing human relationships, emotional recovery, and working together in problem resolution. This interrelationship can be analysed through the lens of three dimensions:

**Theory fit:** Both frameworks reject the marginalization of victims and focus on the harm between victims and perpetrator in crime.

**Procedural Integration:** Restorative justice operationalizes principles of victimology through mediation, conferencing, and reparative processes.

**Outcome Orientation:** Both hope to support victims, improve satisfaction, facilitate closure, and create the grounds for sustainable social harmony.

Such is the conceptual basis of why restorative justice is now increasingly emerging as a victim-oriented paradigm that can radically transform contemporary criminal justice systems.<sup>7</sup>

## EVOLUTION AND PHILOSOPHICAL FOUNDATIONS OF RESTORATIVE JUSTICE

This work has changed from ancient communal norms to contemporary legislation that places more focus on healing and reconciliation than punishment. Traditionally in many traditional societies — from indigenous communities in Africa, North America, and Asia — as well as in those societies dealing with crime, the response to crime has been through negotiation, an apology and compensation, for the people concerned would perceive crime for what it was and as a break within social relations not as just a violation or breach of the law.<sup>8</sup>

These early iterations of restorative justice focused on communal accountability, community restoration and victim–offender dialogues; and they provided the philosophical framework for modern-day restorative justice. For modern day nation states, however, criminal justice moved

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<sup>6</sup> United Nations General Assembly, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, G.A. Res. 40/34 (1985).

<sup>7</sup> Kathleen Daly, “Restorative Justice: The Real Story,” 4 Punishment & Society 55 (2002).

<sup>8</sup> Gerry Johnstone & Daniel Van Ness, Handbook of Restorative Justice (2007).

towards punitive, retributive systems based on government power and established processes and punishment. The change considerably sidelined the victims and reduced them to a mere witness.

Restorative justice found the resurgence in the late twentieth century as it emerged from criminological theories, victim rights movements, and disaffection with punitive models. Academics and reformers criticized retributive systems for ignoring the emotional, material and mental wellbeing of those they harmed, as well as for failing to rehabilitate wrongdoers.<sup>9</sup> This is when restorative justice returned as a response to the shortcomings of previous systems, championing processes focused on repairing harm, holding responsible the perpetrators and engaging with individuals and groups, in a positive manner. By that logic, restorative justice is based on humanism, communitarianism & participatory justice.

Justice is seen as a participatory process that aims to restore the moral equilibrium disturbed by crime. This is because instead of portraying offenders as state enemies, this approach considers them people who can change and reintegrate, as long as they make amends and acknowledge their actions.

This undergirds the philosophy of restorative justice as a transformative model sensitive to victimological concerns. Rather it questions negative attitudes based on blame and punishment and instead takes an optimistic form to try and recover dignity, promote healing, and mend old relationships. Restorative justice as a humane and victim-centred response to the emotional, psychological and social problems inflicted by violence is becoming more relevant to contemporary legal systems, and in many respects, even critical, in the face of contemporary punitive justice.<sup>10</sup>

## **RESTORATIVE JUSTICE AS A VICTIM-CENTRIC PARADIGM**

Restorative justice not only places the victim at the heart of the process of justice -- it changes the traditional roles of justice in legal society. In traditional retributive systems, the victim's role is essentially subservient, and the state assumes dominating authority as a primary conflict actor, reducing the victim to a passive witness. This is especially concerning in light of this

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<sup>9</sup> Carolyn Hoyle & Estelle Zinsstag, *Victims and Restorative Justice* (2012).

<sup>10</sup> Gordon Bazemore & Mark Umbreit, "A Comparison of Four Restorative Conferencing Models," 1 *Juvenile Justice Bulletin* 1 (2001).

model, which often neglects the personal harms associated with victims, emotional trauma (and even their emotional response to that pain and trauma) or in the quest for a meaningful response.

Restorative justice directly problematizes this framework, by reconceptualising victims as actors integral to justice, whose experiences, desires and standards also contribute to the justice. It recognises that crime harms are complex processes – emotional, psychological, economic and social – and seeks to ameliorate all such effects through active processes in which victims take part in reintegrating justice as their rights and dignity are enhanced. Central to restorative justice as a victim-centric structure is active victim engagement, enabling victims to tell their experience, vent their pain, ask offenders for reasons directly and define the treatment they would need to seek in order to heal.

Trauma-informed systems, such as victim-offender mediation, restorative conferencing and healing circles, create context provided by an atmosphere where victims feel they can hold a dialogue with perpetrators in a safe environment. This in its essence allows victims to regain power, minimize anxiety, as well as an emotional process of healing.

Many victims say they feel listened to, validated and respected during restorative processes for the sake of justice, something that retributive sentencing does little to bring alone. Moreover, restorative justice attaches importance to offender accountability as an aspect that meets victim expectations. Rather than impose punishment through any means the State, offenders need acknowledgement for causing harm, then take responsibility for their part in the harm, and finally, to participate actively in some form of reparation. Such acknowledgement is often the strongest kind of validation for victims. Restorative agreements may involve apologies or restitution, time spent in the community, or targeted acts of reparation based on the victim's condition.<sup>11</sup>

These attempts to restore both symbolically and materially connect victims to a way to make the experience of justice feel more tangible. This increased community input will only reinforce the victim-centric nature of restorative justice. Not just individual victim but also our whole social network is impacted by crime. By engaging elders, counsellors, social workers, and local

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<sup>11</sup> M.P. Tonry & Kathleen Hatlestad, *Rebuilding Lives: Victims of Crime and Restorative Justice* (2003).

leaders in the process, restorative justice generates a joint reaction to harm. This collective aspect allows victims community support outside the immediate justice chain to aid their continued healing and reintegration.<sup>12</sup>

In addition, restorative justice also provides for the victims' emotional and psychological needs through a support mechanism that will improve empathy and reduce hostility and give humanity to both sides. Through its construction of spaces conducive to emotional expression and reconciliation, restorative justice takes away the isolation, fear, and feelings of anger experienced by the victims in adversarial cases. It also helps victims overcome helplessness by allowing them to make a direct impact. Restorative justice essentially turns the justice system around to a focus on empowering victims.

Its emphasis on dialogue, accountability, reparation and community support is a paradigmatic break from that which is punitive justice. Restorative justice, through its embodiment of victimology's central tenets can be regarded as a holistic, human and responsive approach which meets the needs of victims and is more attentive to survivors than traditional criminal systems—and thus is a good fit.

## **MODELS AND MECHANISMS OF RESTORATIVE JUSTICE**

Restorative justice functions on a range of well-structured models and mechanisms, used to enable dialogue, accountability, and reparation. Although these models represent different approaches, they all aim to resolve the issues relating to the injury to victims and to hold offenders accountable within a supportive environment. They are based on dialogue and shared understanding and negotiated and mutual agreements that cater to the needs of the victims as well as the community.<sup>13</sup>

These are the main models (and a few mechanisms) that make up “restorative” justice. The most popular model is Victim–Offender Mediation (VOM), in which victims and offenders have to meet face to face with the assistance of a trained mediator. It supports victims as they express their feelings and makes them seek restitution directly from the offender.<sup>14</sup>

Enforcing offenders to accept responsibility for their behaviour, provide an explanation of their

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<sup>12</sup> Jennifer Llewellyn, “Restorative Justice in International Context,” 10 Dalhousie L.J. 235 (2007).

<sup>13</sup> Andrew Ashworth, *Sentencing and Criminal Justice* (5th ed. 2010).

<sup>14</sup> Gerry Johnstone, *Restorative Justice: Ideas, Values, Debates* (2d ed. 2013).

motivations and apologize or offer restitution, in addition. VOM raises victim satisfaction and lowers recidivism by instilling personal accountability well beyond the imposition of official punishment. One of the fundamental models for this approach is known as the Restorative Justice Conference — which is also known as family group conferencing.

This technique broadens the pool of who participates beyond the victim and offender to include their family members, community representatives, and some professionals, for example counsellors and social workers. Conferences are especially common in juvenile justice systems, and they are a way to get more than one voice on the restorative plan.<sup>15</sup> Taken together, such an approach ensures that the restorative agreement is comprehensive, including the social context, emotional and rehabilitation needs of the victim and offender alike.

The other restorative model Community Circles such as healing circles and peace-making circles stem from indigenous and community based traditions. Circles are all about victims and offenders, community members, facilitators who sit and talk about the harm caused by their past and in general in the hope of healing some of the ripple issues that have been identified throughout the past. Circles focus on equality, shared responsibility and healing as a community. They are especially helpful when long held community divisions, infraction of minor crime and cultural or emotional recovery matter.<sup>16</sup>

Aspects of all restorative processes that serve as a fundamental mechanism are Restitution and Reparative Agreements that formalize the offender's commitment to working towards repairing the harm. Such agreements could comprise monetary restitution of some kind, community service (not to mention personal apologies) or a behavioural promise of counselling, educational programmes or substance abuse treatment. These agreements are inherently flexible in nature, therefore they are capable of being customised to the victims' position and the offender's level of ability as a justice decision-making process – fairness without compromising usability and, restorative justice also involves Victim Impact Panels, where victims of the same crime share experiences with those responsible for their harms in a group setting with other victims. It's a common method for these panels in drunk driving, assault and property offences.<sup>17</sup>

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<sup>15</sup> Nils Christie, "Conflicts as Property," 17 British Journal of Criminology 1 (1977).

<sup>16</sup> Zehr & Mika, "Fundamental Concepts of Restorative Justice," in Contemporary Justice Review (1997).

<sup>17</sup> Council of Europe Recommendation No. R (99) 19 on Mediation in Penal Matters (1999).



They help offenders realize the far-reaching implications of their conduct and allow victims a seat at the justice table. And finally, numerous jurisdictions develop restorative approaches that can be included in court-annexed or community programs, in which restorative procedures supplement formal legal actions. These hybrid models would permit courts to re-route deserving cases in a rehabilitative manner prior to sentencing, after conviction and as part of diversion programs.

These models form a link between justice and restoration, allowing the victim to experience justice in its entirety. Taken together, these models/tools illustrate the flexibility and adaptability of restorative justice.<sup>18</sup> They offer multiple avenues for those victimized to be identified, supported and compensated and for those who have offended to be motivated to make real progress towards accountability and full reintegration into society. Diversity of mechanisms provides restorative justice a flexible, victim-centred framework that remains adaptive to different cultural, social and legal contexts.

## **BENEFITS OF RESTORATIVE JUSTICE FOR VICTIMS**

Restorative justice provides numerous potential benefits which help meet the emotional, psychological, and material needs of the victims directly. In contrast to the traditional methods of justice, which are frequently adversarial that victimize their victims, restorative justice approaches provide the potential for their voice, recognition and healing. The advantages provided here serve to illustrate the possibility of the transformative dimensions of restorative justice viewed as victimological, when placed in context.<sup>19</sup>

### **a) Emotional and Psychological Healing**

Arguably the number 1 advantage of restorative justice is also its potential to facilitate emotional closure and psychological release. Victims are provided with the opportunity to feel safe to express their pain, feelings, anger and confusion and fear in a controlled and safe room. More powerful expression is the one most likely to lead to lower levels of anxiety and trauma, but also overall empowerment. Being given the chance to face the assailant directly makes the victims humanize it and generally lessens feelings of helplessness or unresolved distress.

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<sup>18</sup> Gian Singh v. State of Punjab, (2012) 10 SCC 303.

<sup>19</sup> State of Madhya Pradesh v. Laxmi Narayan, (2019) 5 SCC 688.

**b) Validation and Acknowledgment of Harm**

Restorative justice guarantees that victims actually have valid acknowledgment of the harm done upon them. When offenders take responsibility and provide explanations for what they did, sometimes say sorry they won't do it again: so too does it serve as a form of closure, because victims can be helped and validated much more effectively than they would be if they just underwent formal prosecution. Acknowledging the victim validates their experience, restores their dignity and restores trust in the process of justice.<sup>20</sup>

**c) Enhanced Victim Participation**

In traditional justice systems, the victim's place is solely as a witness, but restorative justice is central to those decisions. Victims have input into the form of reparations, their expectations, and the formulation of the restorative agreement.<sup>21</sup> This involvement reinstates agency and creates fairness that will directly relate to victim needs not the state's, or anyone else's.

**d) Tailored and Meaningful Reparations**

Restorative justice allows for victims to demand meaningful, practical and meaningful reparations. Reparative agreements can be compensation, restitution, community service, or behavioural changes from the violator. And because they work in a victim-specific manner, these kinds of relief are gratifying, tangible products that punishable sentences never do to defendants.<sup>22</sup>

**e) Reduction of Secondary Victimization**

Secondary victimhood also refers to second degree damage through insensitivity or justice system bureaucracy. Long processes, adversarial enquiry and little voice compound victims' traumatic experiences. By contrast, restorative justice is more respectful, supportive, and less formal – which lessens psychological burden. Victims are regarded as people with distinct experiences rather than parts of a legal procedure.

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<sup>20</sup> Juvenile Justice (Care and Protection of Children) Act, No. 2 of 2016, India.

<sup>21</sup> Code of Criminal Procedure, No. 2 of 1974, § 357A.

<sup>22</sup> Draft Mediation Bill, 2021 (India).

**f) Improved Safety and Sense of Security**

With structured discussion, victims often come to understand motives for committing the offence and the potential for a relapse. This leads to less fear, uncertainty and insecurity. In addition to that, restorative agreements usually provide conditions - for instance, counselling or community monitoring -- to minimize the offender's risk in the future and thus increase the victim's safety.

**g) Strengthening Community Support**

Restorative justice includes stakeholders from the community in the process, so that victims can access emotional and social support. So there is some comfort that this community action provides to victims and gives them a shared commitment to stop any such incident again. For those victims from disadvantaged or at-risk communities, this support is necessary to achieve lasting recovery.

**h) Higher Levels of Victim Satisfaction**

Empirical evidence has repeatedly found that those who experience restorative justice are reporting higher satisfaction than formal court processes. Satisfaction comes from participation and empowerment, emotional closure, and real reparations. And restorative practices increase public trust and faith in judicial mechanisms.

**i) Contribution to Social and Moral Restoration**

Beyond individual healing, restorative justice is a tool for society. Restorative processes restore community harmony, restore community cohesiveness and moral equilibrium disrupted by crime, and encourage empathy, mutual understanding and constructive discussion. And victims feel that in the process they themselves are helping the community.<sup>23</sup>

**CHALLENGES AND CRITICISMS OF RESTORATIVE JUSTICE**

Restorative justice has been shown to have an enormous net benefit for victims and offenders but also presents obstacles and criticisms, and this must be acknowledged for a well-rounded view. Such difficulties are based on pragmatic restrictions, structural constraints, cultural

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<sup>23</sup> Lawrence Sherman & Heather Strang, *Restorative Justice: The Evidence* (2007).

obstacles, and issues of equity. Understanding these issues is necessary to explore approaches that would allow us to address this challenge while maintaining the victim's basic legal interests and due process.

- **Risk of coercion and power asymmetry**

There is a strong resistance to restorative justice because it is perceived as forceful. Victims may be inclined to contribute to such restorative processes, in light of social, community or institutional pressures. Power differentials, too -- rooted in physical power, economic status, gender, caste or social strata--can further disadvantage victims, especially in societies with deep-seated disadvantage. Without experienced facilitators and protections, the inequalities can lead to unfair treatment that can also trigger additional trauma.<sup>24</sup>

- **Emotional impact for victims**

Restorative justice demands for victims to face offenders head-on, an emotionally distressing process. For victims of serious crimes like sexual assault, domestic abuse, or violent crime: it's not just going to make them suffer more, it's going to make them scarier. While participation is by and large voluntary, the emotional aspect of it and the fear potential of mental suffering is a key concern that critics warn about.

- **Limitation in Serious and Violent Offenses**

One more problem is the misuse of restorative justice to very harsh crimes. Some opponents say offenses of serious violence, coercion or serious social injury are not suitable for restorative solutions. Although certain jurisdictions have tried restorative approaches for serious crimes, substantial debate continues about whether those types of cases can be addressed effectively and safely through dialogue and reparative practices.<sup>25</sup>

- **Inconsistencies and a Lack of Uniformity**

Restorative justice programs differ greatly in their design, procedures, and quality. This inconsistency results in disparate outcomes and undermines public trust. Absence of standardized guidelines, accreditation, and facilitator education lead to higher potential for

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<sup>24</sup> Allison Morris & Gabrielle Maxwell, *Restorative Justice for Juveniles: Conferencing, Mediation & Circles* (2001).

<sup>25</sup> South African Truth and Reconciliation Commission, *Final Report* (1998).

abuses. And uneven access to restorative justice in those communities and regions is further facilitated by the varying institutional support.

- **Risk of Second Class Victimization**

Restorative sessions that are not well facilitated can result in secondary victimization when victims perceive they were ignored, invalidated or exploited or manipulated in the whole process. When, say, offenders apologize ineffectively or downplay harm they did, re-traumatization may occur. Restorative justice, when not handled with compassion and skilful professional handling, endangers to have restorative justice practices unwittingly mirror the injustices experienced by those in the past through violence, but without tenderness and professional capacity.

- **Offender Non-Compliance and Non-Authenticity with Integrity**

Restorative justice depends on offender responsibility and the willingness to commit serious wrongdoing. But offenders may even engage on a superficial level to avoid punishment or legal punishment. When apologies, restitution or behaviours are empty and un-genuinely held, the rehabilitation process is useless and might hurt the victims.

- **Restricted Legal Awareness and Legal Barriers To Justice**

Restorative justice does not have full legal recognition in many jurisdictions. This limits its adoption into the criminal justice system and curtails victims' access to restorative measures. Incentive, bureaucratic resistance, political inflexibility, and resource shortages keep restorative programs from expanding. There are also concerns over legitimacy and procedural fairness that courts and legal actors may be reluctant for restorative practices.

- **Cultural and Social Limitations**

Cultural norms and social attitudes can greatly impact the acceptance of restorative justice. In societies characterized by hierarchical systems, caste relations, gender inequality, social prejudices, or community prejudice, restorative programmes can also replicate or entrench these inequalities. Marginalized victims may have concerns about stigma and retaliation, leading them to avoid participation.<sup>26</sup>

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<sup>26</sup> Criminal Courts Act, 2013 (U.K.).

- **Evaluation Problems and Little Data**

Restorative justice programs are often not rigorously evaluated, and there is little long-term data about their effects. The multitude of models and the context-dependent nature of the cases makes it challenging to assess specific outcomes such as recidivism rates, victim satisfaction and safety in the community. These are all examples of not having the empirical evidence necessary for development and policy.

## **RESTORATIVE JUSTICE IN THE INDIAN CONTEXT**

Restorative justice in India is a growing movement amid the struggles of the country's overwhelmed, adversarial and overwhelmingly punitive criminal justice system. While India currently lacks a fully comprehensive, structured restorative justice framework in place today, several legal rules, traditional practices, judicial interpretation and policy initiatives on restorative justice support restorative practices. This is particularly true in the Indian context where the socio-cultural landscape has the potential for greater opportunities and threats facing the establishment of such a victim-centred, restorative model, especially when one factors in the historical dispute mediation systems and changing views on how citizens of the Indian society view their own victimhood.<sup>27</sup>

### **1. Historical and traditional perspectives**

India has a tradition of community dispute resolution through Panchayats, Nyaya Panchayats and caste or village councils. As you might expect, traditionally these organizations wished to reform society through bargaining, peace and reconciliation, apology and payment rather than through punishment. While a lot of traditional forums are criticized for caste, gender and power hierarchies, their restorative focus proves that the cultural basis for healing-based justice processes is very much there in Indian culture. This history can provide a good basis for 21st century restorative justice frameworks, when conducted on the basis of equality, neutrality, and legal surveillance.<sup>28</sup>

### **2. Statutory and Legislative Provisions Informed by Restorative Values**

Numerous legal mechanisms in India have restorative features in them, albeit not specifically

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<sup>27</sup> Kathleen Daly & Russell Brown, "Restorative Justice and Civil Society," 34 Crime and Justice 185 (2006).

<sup>28</sup> Prabha Kotiswaran, "Victim Rights and Criminal Justice in India," 9 Indian Journal of Criminology 45 (2016).

designated as “restorative justice.” And, offences compounding under the criminal procedure code, plea bargaining, probation, juvenile justice systems and victim compensation schemes are all based on principles of reparation, rehabilitation and reconciliation. The Juvenile Justice (Care and Protection of Children) Act (2015) is the most restorative legislation in India which mandates the provision of counselling, social service and reintegration of children in conflict with the law for a good life. The Act focuses on rehabilitation and not merely punishment and is very much in line with restorative philosophies. In a similar vein, victim compensation schemes under Section 357A of the Code of Criminal Procedure institutionalise state responsibility for rebuilding lost life. They do not involve direct offender–victim dialogue, but more broadly they express the wish to repair damage inflicted. In family disputes, motor accident claims and compoundable offences courts have also moved to promote mediation and have in turn reflected restorative values.<sup>29</sup>

### **3. Judicial Advocacy and Case Law Development**

Restorative Justice has been increasingly recognized in Indian courts. The Supreme Court and different High Courts made an emphasis on reconciliation, rehabilitation and compensation in appropriate cases. In *Gian Singh v. State of Punjab* (2012), the Supreme Court acknowledged the significance of compromise and settlement in healing and reconciling, particularly private disputes.<sup>30</sup> To reiterate, in *State of Madhya Pradesh v. Laxmi Narayan* (2019) the Court accepted quashing of criminal proceedings where settlement contributed to the rebuilding of social fabric. While these cases are driven by compounding-type offences, they suggest judges' willingness to apply restorative principles. Courts have also emphasized the importance of victim engagement, emotional healing and compensation in sentencing calculations. This jurisprudence is expanding and proves that Indian courts are ever more concerned with crime-victim-focused outcomes and in which they will even be accepting of restorative dimensions.<sup>31</sup>

### **4. New Policy Measures and Reform Efforts**

India is also making headway towards integrating restorative justice at the national policy level. The Draft Mediation Bill, 2021 and similar policy discussions place mediation at the heart of dispute resolution. A handful of states are dabbling with community mediation centres and

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<sup>29</sup> Bibek Debroy & Kishore Desai, *Reforming the Indian Legal System* (2000).

<sup>30</sup> Mark Umbreit et al., “Restorative Justice in the Twenty-First Century,” 1 *Conflict Resolution Quarterly* 1 (2003).

<sup>31</sup> Ministry of Law & Justice, Government of India, *National Justice Delivery Report* (2020).

restorative conferencing, especially in juvenile cases. Academic establishments, NGOs and a legal service agency are currently implementing pilot restorative initiatives covering minor crimes, community disputes and youth tensions. These measures reflect a developing context which could eventually facilitate the emergence of a system of restorative justice. In the absence of national policy and statutory framework, a more consistent implementation of restorative practices in the country is hampered.

### **5. Challenges in the Indian Context**

Nevertheless, it is still facing India that poses unique challenges. Social hierarchies, caste-based discrimination, gender inequity and community pressures might be causing equity issues of restorative justice to be affected if justice is wronged. Victims from marginalized communities may be reluctant to speak up, or may be forced into settlements. Institutional preparedness is similarly lacking, including insufficient training of mediators, no availability of specialist restorative centres, and minimal knowledge among constituents. The concern over abuse, particularly in domestic violence or sexual offending, hinders the extent of restorative approaches.

### **6. Future Prospects**

India has the right cultural basis, legislative basis and judicial openness to develop a strong restorative justice framework. If adequate safeguards, rules and regulation-based procedures, capacity development and legal and legal system reform efforts are taken, victim-centric modalities of restorative justice may be one of the most viable approaches to enhancing the protection of justice for victims in Indian criminal justice system against the potential of crime. Restorative mechanisms would also alleviate burdens of court, increase victim satisfaction and contribute to community harmony in practice and on principles enshrined in victimology principles.

## **RESTORATIVE JUSTICE AND VICTIMOLOGY: A COMPARATIVE INTERNATIONAL PERSPECTIVE**

Restorative justice has taken different forms in various international jurisdictions for different reasons, shaped by different cultural traditions, legal systems, and victim rights movements. An international comparison offers us critical information about how restorative justice



systems are established globally as well as lessons which can be adopted to guide the transformation of victim-centric justice in India. The focus and application are diverse but in general, the countries which embrace restorative models are committed to victim involvement, offender responsibility and harm repair.<sup>32</sup>

### **New Zealand: The pioneer of formal restorative models.**

New Zealand is a global hub for restorative justice in general and Family Group Conferencing in particular, which is enshrined within the Children, Young Persons, and Their Families Act, 1989. Rooted in Māori traditional practices, the system places the victim at the heart of discussions about injury and accountability, and of reparation.<sup>33</sup> The New Zealand example demonstrates that the traditions of culture can support contemporary restorative practice. The nation's proven success of implementing restorative programs is evidenced by significantly higher levels of victim satisfaction and reduced recidivism and the enormous success rates associated with the benefits of sustained community-based restorative programs.

### **Canada: Power of Community and Indigenous Influence.**

Canada follows a community-oriented approach to restorative justice, building on Indigenous healing circles and community justice forums. For youth and minor offences especially, cases are often referred to restorative programs in Canadian courts. Victim participation is strongly encouraged, and restorative agreements often include culturally appropriate reparations. The Canadian experience highlights the need for embedding cultural perspectives into restorative justice, and being culturally sensitive to victim needs in the process.<sup>34</sup>

### **United States: Slow but Rapid Spread**

Restorative justice in America is most commonly delivered through community programs and service delivery networks, victim-offender mediation and school based restorative work. Not everywhere across state lines, though, it is increasingly being seen in juvenile justice systems, schools and community courts. Scholars note that restorative justice in the United States has proven especially successful in preventing school suspensions and crime among young people.

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<sup>32</sup> European Union, Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.

<sup>33</sup> Daniel Van Ness & Karen Heetderks Strong, *Restoring Justice* (5th ed. 2015).

<sup>34</sup> Jonathan Doak, *Victims' Rights, Human Rights and Criminal Justice* (2008).

Yet because the justice system is decentralized, its application is patchy, indicating that uniform training and institutional support are necessary.<sup>35</sup>

### **United Kingdom: Victim-Driven Restorative Models in the Criminal Process**

Restorative justice has been officially mainstreamed as a component of criminal justice policy in the United Kingdom. The Crime and Courts Act, 2013 makes it legal to implement restorative processes at every point in a person's life: pre-sentence, post-sentence, and during imprisonment. Victim satisfaction continues to be a key indicator of program effectiveness. The UK's approach is an example of how restorative justice can be integrated with legal systems so that procedural fairness and the safety of victims are never compromised.

### **South Africa: Community Reconciliation**

South Africa's philosophy of restorative justice has been informed by its ongoing post-apartheid reconciliation. The Truth and Reconciliation Commission (TRC) remains a significant reparative process that is focused on truth telling, victim storytelling, accounting for harm and healing for society. Although other than criminal justice approaches, the TRC was a testament to dialogue as a means by which to deal with societal harm at scale, illustrating the importance of restorative practices in transitional justice settings.

### **Australia: Hybrid and Community-Based models**

Australia maintains a combination of restorative models that includes conferencing, youth justice programs and Indigenous sentencing courts. Like New Zealand, Indigenous practices colour the restorative practices. Victim involvement is promoted, and the principles of restorative justice are woven into youth justice laws. Such programs have lower recidivism and higher levels of victim satisfaction than traditional courts.<sup>36</sup>

### **Key Lessons for India.**

Many lessons can be drawn from experiences internationally in the development of restorative justice in India:

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<sup>35</sup> Braithwaite, "Restorative Justice & Social Justice," 3 Utah L. Rev. 189 (1998).

<sup>36</sup> UNODC, Handbook on Justice for Victims (1999).

Legal codification strengthens uniformity: States with legislative frameworks (e.g., UK, New Zealand) have more predictable and durable restorative practices.

Cultural adaptation is key: Indigenous and local-based approaches increase legitimacy and the comfort of the victim.

Protecting victims, which is the biggest issue: Clarity in procedures, trained facilitators plus voluntary efforts will ensure that they won't be pushed around and that vulnerable victims are shielded.

These outcomes are fortified by institutional support — a strong political commitment, funding and inter-agency coordination mean more longevity.

The comparative observations in this study show that while restorative justice may differ across jurisdictions, its principles transcend and align with victimology: repair, participation, empowerment and healing.

## **INTEGRATING RESTORATIVE JUSTICE WITH THE PRINCIPLES OF VICTIMOLOGY**

Incorporating restorative justice and victimology offers a systemic approach to the theoretical and practical component of victim-centred justice. Victimology is concerned with finding out the victim's experience, focusing on the socio-psychological consequences of crime and on maintaining procedural justice and empowerment to a high degree; restorative justice offers ways to enact these principles.<sup>37</sup> As together, they are part of a model that is transformative and re-conceptualise justice as a healing practice that promotes accountability and human dignity. Victimology maintains that victims must be regarded as participants in criminal justice processes as core stakeholders, not mere appendage players. Restorative justice thus has a close fit with this, integrating victims as equal partners in every phase.

Victims have the ability to share their stories, voice their experiences, requests, voice their intentions, and shape their own reparative process. This integration can reclaim victims' agency and act as a repudiator of feelings of alienation that an adversarial approach generally

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<sup>37</sup> B. Sivaramayya, "Alternate Dispute Resolution and Restorative Systems in India," 12 *Journal of the Indian Law Institute* 202 (2004).

engenders.<sup>38</sup>

- **Recognition of Emotional and Psychological Harm**

The topic of victimology points out that we need to recognize the emotional, psychological and social harm from criminal victimization. Restorative justice answers these problems by the means of facilitated dialogues that promote expressing emotions, experiencing an expression of empathy, and recognizing the perpetrator's action. This combined method assists victims in processing their trauma, defuses fear and resentment and supports their recovery process, long-term.

- **Accountability as a Victim-Centering Principle**

While traditional justice focuses on punishing offenders, restorative justice emphasizes accountability through an acknowledgement of harm and a commitment to reparative action. This is consistent with the victimological belief that offenders are required to recognize the effects of their actions. Such accountability delivers emotional validation to victims, and reinforces a feeling of justice and closure.

- **Reparation Beyond Monetary Compensation**

Victimology promotes appropriate reparation suited to the victim's circumstances. Restorative justice takes reparation past monetary compensation, extending it instead to apologies, behavioural commitments, community service and symbolic acts of reconciliation. This flexibility allows victims to seek remedies which are comprehensive, personal and genuinely restorative.<sup>39</sup>

- **Reduction of Secondary Victimization**

One of the core principles of victimology is to avoid causing secondary victimization due to an impersonal process, hostile questioning or a delay in bureaucratic measures. Restorative justice, far less formal and more supportive, decreases how easily people are re-traumatized.

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<sup>38</sup> Shailesh Gandhi, "Victimology and the Need for Restorative Justice in India," 14 NALSAR L. Rev. 119 (2018).

<sup>39</sup> Commonwealth Secretariat, Restorative Justice Policy Framework (2016).

Facilitators who have received trauma-informed training also help to ensure respectful attitudes toward victims.

- **Inclusiveness and Community Involvement**

Victimology acknowledges that crime is not only impactful to the individual victim, but has profound reverberations in the community. Restorative justice puts that concept into practice: community members, families and the support people involved in the process are incorporated. Their participation enhances community support, provides social support for the victim and promotes collective healing.<sup>40</sup>

- **Consistency with Human Rights and Dignity**

The convergence of restorative justice with victimology corresponds with normative international human rights standards of dignity, participation, and fairness. With a focus on healing, respect, and meaningful participation, restorative justice processes meet the victim's right first to be heard and given some humane consideration. This is very much consistent with international norms such as the United Nations' Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985).

- **Strengthening Victim-Centric Criminal Justice Reform**

Combining victimology with restorative justice helps to create broader reforms that focus on making victims' rights stronger, schemes compensating victims and trauma-informed justice. It also encourages the creation of dedicated restorative centres, trained facilitators and legislation which reflects a concern for the victims' welfare.

- **Enhancing Long-Term Social Harmony and Crime Prevention**

Victimology stresses understanding the causes of victimization, while restorative justice is concerned with restoring relationships and reducing future offending. Taken together they create lifelong social harmony, they tackle the underlying causes of conflict, they promote offender rehabilitation, and they in still empathy and social responsibility. This integration

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<sup>40</sup> United Nations Economic & Social Council, Resolution 2002/12 on Basic Principles on the Use of Restorative Justice Programmes.

reduces recidivism and restores moral order in communities.

## **POLICY REFORMS AND RECOMMENDATIONS FOR STRENGTHENING A VICTIM-CENTRIC RESTORATIVE FRAMEWORK**

Enduring restorative justice as a victim-centric paradigm, at the legislative, institutional, procedural, societal levels, necessitates comprehensive reforms. Such reforms should ensure that restorative processes are fair, accessible, trauma-informed and sensitive to the needs of victims. The subsequent steps propose specific and pragmatic approaches that can help align restorative justice principles and practice through contemporary criminal justice systems.

### **Legislation and Related Statutory Framework.**

One of the major reform needs will be a statutory framework on Restorative Justice. Clear law should define the scope, principles, procedures, rights of participants and safeguards. There is also a need for the statutory establishment of authority that can uphold a restorative approach and guide its implementation (both from an administrative and judicial standpoint) across jurisdictions.<sup>41</sup>

### **Development of Specialized Restorative Justice Centres**

We need dedicated restorative justice centres with trained mediators, therapists, psychologists, social workers, and counsellors. These centres should be independent of police and prosecution to support a bias free setting. They would manage victim–offender mediation, conferencing, supervision, monitoring of agreements for reparation and emotional intervention for victims. Setting up such centres across districts would help decentralize access and reduce service gaps.

### **Capacity Building and Professional Development**

Restorative justice facilitators, mediators, and counsellors need appropriate training on trauma-informed practice, communication, cultural sensitivity, and conflict resolution. Police, prosecutors, judges and victim support staff should also be trained in restorative principles and to recognise potentially appropriate cases. We need to train in academies and certificate

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<sup>41</sup> Johnstone, Gerry, “Restorative Justice: Concepts and Debates,” in *The Oxford Handbook of Criminology* 985 (5th ed. 2012).

programs and make it an institutionalized matter to make our professional relationships and to protect victims safer.<sup>42</sup>

### **Protection and Safeguards for Victims and Other Victims**

Robust safeguards should be put in place to stop coercion, power imbalances, and further exploitation as a result. Taking part should always be voluntary with victims given the right to walk away from participation at any time. Independent victim advocates should be designated to support the victim, provide emotional guidance and also to protect victims' rights. Specific protocols are required for women, minors, disabled persons and minority children in particular, vulnerable communities and marginalised groups.

### **Integration to Formal Criminal Justice Processes**

Restorative justice should assist, not replace formal justice. Law should make provision for referring suitable cases to restorative processes at the correct stages (pre-charge, post-charge, pre-sentence and post-sentence). Judges should be empowered to take into consideration restorative outcomes when setting sentences or granting relief. A balanced approach combining flexibility and due process with fair hearing and process will provide.

### **Expanding the Scope of Victim Compensation and Reparations**

Restorative agreements should address every conceivable means involved — in this instance, financial, emotional, symbolic and behavioural reparations. Also, they have to have the legal support of a court of law which will have in the courts' hands as a means of enforcement mechanisms for the claims against criminals who broke their trust and promises under any law. Compensation schemes funded by the government need to be strengthened to help victims when offenders can't afford them. A simultaneous approach facilitates justice in that the victims receive timely and appropriate reparation.<sup>43</sup>

### **Enhancing Community Participation and Awareness**

Community engagement lies at the heart of restorative justice. To normalize restorative

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<sup>42</sup> Daniel W. Van Ness, "An Overview of Restorative Justice Around the World," United Nations Crime Congress Papers (2000).

<sup>43</sup> Heather Strang, "Repair or Revenge: Victims and Restorative Justice," Clarendon Studies in Criminology (2002).

thinking, awareness campaigns, community mediation programs, and school-focused restorative initiatives: Getting civil society organizations, local leaders, and youth groups involved can help create a culture that promotes reconciliation, dialogue, and healing. Public education minimizes stigma and increases victim comfort with restorative paths.<sup>44</sup>

### **Cultural Sensitivity and Inclusion**

Methods need to be framed under cultural traditions that respect dignity, equality, and fairness. At the same time, robust safeguards must grapple with social hierarchies, caste systems and gender inequality. Inclusive model minimizes marginalization and promotes legitimacy.

### **Creating Monitoring and Evaluation Mechanisms**

A system of structured, efficient monitoring, assessment and evaluation of the quality, credibility, justice-effectiveness and outcome of restorative practices needs to be established. It will be important to collect data regarding victim satisfaction, offender compliance, recidivism rates and community impact. Data gathering will inform policy adjustment and fill gaps. Restorative justice programs should be periodically reviewed to be effective and ethical, and should undergo independent oversight committee review every so often.

### **Joint Working With NGOs, Academia and International Agencies**

Working in partnership with Non-Governmental Organizations, Universities, and international agencies can contribute to capacity building, inquiry, and pilot projects. Working in academic partnerships will develop models, generate empirical evidence, measure results and assess outcomes. International organizations, such as the UN, EU and the Commonwealth nations provide necessary frameworks and resources in the development of restorative justice.

### **Adoption of Technology-Based Restorative Platforms**

Digital-led tools for remote mediation, secure communication and case management can improve accessibility, particularly in remote areas. Virtual restorative activities, where appropriate, can facilitate a lower need to transport resources and enhance the victim experience. Technology should be handled cautiously and with good privacy protection.

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<sup>44</sup> Kathleen Daly, "Mind the Gap: Restorative Justice in Theory and Practice," 4 Social Justice 33 (2005).



## **Promoting a Restorative Culture in Schools and Juvenile Justice**

Schools and juvenile justice practice need to begin with taking restorative practices as part of their curriculum to support that this will help imbue children with the values of responsibility, empathy and the ability to resolve conflict. Equally integral to justice reform for juveniles are restorative practices and an emphasis on restorative justice mechanisms that focus on rehabilitation and reduce crime overall. Early adoption can avoid further involvement in the wider system and help those facing youth offending recover quickly once they commit a youth offence.

## **CONCLUSION**

Restorative justice signifies a new, humane, participatory, victim-oriented paradigm of justice and a break from the punitive, state-centred approach that dominated our institutions and law systems until that point. By incorporating the concepts of victimology, restorative justice redefines crime as the harm that occurs to people and communities, rather than merely a violation of legal norms. This paradigm focuses on healing, accountability, and reparation as the means by which victims may explain themselves, challenge offenders, and receive proper compensation. Through such mechanisms as victim–offender mediation, conferencing, and reparative agreements, it is not only the victims who are empowered with restorative justice, they are less likely to fall into secondary victimization and have emotional closure that is so often not provided by traditional criminal justice systems. In India, restorative principles are already embedded in statute, juvenile justice frameworks, judicial precedents, and community practices.

However, no comprehensive legislative framework; a lack of coherence between systems; cultural challenges; and limited institutional capability stand in the way of its full implementation. International experiences illustrate this very well once it has been buttressed by sound national policy frameworks, cultural sensitivity, victim safeguards, and thorough institutional mechanisms for implementing restorative justice. Restorative justice is a strong force, capable of preserving social harmony and peace in ways that are compatible with greater human rights-based justice. A full restorative justice ecosystem – with its enshrined policy, trained facilitators, strong community support and victim-centred safeguards – is well positioned to greatly improve criminal justice in India. Through dignity-building, dialogues

and healing, restorative justice seeks to heal and restore and not merely redress history of harm, but also avoid similar conflicts in the future, developing a kinder, more connected society.