**Restorative Justice as an Alternative to Traditional Criminal Justice Models**

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| **ABSTRACT** |
| Restorative justice represents a transformative approach to criminal justice, focusing on healing the harm caused by crime rather than solely on punishment. This model emphasizes the active involvement of victims, offenders, and the community, fostering dialogue and accountability. By prioritizing the emotional needs of those affected, restorative justice seeks to create a sense of closure and reintegration for all parties involved. Historical contexts reveal that restorative practices have roots in various cultures, advocating for reconciliation and compensation rather than retribution. Key principles include offender accountability, community participation, and a spectrum of restorative processes tailored to individual cases. The implementation of restorative justice programs, such as victim-offender conferencing, showcases their effectiveness in reducing recidivism and enhancing victim satisfaction. Comparative analyses highlight the philosophical differences between restorative and traditional criminal justice systems, emphasizing reparative outcomes over punitive measures. As societies increasingly recognize the limitations of retributive justice, restorative justice emerges as a viable alternative, promoting social healing and community cohesion.**Keywords**: Restorative Justice, Traditional Criminal Justice, Victim-Offender Mediation, Community Participation, Accountability, Recidivism, Healing Process. |

**1. Introduction**

Restorative justice represents a paradigm shift from the traditional concepts of criminal justice. It marks a new, effective, and constructive strategy to address crime and its consequences. The term restorative justice is associated with repairing the harm caused by an individual act of crime. Indeed, crime causes harm to the victims, the communities, and the offenders. It is an inherent characteristic of crime that the law is broken. The law is the creation of the state, and it is the state which is the prime mover in all criminal activity. In most societies, the person causing harm is not taken into consideration even if he is the focus of the criminal activity. The traditional system of justice is primarily designed to administer punishment. The popular maxim of criminal justice is 'an eye for an eye' (Mauer, 2018)

There is a growing willingness to develop 'compassionate justice,' based on respect and empathy. Both offender and victim must be central to the resolution of the conflict. The simple aim of restorative justice is to have a healing process in which offenders can assume accountability for their acts and learn empathy with the victims through the process of conferencing. Restorative justice means changing our way of thinking about punishment. It is not revenge, spiteful, or retribution, which are the traditional aims of punishment. Retributive justice maintains that punishment is justified because it refers to some form of moral debt owed to society. This overview raises important issues about whose needs and values ought to be met. The vision of a restorative justice system first suggested personal participation and control. At the heart of restorative justice is the concept of personal responsibility of the wrongdoer to make good the wrong (Atapattu, Gonzalez, & Seck, 2021).

**2. Historical Development of Restorative Justice**

Restorative justice has become an increasingly popular alternative to traditional criminal justice models, particularly in some Western nations. It is a tool that a variety of legal actors can use at a number of different stages in order to resolve conflicts, provide a sense of healing and psychological closure, and reintegrate harmed and harming parties or community members. How can we understand restorative justice, and how does it differ from traditional retributive concepts? This chapter places restorative justice in historical context. Traditionally, predominant Western models of criminal justice relied primarily on the notion of retribution, using the justice of the state to redress the disorder caused between an individual’s actions and their contractual adherence to laws that are seen to redound upon the individual (Lynch & Omori, 2014).

Though punishment has been an enduring concept in human societies, this is not the only theory of justice that societies use, nor is it the only way that societies have sought out notions of accountability. These other notions, which are grounded in relationships between humans and the maintenance of human society and nature, are rooted in the acknowledgment of harm; such justice models redress harm or imbalance. For example, certain forms of Norse and Anglo-Saxon law had a restorative base in which justice achieved healing and reconciliation of society through public ceremony and compensation. The preference for restorative justice models comes from an emphasis on placing those who are wronged in the center of justice’s priorities. It does not rely on an incarcerated individual’s acknowledgment of the wrongness of their act, nor does it depend on that individual serving time in a prison. Any party that has experienced trauma, harm, or conflict in relation to another could potentially benefit from returning to a sense of personal well-being (Clear et al., 2012).

**3. Key Principles of Restorative Justice**

Restorative justice proposes an alternative to traditional models of criminal justice, emphasizing processes that facilitate dialogue between the victim and the offenders as well as the greater community. Major principles form the foundation of restorative justice, such as promoting offender accountability and addressing the emotional needs of victims. Routine public participation is encouraged to reconnect affected members of society with their communities. Additionally, facilitating community consensus in conflict resolution is valuable for effectively reintegrating offenders into their social environments as well as creating sustainable societies. Processes are designed to repair the harm and trauma suffered by victims emotionally, mentally, spiritually, and physically while also addressing social and spiritual wounds. Restorative justice starts from society's capacities when identifying solutions and seeking restorative outcomes. The transforming capacity of the acknowledgment and healing of a harm can often lead to both responsible justice and social security (Ulmer, 2012).

1. Offender Accountability – Restorative justice concentrates on those individuals who are liable for the wrongdoing. Offenders are required to acknowledge what they have done and to take steps to repair the harm caused.

2. Addressing the Needs of Victims and Offenders – The emotional needs and the manner in which crime and victimization have affected the lives of both the victim and average citizens are planned for in the restorative process.

3. Active Participation by Community – Restoration would only be successful in social environments when community members are involved in collaboration with government policymakers, practitioners, citizens, officials, and business people.

4. A Spectrum of Processes and Outcomes – Restorative justice is a continuum that ranges from operations fixed in indigenous and community customs to conventional court orders. A range of restorative outcomes, established by the needs of affected persons, is available, including public safety, community cohesion, and individual accountability. Restorative justice works to restore the loss for all parties involved, encouraging the uncovering of all the ways where harm has caused pain, hardship, and anger.

**4. Implementation of Restorative Justice Programs**

While the theory of restorative justice is often discussed, the real impact of practices like victim-offender conferencing and other restorative justice programs is seen in the practical work at the implementation and policy levels. Restorative justice programs can take various forms, including victim-offender mediation programs, conferencing models, family group decision-making models, and sentencing circles. Most restorative justice programs can be defined along a continuum with one axis defined by the level of state involvement and the cross-cutting axis defined by the degree of victim involvement. Victim-offender conferencing is an adaptation of traditional victim-offender mediation and occurs at a time after sentencing or other sanctions have been executed. In conferencing, victims, offenders, and their respective families and supporters are brought together with facilitators. Additionally, interested community members are invited to attend. Facilitators are typically trained mediation professionals or social service workers, but this varies drastically across programs (Gray, 2017).

Though facilitators in this model do not function as brokers of agreements between victims and offenders as in victim-offender mediation, they guide the process in a manner that promotes understanding, healing, and reintegration. Programs can vary in their approach to victim and offender participation, facilitator involvement, and how they plan for the likelihood that all parties will choose to attend in any given case. Victim-offender conferencing is also used widely to address minor conflicts and crimes. One key factor that has emerged in research and policy work to implement restorative justice is the need to train facilitators to conduct the process effectively and safely. As with many other types of interventions, building community awareness is also important to long-term implementation. Currently, there are no federal laws supporting the practice of conferencing outside of federal justice settings. At the state level, a few laws establish legal authority for conferencing in juvenile justice settings. Some victim-offender conferencing programs have developed partnerships with schools as well. Successful implementation of restorative justice practices is key, given that there are many barriers that must be overcome. In addition to the legal support, the community must also be involved in the restorative process (Luna & Cassell, 2010).

**5. Comparative Analysis with Traditional Criminal Justice Systems**

Restorative justice diverts from traditional justice models by stressing the victims' and offenders' needs over the laws' needs. In contrast, traditional justice systems locate decisions primarily within legal tenets and norms. There are philosophical discrepancies; traditional justice is retributive, aiming to punish the wrongdoer, whereas restorative processes are reparative, aimed at repairing the harm occasioned by a criminal act. As a consequence, restorative practices are focused on outcomes for the harmed victim, the person causing the harm, and affected members of the community, such as repairing the harm resultant from the wrongdoing and setting right the normative violation caused as a result of breaching the inherent obligations to and between the individuals.

Restorative proceedings that were implemented in penal institutions as an alternative to traditional sanctioning methods appeared to effectively diminish recidivism rates among prisoners who took part in the entire restorative process when measured against those who were eligible but did not participate. These findings signify the combined effect of goal-setting, cognitive moral development, and meaningfulness in life for incarcerated individuals as a method to reduce re-offense. Satisfaction between being handled within the restorative system compared to the traditional system could be measured at the victim level. A point commonly emphasized in the process of restorative justice is therefore to present the involved victims with a right to communicate their values, to have the offender hear them, as well as to negotiate some form of resolution with the offender (Weinstein, 2003).

**References**

 Atapattu, S. A., Gonzalez, C. G., & Seck, S. L. (2021). Intersections of environmental justice and sustainable development: Framing the issues.

Clear, T. R., Reisig, M. D., Turpin-Petrosino, C., & Cole, G. F. (2012). *American corrections in brief*. Belmont, CA: Wadsworth Cengage Learning.

Gray, A. (2017). Mandatory sentencing around the world and the need for reform. *New Criminal Law Review*, *20*(3), 391-432.

Luna, E., & Cassell, P. G. (2010). Mandatory minimalism. *Cardozo L. Rev.*, *32*, 1.

Lynch, M., & Omori, M. (2014). Legal change and sentencing norms in the wake of Booker: The impact of time and place on drug trafficking cases in federal court. *Law & Society Review*, *48*(2), 411-445.

Mauer, M. (2018). Long-term sentences: Time to reconsider the scale of punishment. *UMKC L. Rev.*, *87*, 113.

Ulmer, J. T. (2012). Recent developments and new directions in sentencing research. *Justice Quarterly*, *29*(1), 1-40.

Weinstein, I. (2003). Fifteen years after the federal sentencing revolution: How mandatory minimums have undermined effective and just narcotics sentencing. *Am. Crim. L. Rev.*, *40*, 87.