

INDO-ASIAN JOURNAL OF SOCIAL SCIENCE AND MANAGEMENT
RESEARCH VOL 3 (1), JAN-JUNE 2026, PP. 01-14

ANALYSING THE ROLE OF RESTORATIVE JUSTICE IN SOCIO-LEGAL SYSTEMS

Baisakhi Priyadarshini

Bachelor of Business Administration and Bachelor of Legislative Law

KIIT School of Law, KIIT Deemed to be University

Bhubaneswar, Odisha

Email Id: 2182114@kls.ac.in

Received-

7/5/2025

Accepted-

21/3/2026

ABSTRACT

In this article, the developing role of restorative justice in contemporary socio-legal systems is assessed. Restorative justice, which focuses on reconciliation achieved through consensus processes that include victims, offenders and the community is significantly different from punitive methods. The study seeks to evaluate the socio-legal consequences of restorative justice and its effectiveness in promoting reconciliation, preventing recidivism, as well as a more communitarian response to crime. This paper is based on a multifaceted approach that includes qualitative and quantitative methods. Qualitative analysis includes examination of the process and outcomes of restorative justice program implementation, participant experiences with such programs, views on them related to legal experts as well as opinions shared by community members. Restorative justice interventions in terms of statistical significance to recidivism rates will be quantitatively measured, along with their comparability against punitive approaches. Major critical areas are capture of knowledge about contextual factors that drive the success or failure in integrating restorative justice into legal systems. The cultural complexity, community dynamics and applicability of restorative justice ideas in various legal systems will be studied. The research is intended to produce knowledge that moves beyond a binary Restorative Justice-Punishment models comparison, thus striving for an in-depth sociolegal analysis on the consequences of such practices. The results of the conducted research are likely to influence policy debates, serve as a basis for improving restorative justice programs and join other discussions on changes in justice systems. Finally, this review seeks to present a general picture of the role that restorative justice plays in revolutionizing socio-legal systems as well as promoting fair and encompassing mechanisms for conflict resolution.

Keywords- *Restorative Justice, Socio-Legal System, Conflict Resolution, Punitive approaches.*

1. INTRODUCTION

Restorative justice is an approach to crime that focuses on repairing the harm caused by criminal behaviour, rather than solely punishing the offender. It involves bringing together those most affected by the criminal act, including the offender, the victim, and community members, in a no adversarial process to encourage offender accountability and meet the needs of the victims to repair the harms resulting from the crime (Sebba, 1996). Restorative justice processes can be integrated into justice systems, form a component of diversion programs, or be used outside of the justice system. In the evolving landscape of criminal justice, the traditional punitive paradigm is being reassessed, with increasing attention directed towards restorative justice as a transformative alternative within socio-legal systems. The imperative to examine the role of restorative justice within socio-legal systems arises from a growing recognition that justice encompasses more than legal consequences; it involves healing the social fabric torn by criminal acts. This article seeks to comprehensively explore the multifaceted dimensions of restorative justice, shedding light on its potential to reshape the dynamics between victims, offenders, and the wider community (George, 2022). The departure from punitive traditions is not merely theoretical but grounded in the practical implications of restorative justice programs (Ness et al., 2022). The objective of Restorative Justice is to provide an alternative and transformative approach to conventional legal systems by focusing on repairing harm, fostering accountability, and restoring relationships by prioritizing the needs and concerns of victims, seeking to address the physical, emotional, and material harm caused by criminal behaviour. Encouraging offenders to take responsibility for their actions, understand the impact on victims and the community, and actively participate in making amends. Engaging the community in the resolution process, fostering a sense of collective responsibility for justice and rehabilitation (Latha and Thilagaraj, 2013) Facilitating the reintegration of offenders into the community through community support and involvement. Emphasizing dialogue as a means of resolving conflicts, allowing victims and offenders to communicate, understand each other's perspectives by contributing to the reduction of repeat offenses by addressing the underlying causes of criminal behaviour and promoting rehabilitation. Restorative justice, by prioritizing victim needs, fostering offender accountability, and engaging communities, offers a transformative approach to justice within socio-legal systems.

2. HISTORICAL BACKGROUND

Restorative Justice, with its historical roots deeply embedded in indigenous and ancient practices, represents a paradigm shift in the approach to conflict resolution and justice. Indigenous communities worldwide, from various Native American tribes to African tribal

societies, employed restorative principles that emphasized communal dialogue, restitution, and rehabilitation over punitive measures. These practices aimed at healing harm, restoring relationships, and maintaining community harmony. Ancient societies, such as in Greece, integrated restorative elements like mediation and compensation into their justice systems, reflecting a commitment to balancing justice with reconciliation. Throughout history, religious traditions also embraced restorative principles, with forgiveness and repentance serving as central tenets in resolving conflicts within religious communities (Car, 2020).

In the modern era, Restorative Justice saw a resurgence in the mid-20th century. Influential figures like Howard Zehr played pivotal roles in shaping and formalizing its principles. Notable milestones, such as the Elmira Project in Ontario, Canada, introduced victim-offender mediation within the criminal justice system, marking a crucial step towards mainstream acceptance. Internationally, practices inspired by Maori traditions in New Zealand and the establishment of restorative programs in post-apartheid South Africa showcased the global applicability and adaptability of restorative principles. The historical background of Restorative Justice underscores its enduring relevance and reflects a diverse tapestry of cultural, religious, and societal influences seeking justice through healing, dialogue, and community engagement.

3. RESTORATIVE JUSTICE IN TERMS OF ETHICAL AND PRACTICAL PRINCIPLES

Guided by several distinctive principles, restoration Justice is a very different approach towards justice compared to the punitive approaches. These values focus on healing, reconciliation, and community involvement. The central focus of Restorative Justice is on the repairing damage created by criminal activity. This involves the effects that are physical, emotional, and material on victims and communities. The method aims to address the victims' needs, give them a voice, recognize their experiences, and involve them in the settlement process. Restorative Justice advocates for the offender accountability. This includes accepting the damage done, apologizing for it, and actively working towards giving redress. It is very good for the public service to practice community engagement because justice does not only involve the offender and victim but also affects everyone in that society. Communities actively participate in the supporting of rehabilitation of the offenders and reintegrating them into society. Restorative Justice puts forward the principle of open and transparent communication between the parties involved. Face-to-face discussion offers the victims and offenders the space to voice their own opinions, which leads to a better understanding and helps them relate with each other. Working together, these are the underpinning components of Restorative Justice that tend to be applied in the different legal and cultural settings (Pointer, 2021).

Through the dual lens of ethical and pragmatic principles, Restorative Justice is seen as a very holistic and transformative approach to conflict resolution and societal healing. Essentially, ethical principles serve as the philosophical basis that gives rise to the Restorative Justice practices through moral underpinnings. At the same time, this paradigm is ruled by practical principles aimed at converting its theoretical idealism into strategies that are very workable and also flexible for real life situations. In Restorative Justice, ethical principles are very much embedded in a profound sense of respect for the human dignity and the inherent value of all the parties involved. The core ethical challenge to recognise and attend to the complex effects of criminal behaviour on the victims, offenders, and society is rooted in compassion and empathy. Transparency, non-discrimination, and impartiality are all core aspects of the justice-making ethics based on the principle of fairness and equity (Panickasseril, 2023). In this ethics, Restorative Justice focuses on the healing of harm over the punishment and emphasizes restoration as well as reconciliation. Victim's voices and the offender accountability are ethical values that emerge from the heart of Restorative Justice. Through victim-centred approaches, this approach aims to give the victims a voice in the resolution process by addressing what is often overlooked as emotional, physical, and also material harm they have suffered. At the same time, punishing the offenders becomes a principle of ethical transformation through admittance and deep regret as well as the engagement in restitution. This accountability goes well beyond just punitive measures, focusing on personal development and rehabilitation.

If ethics set the moral direction of Restorative Justice, practical principles transform these great ideals into real-life strategies. Inclusivity is a core concrete principle, which ensures that all the stakeholders involved in the resolution process actively participate. The effective communication and open dialogue are very essential, creating a space for sharing points of view, understanding each other, and empathy among the participants. Cultural sensitivity is a very important practical principle, appreciating the multiplicity of many cultural contexts and adjusting Restorative Justice practice to them. This adaptive approach guarantees that the implementation takes into consideration the many values, norms, and traditions of given communities thus creating an environment of inclusivity and relevancy. Equitable participation and the minimizing of hierarchical structures that may exist in the traditional justice systems are another operational principle (Pointer, 2021). The principle of flexibility becomes a very important one in the practice, enabling a customized approach to the various situations and circumstances. This adaptability makes sure that Restorative Justice is tailored to the individual dynamics of each case, allowing the participants to feel a sense of ownership and commitment. In other words, the operational principles guarantee that Restorative Justice is not just an abstract concept but a real and adaptable system that can be successfully implemented in diverse cultures, societies, and legal environments.

4. EFFICACY AND IMPACT OF RESTORATIVE JUSTICE PROGRAMS IN ADDRESSING HARM

Restorative Justice Programs and Processes, which are aimed at the healing of the injury done by crime, form a paradigmatic change in the modern justice systems. In contrast to the punitive models, these programs emphasize healing, accountability, and community engagement. The essence of Restorative Justice initiatives is to tackle the deep damage caused by criminal behaviour through dialogue between the victims and offenders while also involving the community in resolving cases. Restorative Justice programs focus on harm repair through the direct communication and understanding between the victim and the offender. Common processes within these programs include the Victim-Offender Mediation (VOM) and Family Group Conferences (FGC). Victims and offenders meet under the supervision of a trained facilitator in VOM as the victims discuss how the crime affected them, while also exploring various outcomes. FGC has a wider network – family, friends and members of the community become involved in contributing to a more executive and supportive process of resolution(Pointer, 2021). These programs focus on victim empowerment ensuring that they have their own say in the resolution process. The victims are given a chance to vent their feelings and state how the crime changed their lives, as well as take part in the creation of solutions that respond to their specific needs. This not only helps the victims to heal but also leads to a personalized justice that is very meaningful. One of the core principles in Restorative Justice is the offender accountability. The offenders are made to take responsibility for their actions when they engage in the dialogue with victims and during the development of restitution plans. Recognizing the damage, they have done and engaging in the reparations are vital parts of it(Pavlacic et al., 2022).

This emphasis on accountability is beyond the punishment, targeting real contrition, personal development, and re-entry to the society. Another characteristic of the Restorative Justice programs is the community involvement. These initiatives promote a sense of shared responsibility for justice and rehabilitation by involving the larger community in the resolution process. Support for the victims and offenders can be provided by the community members as a part of a larger effort aimed at the restoration of social order(Weitekamp, 2012). Furthermore, the participation of the members from the community ensures that decisions made reflect their beliefs and way of life(Kirkwood, 2022). Although Restorative Justice programs have been very effective in healing the effects of the crime, some flaws are present. Some of these may be the opposition from the ancient justice systems, cultural hurdles, and intensive training for a successful facilitation. In addition, the effectiveness of these programs often depends on the voluntary participation by all parties. In this approach, restorative justice programs and processes are

very essential to repairing the damages of crime by focusing on direct communication between the victims, victim empowerment, offender accountability, as well as community participation. These programs are based on the philosophy of working towards justice that makes the holistic approach to healing and restoring the society. Although many challenges abound, the possibilities for beneficial outcomes highlight the need to continue examining, assessing, and perfecting Restorative Justice efforts.

5. RESTORATIVE JUSTICE AND ITS THEORETICAL INTRICACIES: AN ANALYSIS

The theoretical challenges of Restorative Justice, focus on its theoretical underpinnings, applied implications, ethical dimension and also involvement of the community. Although Restorative Justice brings many transformational ideas to the sphere of conflict management, dealing with these conceptual issues is very necessary for its successful implementation into legal systems (Llewellyn and Howse, 1999). This study aims at providing some valuable insights into the intricacies of Restorative Justice to gain a deeper understanding of its many strengths and weaknesses relative to the established judicial models.

Restorative Justice is rooted in principles that prioritize harm repair over punishment. The theoretical underpinnings involve a shift from punitive measures to a focus on dialogue, reconciliation, and victim-offender communication(Wallace et al., 2021). A key conceptual issue lies in defining the balance between accountability and rehabilitation, challenging traditional notions of justice(Mehta et al., 2025). Comparatively, conventional legal systems often prioritize punitive measures and isolation, raising conceptual concerns about the effectiveness of deterrence and rehabilitation within punitive frameworks.

Practical Considerations:

Restorative Justice practices, such as Victim-Offender Mediation and Family Group Conferences, present practical challenges. The voluntariness of participation, ensuring equal power dynamics, and adapting processes to diverse cultural contexts are noteworthy conceptual issues. In contrast, conventional legal processes primarily involve prosecution, defence, and adjudication, often sidelining the needs and perspectives of victims. The lack of community involvement raises questions about the efficacy of isolated legal proceedings.

Ethical Dimensions:

Ethical considerations play a significant role in Restorative Justice, with a focus on human dignity, compassion, and fairness. The ethical dimension introduces challenges in ensuring equitable outcomes and addressing power imbalances within the resolution process. Conventional legal systems, with their emphasis on punishment and retribution, may face

ethical criticism for their potential to perpetuate cycles of violence and alienation, raising questions about the moral underpinnings of punitive justice.

Community Engagement:

Restorative Justice places a strong emphasis on community involvement in the resolution process. However, the conceptual challenge lies in defining the extent of community participation, potential biases, and ensuring that resolutions align with diverse community values (Burford, 2017).

In comparison, conventional legal systems often isolate legal proceedings from broader community engagement, leading to a potential lack of community support for both victims and offenders. Restorative Justice programs, while impactful, encounter various challenges during their implementation. These challenges can vary depending on the specific context, legal systems, and cultural settings. By acknowledging and addressing these challenges, Restorative Justice programs can be refined and adapted to better meet the needs of participants and communities, ultimately enhancing their effectiveness in promoting justice and reconciliation.

6. CRITIQUES AND CONCERNS RAISED BY SCHOLARS AND PRACTITIONERS:

Potential for Re-victimization:

Critics argue that the restorative process might inadvertently re-victimize individuals, especially if power imbalances are not carefully managed. Concerns exist regarding the emotional toll on victims during face-to-face encounters.

Inadequate Offender Accountability:

Some scholars question the level of accountability achieved through Restorative Justice, suggesting that offenders might not face adequate consequences for their actions, potentially undermining the deterrent effect.

Marginalization of Vulnerable Groups:

Concerns are raised about the potential marginalization of vulnerable groups within the restorative process. Certain individuals, such as those with less social capital, might face challenges in navigating the system effectively.

Limited Applicability to Serious Crimes:

Critics argue that Restorative Justice might be less suitable for more serious crimes where the power dynamics and emotional intensity could complicate the resolution process, making it challenging to achieve meaningful outcomes.

Dependency on Victim Participation:

Restorative Justice heavily relies on victim participation, and critics suggest that this emphasis may sideline cases where victims are unwilling or unable to engage, leaving certain offenses unaddressed.

Standardization and Consistency:

Maintaining consistency and standardization across diverse contexts and communities poses a challenge. Critics argue that the variability in application could lead to inequities and inconsistency in outcomes.

7. EVALUATING THE IMPACT OF RESTORATIVE JUSTICE PROGRAMS

Case Studies of different Countries:

By examining these case studies, it becomes evident that while Restorative Justice programs have yielded positive outcomes, challenges such as resource constraints, cultural sensitivity, institutional resistance, and the need for standardized practices persist. Addressing these challenges is essential to ensuring the continued success and expansion of Restorative Justice initiatives globally.

Victim-Offender Mediation (VOM) in New Zealand:

New Zealand's justice system has widely implemented VOM, allowing victims and offenders to participate in mediated conversations. The focus is on repairing harm, addressing accountability, and involving the community in the resolution process.

Family Group Conferences (FGC) in Australia:

Australia has embraced FGC as part of its Restorative Justice framework, particularly in the juvenile justice system. FGC involves bringing together the offender, victim, and their respective support networks to discuss the offense, determine outcomes, and create a plan for reparation.

Community Conferencing in Canada:

Canada has implemented Community Conferencing, which extends beyond individual crimes to address broader community conflicts. This approach involves facilitated discussions among community members to resolve disputes and restore harmony.

Outcomes and Impact of These Programs

New Zealand's Victim-Offender Mediation:

Positive outcomes include high victim satisfaction rates, reduced rates of re-offending, and an emphasis on repairing relationships within the community. The program has demonstrated that face-to-face dialogue contributes to increased understanding and empathy.

Australia's Family Group Conferences:

FGC in Australia has shown promising outcomes, particularly in juvenile justice cases. Positive impacts include reduced recidivism among young offenders, improved relationships between offenders and their families, and a sense of community involvement in rehabilitation.

Canada's Community Conferencing:

Community Conferencing in Canada has led to successful conflict resolutions within communities. Positive impacts include decreased tensions, increased social cohesion, and an empowered community capable of resolving disputes collaboratively.

Challenges Faced During Implementation:

Resource Constraints:

Limited resources, both in terms of funding and trained personnel, have been a common challenge. Sustaining these programs requires ongoing financial support and investment in training facilitators.

Cultural Sensitivity:

Adapting Restorative Justice practices to diverse cultural contexts poses challenges, particularly in ensuring that facilitators are sensitive to the cultural nuances of participants. Balancing cultural diversity while maintaining program integrity is an ongoing consideration.

Institutional Resistance:

Some Restorative Justice programs face resistance from traditional legal institutions. Convincing stakeholders of the value of restorative approaches and fostering collaboration with existing legal frameworks can be challenging.

Victim and Offender Willingness:

Ensuring the voluntary participation of victims and offenders is crucial for program success. Overcoming potential reluctance or scepticism requires effective community outreach and education to build trust in the restorative process.

Standardization of Practices:

Achieving consistent and standardized practices across different jurisdictions and communities is a challenge. Variability in implementation may impact the reliability and comparability of outcomes.

8. FUTURE DIRECTIONS OF RESTORATIVE JUSTICE

Restorative Justice has evolved over the years, and its future trajectory holds promising developments and challenges

Potential improvements to Restorative Justice

Enhanced Training Programs:

Implement comprehensive and standardized training programs for facilitators to ensure a high level of competence, cultural sensitivity, and awareness of power dynamics. This can contribute to the effectiveness of Restorative Justice processes.

Community Outreach and Education:

Develop robust community outreach and education initiatives to increase awareness about Restorative Justice. This includes informing communities about the benefits, dispelling myths, and promoting a supportive environment for the implementation of restorative practices.

Integration with Formal Legal Systems:

Explore ways to better integrate Restorative Justice with formal legal systems. Establishing clear guidelines for collaboration and ensuring institutional support can enhance the legitimacy and acceptance of Restorative Justice within broader legal frameworks.

Victim Support Services:

Strengthen victim support services within Restorative Justice programs to ensure that victims receive ongoing assistance, counseling, and resources beyond the resolution process. This can address concerns about re-victimization and contribute to long-term healing.

Adaptability to Serious Offenses:

Develop specialized protocols and resources to address serious offenses within Restorative Justice frameworks. Tailoring approaches for high-stakes cases can help address concerns about the applicability of Restorative Justice to a broader range of offenses.

Areas for Future Research:

Long-Term Outcomes:

Conduct longitudinal studies to assess the long-term outcomes of Restorative Justice interventions. Research should focus on factors such as recidivism rates, the sustained well-being of victims, and the continued accountability of offenders.

Cross-Cultural Implementation:

Explore the cross-cultural applicability of Restorative Justice. Research should delve into how different cultural contexts influence the effectiveness of restorative processes, ensuring that programs are sensitive and adaptable to diverse communities.

Comparative Effectiveness:

Conduct comparative studies between Restorative Justice and traditional legal processes to evaluate their effectiveness in achieving justice, victim satisfaction, and offender accountability. This can contribute to evidence-based policy decisions.

Innovative Technology Integration:

Investigate the potential integration of technology in Restorative Justice processes. This includes exploring online platforms for dialogue, virtual conferencing, and other technological innovations to facilitate and enhance restorative interactions.

Scalability and Sustainability of Restorative Justice Programs:

Capacity Building:

Invest in capacity-building initiatives to expand the pool of trained facilitators and practitioners. This ensures that Restorative Justice programs can be scaled up without compromising the quality of facilitation.

Collaboration with Community Organizations:

Foster partnerships with community organizations to enhance the sustainability of Restorative Justice programs. Community involvement and support contribute to the resilience and long-term viability of restorative initiatives.

Policy Advocacy:

Engage in policy advocacy to integrate Restorative Justice principles into legislative frameworks. This involves working collaboratively with policymakers to create an enabling environment for the widespread adoption and sustainability of Restorative Justice practices.

Continuous Evaluation and Improvement:

Establish mechanisms for continuous program evaluation and improvement. Regular assessments of program effectiveness, participant satisfaction, and community impact can inform iterative refinements to enhance scalability and sustainability.

9. CONCLUSION

Restorative Justice holds great promise for reshaping socio-legal systems towards a more compassionate, victim-centred, and community-driven paradigm. Embracing its principles and addressing associated challenges will contribute to the evolution of a justice system that prioritizes healing and accountability for all stakeholders involved(Sherman et al., 2015).

In summary, this exploration into Restorative Justice has revealed significant insights into its historical roots, theoretical underpinnings, practical application, and the challenges it faces. The case studies exemplified the positive impact of Restorative Justice in diverse contexts, particularly in addressing juvenile offenses(Panickasseril, 2023). Theoretical intricacies and challenges, ranging from cultural adaptations to resource constraints, were identified as critical aspects influencing the success of Restorative Justice programs. Restorative Justice stands out as a transformative and human-centric approach to conflict resolution, emphasizing healing, accountability, and community engagement. The significance of Restorative Justice in socio-legal systems lies in its potential to provide more holistic and personalized justice outcomes. By prioritizing dialogue over punishment, it fosters reconciliation and addresses the needs of victims while promoting the rehabilitation and accountability of offenders.

The community-centric nature of Restorative Justice aligns with contemporary calls for justice reform, emphasizing a shift from punitive measures to more inclusive and compassionate approaches and provides Recommendations for Policymakers and Practitioners. India should make large, trained pool of restorative justice practitioners to

act as effective mediators and if this is supported with effective state responsibility of law and order for the protection of victim than it can aid the legal system most efficiently and effectively to posit as an best alternative to reduce recidivism to help reduce the burden of courts and prisons, as is the case in the US and cause an harmonious and a peaceful community with improved relationship forever.

10. CONFLICT OF INTEREST

The authors declare that there are no known financial or non-financial conflicts of interest associated with this manuscript.

11. FUNDING ACKNOWLEDGEMENT

The authors received no financial support for the research, authorship, and/or publication of this article.

12. AI DISCLOSURE STATEMENT

AI-assisted tools were used solely to improve the manuscript's language quality, clarity, and presentation. Grammarly and QuillBot were utilized for assistance with grammar, style, and paraphrasing. Turnitin was employed to check plagiarism and potential AI-generated content. No AI tool was used to generate original scholarly content, data, analyses, or conclusions. The authors take full responsibility for the originality, accuracy, and integrity of the manuscript.

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AUTHOR'S BIO

Baisakhi Priyadarshini: - Baisakhi Priyadarshini is a budding lawyer working at high court. She has authored several impactful books and anthologies. Her research interests are access to justice, public policy, human rights and criminal law.

AUTHOR CONTRIBUTIONS

Baisakhi Priyadarshini: Conceptualized the study, wrote the original draft, contributed to reviewing and editing the manuscript, and collected data, secured additional funding, and contributed to reviewing and editing the manuscript.