

Reflections on Restorative Justice in Global Context: A Comparative Exploration of Emerging Criminal Justice Paradigms

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Abstract:

Restorative justice has often been portrayed as a new model in criminal justice and as something radically different from punishment. It is a holistic philosophy growing in popularity with its acceptance and criticism among legal scholars and analysts. The primary objective of this paper is to examine how restorative justice programs address victims' needs compared to the pure penal criminal justice system. This paper approaches this topic via a doctrinal approach of statutes, case law, law reports, journal sources, and online sources. The findings are that the restorative justice system is a growing trend across various jurisdictions of the world, and it is receiving wide acceptance. While restorative justice seeks the happiness of the victims, it has often excluded victims from almost all aspects of their trials. The paper recommends and advocates that the practice be embraced by every country of the globe, Nigeria inclusive, as the system restores the victims' happiness and serves as a deterrence to criminals, to know that they will lose all their loot and beyond.

Keywords: Exclusive List, New Zealand, Juvenile Justice, Crime Victim, Restorative Justice.

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1. INTRODUCTION

For a long time, legal systems worldwide focused on retributive justice, whereby punishment was inflicted on someone as vengeance for a wrong or criminal act. However, today the trend is fast changing. Governments are now favouring restorative justice, which is to restore the happiness of the victim and deprive the criminal of their loot from crimes. Over the past few decades, it has become a very vital topic in reforming criminal justice and in various criminological research. In this respect, therefore, a greater insight into restorative theory shows that restorative justice is victim-centered in such jurisprudence.¹

Specifically, however, the need for restorative justice gave birth to penal mediation and criminal arbitration, which serve as alternative dispute resolution in criminal cases, especially minor ones. Furthermore, it is clear that an effort is channeled in favour of the victim and to bring harmony in the community and restore the happiness and mental stability of the victim of crime. Crimes are not seen only from the point of view as an offence against the state, but they also extend to console the actual victims of the crime. This is the focal point of restorative justice.²

To achieve the set objectives, it will be worthwhile to begin by examining the basic concepts. In the same vein, the common trend has always been to arrest the perpetrator and let the victim go back home without any compensation under criminal proceedings, the victim has a personal option to pursue a civil claim against the criminal, and in many cases, the practice yields little or no result because the victim may not afford legal cost. The criminal may be serving a jail term and cannot afford to pay fines or compensation even if the courts find him liable and award damages after a protracted litigation.³

2. UNDERSTANDING THE CONCEPT OF JUSTICE RESTORATION

Justice restoration or restorative justice is a practice developed in making efforts to restore hope and happiness to the victim of crime, by so doing, societal confidence is restored in the ability of the state to protect the community and restore broken emotions of the victims.⁴ The practice can rightly be regarded as a constructive benefit for the victim of crimes.⁵ The process of justice restoration appears to be in line with the law of nations, since on the part of youth offenders is a human rights-based approach which encourages modest practice within the purview of international law.⁶ The paper revealed that restorative justice does not encourage victims' rights crusade, but could be more essential

¹B Leyh, *Procedural Justice? Victim Participation in International Criminal Proceedings* (Intersentia 2011)

²H Zehr, *The Little Book of Restorative Justice* (Good Books 2002)

⁴J Shapland, 'Victims in the Criminal Justice' (2012) 24 *British Journal of Criminology* 2, 131–149.

⁴J Faget, *Mediation et justice restauratrice* (2003) 39 (Please confirm the full title and publisher for proper citation)

⁵J Bergseth and JA Bouffard, 'Explaining the Effectiveness of a Restorative Juvenile Offenders' (2013) *International Journal of Offender Therapy and Comparative Criminology* 1059

⁶A Crawford and T Newburn, *Youth Offending and Restorative Justice: Implementing Reform in Youth Justice* (Willan Publishing 2003)

to the victims of crime in such a manner that it restores the harm caused, victims have the opportunity to explain their side of the story, and bring succour to others.⁷ Building on the above arguments, it is submitted that restorative justice gives people the opportunity to talk about the incident, how it affects them, ensure that it doesn't happen again, and to be in agreement on how to resolve it to avoid future occurrences. This is what many crime victims want, and that is why 85% of victims who go through restorative justice are satisfied with the experience. In addition, restorative justice also leads to a decrease in relapses as it helps people who have committed crimes recognise the harm they have caused. However, it can be argued that restorative practice can also be used to address conflicts at schools, workplace, or in other settings outside of the judicial system.⁸ The other school of thought argues that restorative justice refers⁹ to an approach to justice that seeks to repair harm by providing an opportunity for those harmed and those who take responsibility for the harm to communicate about and address their needs in the aftermath of a crime.

The point of emphasis here is that because of the importance of restorative justice in the criminal justice system, the criminal justice policy of any government fundamentally must be to proactively respond to criminal behaviour that focuses on lawbreaker restitution and the resolution of the issues arising from a crime in which victims, offenders, and the communities are brought together to restore the harmony between the parties. Of particular relevance in this concept is that restorative justice includes direct mediation and conflict resolution between the offender, the victims, their families, and the community. It holds the offender accountable to the other parties while also providing the offender with learning experiences that offer law-abiding lifestyles as realistic alternatives to criminality.

Restorative justice views crime as more than simply a violation of the law, an offense against governmental authority. It violates human relationships and injures victims, communities, and even offenders. In this case, each party is hurt in different ways, and each has different needs that must be met in order for healing to take place. To further emphasise the need for an enhanced restorative justice, it should be noted that crimes affect society's sense of trust and often result in feelings of suspicion, separation, and discrimination. Crime also creates rifts between friends, relatives, neighbours, and communities. It often produces a hostile relationship where no previous relationship existed. An often-overlooked result of crime is that the victim and offender have a relationship - they have a painfully negative experience in common. Left unresolved, that

⁷ J. Stubbs, 'Beyond Appology? Domestic Violence and Critical Questions for Restorative Justice' (2007)7 *Criminology and Criminal Justice* 169

⁸ <https://why-me.org/what-is-restorative-justice/> accessed 20 June 2025

⁹ Federal-Provincial-Territorial Ministers Responsible for Justice and Public Safety, *Principles and Guidelines for Restorative Justice Practice in Criminal Matters* (2018) <https://scics.ca/en/product-produit/principles-and-guidelines-for-restorative-justice-practice-in-criminal-matters-2018/> accessed 20 June 2025

hostile relationship negatively affects the welfare of both. Justice requires restoration for victims, offenders, and communities affected by crime. To promote healing, society must respond to the needs of victimised parties as well as to the responsibilities of offenders. Restorative justice also serves as an alternative to retributive justice, which views crime primarily as acts that violate criminal laws established by governments, and rehabilitative justice, which takes a therapeutic approach that addresses an offender's need for treatment.

Essentially, both perspectives concentrate on rules and laws with regard to the actions of offenders. The state is viewed as the victim in both systems, and the offender is held accountable through punishment in the retributive system or treatment in the rehabilitative model. However, the victims become a secondary concern at best, serving generally as witnesses for the State. It is also not in doubt that restorative justice, however, considers both primary victims, that is, those directly harmed by an offender's actions, and secondary victims, that is, those indirectly harmed by the offender's actions, such as the families of the primary victims and the community at large. Primary victims often sustain bodily injury, financial loss, and emotional suffering, and the effects of such losses can last up to a lifetime. All primary victims, regardless of their level of victimisation, need to reclaim a sense of control over their lives and to have their rights vindicated.

Moreover, since victimisation is based on the experience of being wronged by another, and thus victims feel the need for authoritative condemnation of the wrong. Secondary victims may also have a variety of needs. For example, a primary victim's family may need to replace property or incur medical expenses. The community seeks the re-establishment of order and safety. The point being made here is that restorative justice also distinguishes between resulting injuries (those caused by the crime itself or its aftermath) and contributing injuries (those that existed before the commission of the crime and that may have provoked the crime. Although resulting injuries can be physical, such as an injury suffered, or emotional, such as embarrassment or shame. Contributing injuries can include cases in which child abuse victims become victimisers themselves or when abuse of alcohol or other drugs leads to criminal behaviour to support the addiction. It may be argued that these situations are not excuses for criminal behaviour but must be addressed in attempts at healing¹⁰.

2.1 The concept of crime

On the definition of crime, it is difficult to present a universally accepted definition of crime since several acts defined as criminal vary with time and space. In this sense, an act may be a crime in one society, but may not be in another. However, it must be emphasised that different understandings of crime have led to conflicting views on the definition of crime amongst jurists and social scientists, mostly bordering on ethical and ideological orientation. According to the United Nations Research Institute:

¹⁰ Ibid

Understanding crime from the perspective of a breach of a legal prohibition is a universal concept, but what constitutes a crime and how seriously it should be regarded, varies from one society to another. Thus, perceptions of crime are not determined by any objective indicator of the degree of injury or damage, but by cultural values and power.¹¹

Conversely, from the perspective of law, a crime is a violation of the criminal law, which is subsequently followed by legal punishment. However, in criminal law, a crime is an act or omission that attracts sanctions, such as a fine, imprisonment, or even death, as the case may be. Further, a crime in law consists of two basic elements, the *actus reus* and the *mens rea*. The *actus reus* is the physical element or the guilty act, and it requires proof. It may be argued that where there is no *actus reus*, there is no crime.

2.2 Criminal justice

It is worth mentioning that Criminal Justice can be understood from two different perspectives. It may be defined as a legal process or as an academic discipline. However, as a legal process, it comprises the procedure of processing the person accused of committing a crime from arrest to the final disposal of the case. Thus, it has been expressed that Criminal Justice¹² can be seen as a sequence of decision-making stages. In this context, offenders are either passed on to the next stage or diverted out of the system. This diversion may be a result of several reasons, such as a lack of evidence or a desire to reduce the load on the system. Each stage of this process is dependent on the previous stage for its elements, and it is this dependence that exemplifies the system of criminal justice. Similarly, Criminal Justice as an academic discipline is primarily concerned with studies that provide a thorough understanding of the criminal justice system in society. In this sense, criminal justice focuses on subjects related to law enforcement, corrections, or legal studies. Specifically, a criminal is said to be someone who has committed crimes and has been found to have committed the crimes through a criminal justice process involving the police and the criminal court, leading to conviction. In the same vein, the word "Justice" is fairness. In this sense, the original position of equality corresponds to the state of nature in the traditional theory of social contract.¹³

Notwithstanding the close affinity between the two concepts, it is correct to assume that the criminal justice system is the machinery through which the criminal, or someone

¹¹ T Khambra, 'The Social Construction of Crime: An Analysis of Legal Definitions of Crime Across Cultures and Time' (Jus Corpus, 17 March 2025) <https://www.juscorpus.com/the-social-construction-of-crime-an-analysis-of-legal-definitions-of-crime-across-cultures-and-time/> accessed 20 June 2025

¹² PK Clare and JH Kramer, *Introduction to American Corrections* (Holbrook Press 1977) 3–4

¹³ J Rawls, *A Theory of Justice* (The Belknap Press 1971) 3

suspected of having committed a crime, is processed and subsequently disposed of. From a cursory look at the criminal justice system, it must be emphasised that this very important and often-mentioned concept is responsible for the regulations and control of criminal behavior of persons. In other words, it should be noted that in order to understand how criminal justice operates, it is necessary to grasp the working relationships of its agencies.

2.3 Restorative justice, retributive and rehabilitative justice

In contrast with retributive and rehabilitative justice, restorative justice places a much higher premium on the participation of the principals. Both the victim and the offender take an active role. Victims are allowed to ask questions and have them answered. Offenders are encouraged to understand the harmful consequences of their behaviour. They acknowledged their guilt and took responsibility to make amends. In this regard, efforts of the community to repair injuries to victims and offenders are encouraged. As regards obligations, it must be stressed that the most important way in which restorative criminal justice differs from retributive and rehabilitative justice is in the outcome of the process. Retributive justice often relieves the offender from the obligation to acknowledge guilt or to repay the victim and community. In contrast, restorative justice seeks to right the wrong that has been committed and repair the damage that has been sustained by victims, offenders, and communities. However, when incarceration is necessary for public safety, it should be part of the resolution. Examples of restorative justice outcomes include restitution, community service, and victim-offender reconciliation.¹⁴

3. PERSPECTIVES ON RESTORATIVE JUSTICE¹⁵

a. Restorative justice dialogues

This enables the victim and the person who has caused harm to come together to discuss the impact of the harm, the victim's ensuing needs, and to find ways to address these needs. These processes also allow the victim to ask questions they may have (such as why they were harmed). The causes that lead to the crime can also be understood through the process and are attempted to be addressed.

b. Restorative justice circles or conferencing

This also involves not only the person who has caused harm and the victim, but also their families and community. These processes widen the scope of the discussion to include the offence's impact on family members and other participants. Typically, the processes result in a redress agreement that includes agreed-upon obligations for the person who caused harm.

¹⁴ D Heath-Thornton, 'Restorative Justice' Encyclopedia Britannica (26 August 2018) <https://www.britannica.com/topic/restorative-justice> accessed 25 June 2025

¹⁵ <https://csjindia.org/wp-content/uploads/2020/08/Types-of-Restorative-Justice-.pdf> accessed 25 June 2025

c. Offender re-entry circles

This involves the person who caused harm and their family and community. These processes help the person who caused harm transition back into society, particularly after being institutionalised. Re-entry circles help identify the support required to ensure they don't commit another crime. The victim is not involved in these processes.

d. Victim support circles

It involves the person harmed and their family and community. These processes aim to help persons harmed process the harm caused with their family and find ways to collectively heal. The offender is not involved in these processes

4. RESTORATIVE JUSTICE: A COMPARATIVE PERSPECTIVE

(a) England and Wales

Restorative Justice services exist in England and Wales. Each of the 43 regional police forces has an elected official called a Police and Crime Commissioner (PCC). In 2013, Police and Crime Commissioners were made responsible for commissioning victims' services locally – including Restorative Justice using new Ministry of Justice funding. Although these funds are not ringfenced, most PCCs have either commissioned a third-sector provider (such as Restorative Solutions and Remedy) or funded an in-house service, Restorative Justice. It should be noted that many of these services now take referrals from any criminal justice agency, irrespective of the offence in question or the stage of the justice process. In addition, many police forces can resolve low-level cases and non-crime incidents informally using Restorative justice. Also, Youth Offending Teams (YOTs) used Restorative Justice in response to youth offences, while many also seek to take a restorative-style approach even when victims do not wish to participate. Notably, recent legislation in England and Wales incorporated the Crime and Courts Act 2013, which permits judges to defer sentencing so that restorative justice can take place at that point, and the Offender Rehabilitation Act 2014, which provides for probation services to use restorative justice as part of community and suspended sentences.

(b) New Zealand

New Zealand has used Restorative Justice with Young offenders since the Children, Young Persons and their Families Act 1989¹⁶, which mandated judges to regularly adjourn proceedings to allow RJ to take place. Several subsequent acts in 2002 gave statutory recognition to the use of RJ with adults. More recently, the Sentencing Amendment Act 2014¹⁷ requires judges to adjourn proceedings to enable adult offenders and their victims to be offered RJ at that point. This means that RJ can be used with a wide array of serious crimes, including in cases where the offender is ultimately imprisoned. One important lesson from New Zealand, however, relates to delivery capacity. News reports suggest that the 2014 law came into force before there was enough capacity to assess all the new referrals promptly, with courts reporting significant delays in the early days of this reform. Now, comprehensive Restorative Justice services are provided by community-based groups across New Zealand, funded and regulated by the Ministry of Justice. The

¹⁶ Children, Young Persons and Their Families Act 1989 (NZ)

¹⁷ Sentencing Amendment Act 2014 (NZ)

government has also released best practice guidance on delivering Restorative justice in the jurisdiction, as well as annual research reports and other documentation on its use.¹⁸

(c) Australia

Australia is another country with a relatively long history of restorative justice, although its policies vary across the different States and Territories. In the Australian Capital Territory, for example, the Crimes (Restorative Justice) Act 2004¹⁹ enables cases to be referred to a dedicated Restorative Justice Unit. Recent legal proposals in that territory have sought to loosen the criteria for when Restorative Justice can be used with young offenders and to include sexual and family violence within the remit of the Restorative Justice Unit. In addition, Restorative justice is also available in Queensland and South Australia, and is used with serious crime in New South Wales. While police-led conferencing in Queensland was discontinued years ago,²⁰ there remains substantial interest in restorative justice from researchers and professionals across the country. This has led to new projects in recent years, such as a pilot project focusing on sexual assault cases in Victoria, which started in 2015. The project is among the first of its kind in the world, as it seeks to provide justice in some of the many cases of sexual assault that are not successfully prosecuted.

(d) Colorado, United States

The State of Colorado has perhaps the best-developed Restorative Justice System in the United States. The Statutory Restorative Justice Coordinating Council (RJCC) provides training and supports the development of Restorative Justice programmes; the same law that created the Restorative Justice Coordinating Council also enables Restorative Justice to take place throughout the youth justice process. In 2013, a new law introduced a \$10 surcharge on offenders to fund new Restorative Justice pilots, research, and a State Restorative Justice coordinator.²¹ This law also: gives victims the right to be informed about the availability of Restorative justice; requires many young offenders to undergo a pre-sentence evaluation to determine whether Restorative Justice is a suitable sentencing option; requires district attorneys to assess whether certain young offenders are suitable for diversionary Restorative justice; and directs the Department of Corrections to establish policies and practices for Restorative Justice in prisons. This was one of many criminal justice reform bills introduced into the State legislature by Representative Pete Lee, an advocate of restorative justice (RJ) is intended as a voluntary process for all participants and can be used with any type of offence and at any stage of the criminal justice process including as a diversion from arrest or Court, or post-sentence, by probation services and in prisons.²²

¹⁸ New Zealand Ministry of Justice, Restorative Justice in New Zealand: Best Practice (2004)

¹⁹ Crimes (Restorative Justice) Act 2004 (ACT) (Australia)

²⁰ K Clamp and C Paterson, Restorative Policing: Concepts, Theory and Practice (Routledge 2017)

²¹ n19

²² Ibid

(e) Continental Europe and beyond

Some of the oldest and best-embedded Restorative Justice Systems can be found in continental Europe. In Finland, for example, the Mediation Act 2006 seeks to achieve equal access to victim-offender mediation for all persons and requires the State to fund mediation services. In Norway, the Municipal Mediation Service Act²³ established a National Mediation Service that receives referrals for both Civil and Criminal mediation from any agency, any offence, and at any stage of the process. 650 lay mediators volunteer for the 22 regional mediation services, delivering over 8,000 cases in 2011. In Belgium, the Youth Justice Act²⁴ requires prosecutors to consider using a restorative diversion from prosecution in response to most youth offending. Many further European jurisdictions have legislation and policies that should be analysed by any other countries seeking to develop their work in this area. For example, Northern Ireland set up a new Youth Conferencing Agency to facilitate cases referred by the Youth Courts, while legislation in Latvia, Hungary, and the Czech Republic allocates the responsibility for victim-offender mediation (VOM) to their probation services. This is not to ignore Countries in other continents.

In Asia, for example, South Korea has an established system of Victim of Offender Mediation following revisions to its Crime Victim Protection Act in 2010. Victim Offender Mediation was used to divert around 111,000 Cases from the Court in 2016. In contrast, there are a number of jurisdictions, including France, Malta, and Poland, which have decent legislation on Restorative Justice, but which lack a stable, national service provision, limiting its accessibility in practice. There have been changes, too, in the international legal instruments of Restorative Justice. However, in October 2018, the Council of Europe published Recommendation CM/Rec(2018)²⁵ on restorative justice in criminal matters. This paper argues that the availability of Restorative Justice should not be contingent on the victim's location, the type of offence, the offender's age, or the stage of the criminal justice process alone. It also describes how the proactive use of restorative principles and processes outside of the criminal procedure can help underpin a broader cultural change in criminal justice systems. New regional collaborations and initiatives are also taking shape in Africa, Latin America, and Asia, while moves are made within the United Nations to update their training and guidance on Restorative Justice. Given the proliferation of activity in this area, researchers must continue engaging with policymakers and practitioners to help ensure that any developments are as safe and evidence-based as possible.

(f) Lagos State, Nigeria

The Lagos State Government of Nigeria, through the Ministry of Justice, has launched the 'Restorative Justice Centre' as part of efforts to ensure quick dispensation of justice, promotion of peaceful communities, and prevent re-offending. They believed that the

²³ Municipal Mediation Act 1991 (NZ)

²⁴ Youth Justice Act 2006, ss 25-28 (SK)

²⁵ Ibid

Restorative Justice Centre has great potential for decongesting Court dockets as well as correctional centres, promoting peaceful communities, transforming the criminal justice system, healing wounds of crime, as well as reintegrating offenders into society. It was noted that the 'Restorative Justice Centre' will soon be launched by the State Government in order to ensure an effective dispensation of justice whereby people can walk into the centre to make enquiries and file complaints. Also, restorative justice has been described as a method used for dealing with a crime that puts the needs of victims first while the offender takes responsibility for their actions.²⁶ In other words, it is submitted that restorative justice in Lagos state, Nigeria, is construed to be as old as man, and its approach to crime dates back thousands of years ago as it has been the dominant model of criminal justice throughout most of human history.²⁷

Be that as it may, some of the goals and objectives of restorative justice programme include holding the offender accountable in a meaningful way; increasing victim and community satisfaction; repairing the harm caused by the offender; reducing incarceration; reintegrating the offender into the community; increasing public confidence in the justice system and saving time and cost of prosecution. Again, it may be argued that restorative justice is used for cases involving children/juvenile offenders or when the offence is non-serious and there is a need for reconciliation. In addition, restorative justice has to do with communication, confrontation, accountability, healing, compensation, restoration, and restitutions. It is here admitted that restorative justice considers crime largely as an infraction against people within a given community, contrary to the more abstract legal explanation of crime as harm against the State²⁸.

5. RELEVANCE OF RESTORATIVE JUSTICE

(a) Reduction of offence: This justice system is capable of reducing the occurrences of crimes. This is because it makes offenders responsible for their actions, and thus, they face the consequences. Therefore, the offenders will avoid future actions and thus reduce the rate of crime in society.

(b) Reduce victim-related symptoms: Victims of the crimes are always prone to symptoms and diseases like stress, anxiety, depression, etc. Restorative justice ensures all these symptoms are avoided as it brings all the involved parties together, and a strategy is laid down to counter the occurrence of another crime. Also, fear, which is the main cause of these symptoms, is minimised.

²⁶ Hon Justice O H Oshodi, remarks delivered on behalf of the Chief Judge of Lagos State, retraining the trainers, Ikeja Lagos, 15 March 2019

²⁷ Ibid

²⁸ Ibid

(c) Repossession of things and goods: Unlike other judicial systems where the repossession of goods in the matter is not valued and possessing them back may not be possible, things are different in the restorative justice system. The victims can get their possessions back in case of robbery, and in the case of intangible goods, money is used as the means of repayment.

(d) Forgiveness is the main agenda: With Restorative Justice, it is prettier to put the past behind. In most cases, this system is applied where the offender and the victim live in the village or community, and therefore it can help to resolve the issue and help both the victim and offender to put the past behind them and live together in harmony.

(e) Reduction of disciplinary actions: The main benefit of this system is that it can reduce some of the disciplinary actions against the victims. For example, the victim is not jailed, but in turn, he/she is made to pay for the loss and damage caused. This also helps to control the number of people in prison to a manageable number.

(f) Cost-effective: Unlike the judicial system, Restorative justice is a cost-effective and affordable process. The government (judicial system) is not involved in solving the problem. Thus, the offenders and victims do not spend much on the process of solving the case.

(g) Increased communication: Unlike other judicial systems, restorative justice ensures an open and real-time conversation between the involved parties. This helps arrive at a well-defined decision and gives both the offender and victim a chance to express themselves, ask questions, and suggest the next move. Therefore, a well-understood ruling is made.

(h) Accountability: When the court process is involved, stigmatisation and corruption may occur, thus not making the offenders accountable for their actions. However, in restorative justice, the offender is accountable for his/her actions and has to pay for them.

5.1 Implications of restorative justice

(a) It is limited: Restorative justice is not a global solution. This is because not all victims trust the system; many go for the court process. Also, many offenders are not ready to admit their crimes, and therefore, it cannot be used to solve the case.

(b) May give birth to other crimes: Restorative justice is applicable where both parties, i.e., victim and offender, are physically present. The victim may take advantage of this weakness and gang up on the offender, thus adding another case to the existing ones.

(c) It cannot be used to curb future crimes: Due to the nature of this system, it is only used to solve and restore peace to the already existing crimes, but cannot be used to prevent future occurrences of that crime.

(d) Does not decrease recidivism rates: Offenders involved in this system are likely to commit new crimes. This is so because no harsh punishment is allocated to offenders. This may motivate them to commit other crimes.

(e) No confidentiality: In restorative justice, there is increased communication between the involved parties; the communication might breach secret crimes like rape and sexual assault as the outcome, and how the crime happened should be explained.

(f) Increased fear and anxiety: During problem-solving, both the victim and the offender can communicate about the crime. However, when a violent crime is the subject matter, encouraged conversation may make the victim feel helpless and initiate fear and anxiety.

(g) Absence of sincerity: In some cases, the victims are not located in the same geographical area, and therefore, computers are involved in enhancing communication. When restorative justice is conducted online, talking to someone through a computer may hinder sincerity. The absence of sincerity hinders the ruling and thus makes this method ineffective.

(h) Challenge of participation: For the restorative justice system to work effectively, both parties must be willing to participate without being forced. However, this may not be the case as one of the involved parties may fail to participate fully, thus hindering the ruling process.

5.2 Prospect and practicability of restorative justice in the Nigerian criminal justice system

(a) Based on principle

In order to effectively address the challenges posed by the formal justice system or a resurging interest in preserving and strengthening customary law and traditional justice practices has led to a call for alternative responses to crime and social order in Nigeria. However, as restorative justice programmes are based on the belief that

parties to a conflict ought to be actively involved in resolving it and mitigating its negative consequences, Nigeria must put in place robust, effective, and enforceable legal instruments that will drive a new trend of justice delivery. The Nigerian legal system is disappointingly backward and empty in this regard.

It is worth mentioning here, as a way of comparison, that other countries of the world are far better than Nigeria in their restorative justice system. Specifically, based on principle, it should be noted that when incarceration is necessary for public safety, it should be seen as part of the resolution. In this case, restorative justice outcomes include restitutions, community service, and victim-offender reconciliation.²⁹

(b) Based on applicability

Generally speaking, the above principles can be brought to bear in the Nigerian Criminal Justice delivery system. At the moment, some of the legislations on crime in Nigeria are the Criminal Code Law, Penal Code Law, Administration of Criminal Justice Law, 2015, and Evidence Act, 2011.³⁰ In effect, the Courts exercising criminal jurisdiction in Nigeria are the High Courts and Magistrate Courts. Based on the above, it is clear that the above two Courts of justice dispense criminal justice and impose custodial sentences to punish offenders (Retributive Justice). Also, it should be pointed out that Magistrate Courts in Nigeria are even vested with the power to conduct remand proceedings under the Administration of Criminal Justice Law, whereby Magistrates give remand Orders in Cases they do not have jurisdiction over, which has led to congestions of Correctional Centres and overcrowding of the courts' dockets.

In all these, the victim of crime is left unsatisfied, while the perpetrator of an offence, albeit a minor one, having been put in custody mixed with hardened criminals, is then tutored into habitual criminality. In the above scenario, it must be emphasised that if the restorative justice system were on the ground, the defendant would be made to acknowledge and give account of his deed at a victim-offender mediation or conferencing to the satisfaction of the victim, and society at large would be at peace. It is therefore the position of this paper that Restorative Justice is practicable in Nigeria and can be integrated and institutionalised in its criminal justice delivery system.

(c) Based on the Benefits, the following are some of the notable findings of benefits that have emerged:

²⁹ D Heath-Thornton, 'Restorative Justice' Encyclopedia Britannica (26 August 2018) <https://www.britannica.com/topic/restorative-justice> accessed 30 December 2021

³⁰ Constitution of the Federal Republic of Nigeria 1999 (as amended), Second Schedule Part I, Item 23 (Evidence is listed on the Exclusive Legislative List, making it a matter for federal legislation only).

- i.** Restorative Justice has a positive effect in reducing the frequency and the severity of reoffending.³¹ A Restorative Justice approach is particularly apt to promote desistance from crime and reduce reoffending when it is part of a broader rehabilitation framework.
- ii.** Restorative Justice programmes can be particularly effective when they target higher-risk and more serious offenders.
- iii.** There are no inherent limitations in the type of offences that can be referred to restorative justice processes. In this case, many crime victims and offenders are willing to participate in a restorative justice process when allowed to do so. They only need to be informed of that option.³² The rate of participation of crime victims and offenders in restorative justice processes varies by the type of offences, the nature of the referral mechanisms, the various personal attributes of offenders, victims, and the nature of the relationship between the victims and the offenders.³³ Properly trained Community volunteers can be as effective in facilitating restorative processes as criminal justice professionals.³⁴ Restorative Justice programmes have the potential to reduce criminal justice costs and Court processing time and improve service delivery.

6. CONCLUSION

The concept of the restorative justice approach is blowing a wind of blessings across the globe, and Nigeria must not be left behind because it is a crime victim satisfaction-based concept. Therefore, considering the relevance of restorative justice, efforts should be made by the government to ensure that the needs of victims are more fully considered during the criminal justice process. From the discourse above, in the face of the numerous and compelling circumstances, it becomes imperative that the trend is that almost all the countries of the world have keyed into or have institutionalised restorative justice in one form or the other. This is very necessary, especially where the concept aligns with our traditional views of criminal justice delivery, so it can be seamlessly incorporated into the

³¹ SL Strang et al, 'Are Restorative Justice Conferences Effective in Reducing Repeat Offending?' (2015) 31 *Journal of Quantitative Criminology* 1, 1–24

³² T Van Camp and JA Wemmers, 'Victims' Reflections on the Protective and Proactive Approaches to the Offer of Restorative Justice: The Importance of Information' (2016) 58 *Canadian Journal of Criminology and Criminal Justice* 3, 415–442

³³ D Bolívar et al, *Victims and Restorative Justice: An Empirical Study of the Needs, Experiences and Position of Victims within Restorative Justice Practices* (European Forum for Restorative Justice 2015)

³⁴ N Hipple and EF McGarrell, 'Comparing Police- and Civilian-Run Family Group Conferences' (2008) 31 *Policing: An International Journal of Police Strategies & Management* 4, 553–577

system and institutionalised. Furthermore, in the course of this research, we observed that a few countries around the globe have taken steps towards institutionalising the restorative justice concept in their justice delivery system. This is evident through the paper's comparative review of restorative justice in other climes.