

Restorative Justice Practices in the Nigerian Criminal Justice System: Opportunities and Challenges

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Abstract

Nigeria's criminal justice system is predominantly founded on retributive principles that emphasize punishment of offenders. However, there is growing recognition of the need to complement this approach with restorative justice practices that aim to repair harm, encourage offender accountability, and empower communities in the resolution of crime. This paper examines opportunities to integrate restorative programmes and philosophies within Nigeria's existing frameworks. It explores entry points such as police diversion, sentencing circles and correctional rehabilitation models. Major challenges to implementation including lack of resources, overburdened courts, cultural mindsets and inadequate social support systems are also analyzed. The paper argues for a balanced reform approach starting with pilot programmes, skills development, legislation and collaboration across sectors. With sustained efforts to address obstacles, Nigeria shows potential to optimize its system by blending retributive and restorative models customized to its diversity.

Keywords: Restorative Justice, Criminal Justice System, Rehabilitation, Retribution, Mediation, Community Justice.

1. Introduction

The Nigerian criminal justice system is primarily founded on retributive principles that focus on punishing offenders for their crimes. The system operates through an adversarial process involving police investigation and prosecution by the state. Upon conviction, offenders are incarcerated or penalized via fines or other sanctions intended to be deterrent and condemn the crime. While retribution serves an important role, it does not actively work to repair the harm done to victims or adequately rehabilitate offenders for reintegration into the community¹.

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¹K. Daly, Restorative justice: The real story. *Punishment & Society*, (2005) 7(3), 225-229.

However, there is growing recognition of the need for a more balanced approach that incorporates principles of restorative justice. Restorative justice practices aim to repair the harm caused by criminal acts through cooperative processes that bring together victims, offenders, and community members². This paper explores opportunities for implementing restorative justice approaches within the Nigerian criminal justice system and some of the key challenges that would need to be addressed.

2. Understanding Restorative Justice

Restorative justice shifts the emphasis away from punishing the offender towards addressing victim needs, offender accountability, and reparation of harm. At its core, restorative justice seeks to (1) support victims by giving them a voice, acknowledging their suffering, and making them whole through restitution or reconciliation; (2) encourage offender accountability through acceptance of responsibility, making amends, and reintegration; and (3) empower communities to take part in resolving conflicts and crime in a cooperative manner³.

The most well-known practices of restorative justice are victim-offender mediation/conferencing and sentencing/peacemaking circles. In mediation/conferencing, facilitated meetings allow direct or indirect victim-offender dialogue to discuss the offense and its impacts. Victims can ask questions, receive apologies and restitution, while offenders can take accountability and make amends. Sentencing/peacemaking circles involve broader community participation to determine appropriate sentences and rehabilitative/reintegration plans⁴.

Other less formal methods include family group conferencing to address youth crime and community reparative boards⁵. Overall, restorative practices aim to repair societal fractures caused by crime, reduce recidivism through reconciliation, and give all stakeholders ownership over the resolution rather

²A. W. Dzur, The restorative justice ideal and community conferencing. *Crime and Delinquency*, (2000)46(4), 523-541.

³J. Braithwaite, Restorative justice: Assessing optimistic and pessimistic accounts. *Crime and Justice*, (1999) 25, 1-127.

⁴D. W. Van Ness and K. H. Strong, *Restoring justice* (3rd ed.). Cincinnati, OH: Anderson Publishing Co. (2015).

⁵H. Zehr, *The little book of restorative justice*. Intercourse, PA: Good Books (2002).

than leaving justice to state authorities alone. Comparative studies show that restorative approaches improve victim satisfaction and lower reoffending rates when coupled with offender programming.⁶

3. International and National Context

Restorative justice programmes have been adopted widely across regions with varying legal systems. In North America, restorative models are used extensively for juvenile offenses and integrated into criminal courts (UNODC, 2006)⁷. In Africa, South Africa established diversion and community mediation programmes while Rwanda utilizes gacaca community courts for post-conflict resolution.

Nigeria does not yet have a unified national framework. However, the recent Administration of Criminal Justice instrument⁸ introduced provisions for plea bargaining and settlement of disputes out of court - incorporating aspects of restorative engagement⁹. Community-based initiatives have also piloted restorative processes for minor offenses. Overall, there is growing recognition of its potential to reform the existing punitive system.

4. Opportunities for Implementing Restorative Justice in Nigeria

There are opportunities to incorporate restorative values and practices within elements of Nigeria's existing criminal justice framework. For example, police diversion of less serious matters like minor theft, vandalism, and assault to community mediation programmes could resolve issues at the lowest level without overburdening the courts. Diversion aligns with the police constitutional law enforcement role and community policing strategies¹⁰.

⁶M. S. Umbreit, and Others, *Victim meets offender: The impact of restorative justice and mediation*. Monsey, NY: Criminal Justice Press (2004).

⁷United Nations Office on Drugs and Crime (UNODC), *Handbook on restorative justice programmes*. Vienna: United Nations Office on Drugs and Crime (2006).

⁸ Federal Ministry of Justice, Abuja Nigeria, *Administration of Criminal Justice Act, 2015*.

⁹*Ibid.*

¹⁰ This not only makes grievance redressal more participatory and inclusive but also eases the docket of law enforcement agencies.

Within formal court processes, sentencing circles could be established to make recommendations on sanctions that balance punishment with rehabilitation plans¹¹. This gives communities input in handling local crimes affecting them. For juvenile offenders, family group conferencing is well-suited to Nigeria's emphasis on resolving matters within the family unit and addressing root causes of bad behaviour.

The Correctional Service Centres also present openings. Facilities aimed at rehabilitation could establish Councils for Conflict Resolution to process internal issues like fights or grievances through methods like mediation. For probation, community reparative boards provide oversight in lieu of strictly punitive models to facilitate reintegration¹². The Nigerian Victims Trust Fund further enables victim compensation payment through negotiated restitution.

Overall, a few strategic integration points of restorative practices can augment traditional punitive response in both pre-trial and post-conviction phases. This alignment with Nigeria's structural framework and cultural priorities of reconciliation over estrangement creates real potential for restorative adoption subject to challenges discussed below.

5. Challenges to Implementing Restorative Justice in Nigeria

While restorative justice aligns with certain Nigerian values and systems, there are also notable challenges¹³ that would need to be addressed for successful practice:

Lack of resources/capacity - Nigeria faces development constraints preventing infrastructure and skills-building needed to run diverse restorative programmes at scale. Mediation requires trained facilitators and safe spaces for victim-offender interactions.

Overburdened courts - Understaffed and backlogged courts may lack incentive and ability to divert cases for restorative processes without

¹¹ H. Zehr, *Changing lenses: A new focus for crime and justice*. Scottsdale, PA: Herald Press (1990).

¹² L. Nader and Others, The disputing process: Law in ten societies. *Journal of Legal Pluralism*, (1975) 6(1-2), 1-62.

¹³ The challenges highlighted in this article are by no means exhaustive. However, they beam the search light on the more serious and recurrent obstacles to the effectuation of the restorative justice framework in the country.

pressure to expedite throughout. Resources are prioritized for serious offenses.

Cultural attitudes - Communities have grown accustomed to swift punitive responses. Shifting mindsets to see value in restorative engagement and reconciliation will take education amidst prevailing retributive norms. Victims also risk being seen as "weak" by opting for restorative routes.

Security and safety - Questions around adequate protection for victims interacting with offenders, cultural pressures of honour and revenge pose risks in a nation still grappling with security issues. Trust must be built in restorative confidentiality and impartiality.

Inadequate services - Aside from restorative programmes, strong social support systems and offender accountability programmes through probation are required but not fully present to achieve holistic rehabilitation.

Legislative constraints - Laws may require revisions to permit diversion, alternative sentences, sealing or expunging records after contrition shown via restorative processes versus automatic prosecution.

Pilot testing is needed to evaluate suitability and impacts across regions with varied legal systems and ethnic contexts. Success also relies on partnerships among diverse stakeholders from community leaders to judicial officials and correctional institutions. These challenges cannot be easily resolved but require sustained effort and will to reform static assumptions within the system and society.

6. Shifting the Paradigm

Restorative justice shows much promise but Nigeria's criminal justice system is not yet primed for a total overhaul. A balanced, incremental approach integrating restorative elements seems most suitable. Pilot programmes testing mediation for minor offenses or sentencing circles for juveniles in selected areas can generate evidence and learning to advance the movement gradually.

Government support through the Ministries of Justice would help address capacity gaps via training, materials development with local languages/culture contextualization and the establishment of facilitation networks. Community education to shift mindsets remains equally important. Standard guidelines and evaluation frameworks should

accompany rollout to ensure quality, protection standards, and impact assessment for refinement and scale-up.

Supporting legislation may permit diversions or alternative sanctions in approved pilot zones. Correctional and probation reform should adopt more rehabilitative models and coordinate with grassroots initiatives. Academia also has a role in evaluating effectiveness, comparing innovations and maintaining restorative justice as a vibrant area of interdisciplinary scholarship.

With patience and coordinated cross-sector efforts, Nigeria can optimize its criminal justice system by blending aspects of retribution and restoration. Addressing current challenges opens doors for the country to realize restorative justice's promise of repairing communities, transforming conflicts, and cultivating sustainable peace. A first step is embracing innovative practices on a measured scale with learning as the priority over perfection¹⁴. With time and effort, restorative approaches can expand and take root across Nigeria's diversity.

7. Conclusion

The Nigerian criminal justice system stands at crossroads - it can retain a primarily retributive structure or responsibly pilot restorative alternatives to gain experience reforming from within. Restorative justice presents opportunities to supplement current weaknesses in rehabilitation, community partnership and holistic resolution. However, overcoming enumerated challenges demands sustained commitment from stakeholders and patience amidst a reform process.

¹⁴ The rationale for the incremental approach recommended in this article is to ensure the gradual pulling down of the ossified structures of crime and punishment and to embrace the contemporary approach of restoration at an easily digestible pace.