



Integration of Restorative Justice in Modern Criminal Law: Legal Analysis

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Abstract

This article explores the criminal justice system but with the aspect of restoration by finding the actual meaning and principles on which restorative justice will work. This system is emerged as a result of finding social harmony after delivering Justice. There are some aspects of restoration which needs to be kept in sight while performing restoration process. Further more this paper presents the historical development of restorative justice and different theories like theory of reintegrative shaming, theory of procedural justice and communitarian justice all of them focus on the main theme of restorative justice. It also provides a comparison of retribution with restoration and displays the major importance of restoration process. Not only in West but also in Islam, this process has taken place several times and it is present in Holy Quran to highlight its importance for Muslims.

Key words: *Criminal Justice, Restoration, Social Harmony, Historical Development, Reintegrative Shaming, Procedural Justice, Communitarian, Retribution*

Introduction

Goals of Criminal justice system can be easily achieved through Restorative Justice System. These goals are victim's healing, deterrence, and rehabilitation that can be better attained than traditional punishment. The work of restorative Justice starts and works best once offender admit guilt and take the responsibility of his offence then actively participate to repair it and wants to reintegrate into community. Some programs play key role in this system like victim offender mediation, community support, family conferences and truth commissions etc. Restorative Justice also supports correction through addressing root cause of criminal behavior such as addiction or social environment. Future crimes can also be prevented by encouraging social disapproval of wrongdoing as well as supporting offenders in making positive changes.¹

1.1. Meaning of Criminal Justice System

*"The criminal justice system is a structured set of legal and administrative entities responsible for enforcing laws, adjudicating crimes and ensuring the fair treatment and rehabilitation of offenders."*² Justice system as the name implies a crucial element for society and Criminal Justice system is a backbone for maintaining Law and order. This system, ensure fair treatment for both victim and offender with regard to the offence committed by offender. The processes and principles that are involved in this system secure justice to be impartially and fairly prevailed.

For Example, Canada system of Criminal Justice was made to secure social control that is to make sure that the population complies with the criminal law and to impose a criminal sanction that will

¹ John Owen Haley, "Introduction- Beyond Retribution; An Integrated Approach to Restorative Justice," *Washington University Journal of Law And Policy* 36, no. 1 (2011): 1-3.

²Ph.D. Ben Shaw-Parker, "Criminal Justice System: Legal Definition," *Juristopedia*, last updated on February 27, 2025. <https://juristopedia.com/criminal-justice-system-legal-definition/>.



punish those individuals who are found to breach laws hoping that they will not do that again. This justice system was put into function by dominated powerful groups. This social control can work by system comprising police, courts and corrections. The example of Canadian system is given as it can be seen in current criminal legislation which do not differentiate people by their status of wealth for been accused but speaks to anyone who commits the crime.³

The essential system in Islam is Criminal Law system which aims to safe life and protect society from evils of criminal behavior together with a rehabilitation of criminal. The punishment of each crime contains its consequences on society which can balance the degree of harm it causes for individual and the society. This system deal with criminal acts in a way never transgresses or does injustice.⁴

1.2. Traditional Justice System

Criminal Justice System is a composite form of law enforcement, courts and correctional agencies. For this purpose, police sustain social order, prevent crime and arrest law breaker. Courts are established to determine crime liability of offender who are being accused of wrongdoings. Correctional agencies work for providing care and support to offender who are imprisoned by court.⁵ Traditional justice system is the conflict resolution which are normally a community level disputes without the involvement of State.⁶

1.3. Emergence of Restorative Justice

Traditional Justice system focuses on truth, accountability, reconciliation and community involvement but beside these it has excluded community bonds and victims condition. Restorative Justice can help to give strength to community and allow underrepresented groups to participate. It involves conflict resolution through dialogues and developing understanding between communities and offenders. It recognizes dispute as a wrong in community not the offender.⁷

The theory of retribution is often called as morally right but human nature is against it. In early human societies when there is crime it involves group dialogue in which people discuss how to amend the harm caused, the responsibility of offender and what the harm was caused. Even the ancient civilization like Egypt, Greece, Babylon etc. they resolve the matter in form of money, goods or services that are harmed by the offender.⁸

1.4. Defining Restorative Justice

T F Marshall define Restorative justice as: “a process whereby parties with a stake in a specific offence resolve collectively how to deal with the aftermath of the offence and its implications for the future.”⁹ Restorative justice is theory of justice in which damage or harm caused by offender due to criminal behavior is repaired. This harm can be mutually rescued by the involvement of

³ Nicholas A. Jones and Allan L. Patenaude, “The Criminal Justice System, in Pursuing Justice; An Introduction to Justice studies,” ed. Margot A. Hurlbert (Fernwood Publishing, September 2011), 244,245.

⁴ Shaykh Abdullah bin Bayyah, “A historical glimpse over criminal laws,” *Islamic Criminal Law*, <https://islamqa.org/?p=29847>

⁵ Larry J. Siegel, “Overview of the Criminal Justice System,” in *Criminology*, 7, 185193 (2000): 472-497.

⁶ OHCHR, “Human Rights and Traditional Justice System in Africa,” Human Rights Publications (Geneva: Office of Higher Commissioner for Human Rights, July 2016), ISBN: 978-92-1-154216-5, 1-2.

⁷ David O’Mahony and Jonathan Doak, “transitional Justice and Restorative justice,” *International criminal law review* 12, no. 3 (2012): 305-306.

⁸ David R. Karp, “Restorative Justice,” *Criminal Justice*, Accessed on May 15, 2025.

⁹ T F Marshall, “Restorative justice: An overview,” *U.S. Department of Justice*, 1998.



authoritative parties who can work to find possible solutions to problem rather than to punish the offender. This is the type of justice that can be prevailed by forgiving the offender by keeping in view the frequency and severity of offence.

According to Bottoms Restoration means bringing back old relationships within a community, a community where every individual shares and understand the same rules and values.¹⁰

Liehmnn defines Restorative justice as “a legal system which duty is to restore the welfare of victim, offenders and community harmed by a crime and to avoid further violations or criminal act.”¹¹ There are some basic principles from this definition like:

1. Restoration of welfare of Victim.
2. Acts of offenders which is cause of harm.
3. Effects of these crime on community.
4. To prevent further violations or criminal act.

Restorative justice aims to provide fair trial for both victim and offender that how victim can get just decision about loss and how condition can be recovered as before. In restorative justice victims are expected to receive appropriate compensation and are mutually agreed upon with offenders to compensate for losses and reduce the suffering they have experienced. It is important that offender should take full responsibility and realize their wrongdoings.¹²

John Haley gave definition of Restorative justice as the way to admit wrongdoings and accept harm caused, for offender, and support of community and victim for offender’s return to society. Healing is preferred that everyone should be healed including victim, community and the offender by restoration of respect, trust and relationships. According to Islam this justice is most often came into practice as Allah command repentance over punishment. Forgiveness is most favorable act in sight of Allah and it is attributed towards Allah.

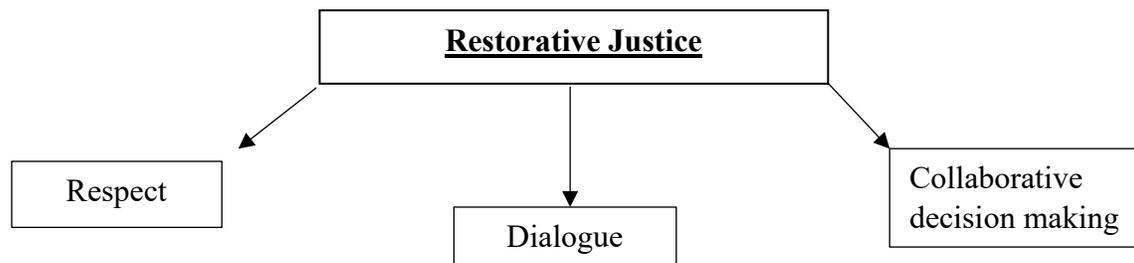


Figure 1. Aspects of Restorative Justice

This figure shows that restorative justice emphasizes respect, dialogue and collaborative decision-making.¹³ Restorative Justice does not fit in theories of punishment but like the Utilitarian Approach, its aim is to facilitate and benefit society by its methods. So, this theory with another

¹⁰ Meredith Rossner, “Restorative justice, anger, and the transformative energy of forgiveness,” *the International Journal of Restorative Justice* 2, no.3 (2019): 375.

¹¹ Ahmad Agus Ramdlany, “Restorative justice in Islamic legal philosophy perspective,” *International Journal of Business, economics and Law* 24, no. 2 (2021): 1.

¹² Ibid, 1.

¹³ Ramizah Wan Muhammad, “Forgiveness and Restorative Justice in Islam and the West; A comparative Analysis,” *Islam and Civilizational Renewal Journal* 11 no.2 (2020): 276.



aspect focuses on healing the wounds of victim as well as bringing back the offenders dignity to the community which was affected by the offence.¹⁴

1.5. Terms used for Restorative Justice

1.5.1. The restorative Justice program are the programs that use restorative methods for getting results of restoration. Every thing requires proper system to work efficiently so for this purpose restorative justice program is the term use to denote the actual working of restorative Justice system.

1.5.2. Restorative process The process involving victim, criminal and some other people who may be affected by crime work with the facilitator to resolve the issue. This process may be dialogue, mediation and people of community. As stated above that proper system is required likewise procedure also takes place to gain access towards main goal. This goal can be achieved if synchronization of every step is involved. If we want every step to sequentially take place then the term restorative process is best to be used for it.

1.5.3 Restorative outcome The outcome in the result of restorative process which may include compensation, restitution etc. to meet needs of victim and to overcome the loss and for offender to desegregate from community. This is the main motive of restorative justice for which it works. Process requires outcome, if it provides just results then reason for doing this type of justice gain success.

1.5.4 Parties The victim, who suffer any loss due to offence, offender, who is the cause of that offence or who is the performer of that offence and any other person who is the part of restorative process like the facilitator or a community that is affected by offence. These are the main components which should be satisfied for healing process.

1.5.5 Facilitator- the restorative process requires a helper who guide and have no involvement with crime by the help of whom fair process takes place. This facilitator here works as a judge but without leaning towards any party.¹⁵

1.6 Teachings of Restorative Justice

Rossner has a suggestion about restorative Justice that it can improve wider Justice system if focus on three basic or key ideas. Justice system is harsh in the opinion of many people but restorative justice is the key aspect to make justice system easy to implement. Those key ideas of restorative justice given by Rossner are *The Power of Rituals* is the idea which focuses on ritual structure that restorative meetings follow. These rituals are useful for people to express emotions and to maintain and rebuild relationships. The rituals power can be seen in case of tribal issues that every tribe has its noble person to solve a dispute without causing harm and with justice. *The role of ignoring Anger* contains problem solving without allowing anger to dominate. So, instead of punishing, ignoring anger is precedent by which restorative justice allow victim to express it in healthy way. This idea is best for healing and understanding among conflicting parties. Whenever anger comes in any situation it mostly ruined the healthy environment so to overcome conflicts anger should be ignored. *The Strength of Apology and Forgiveness* beholds every hard situation. When the offender

¹⁴ Daniel Cole, Kenneth Poortvliet, "Retributive Justice vs. Restorative Justice| Overview and Examples," *Introductory Business Law*, 21 November 2023, Retributive vs. Restorative Justice | Overview & Examples - Lesson | Study.com

¹⁵ UN ECOSOC, "Basic Principles on the use of Restorative Justice Programs in Criminal Matters," *Traditional and customary Justice Systems*, 2002: 93-94.



apologize and the victim forgive the offender then it can create a fresh start of future and restore dignity and peace which is the main focus of restorative justice.¹⁶

1.7 Restorative Justice Principles

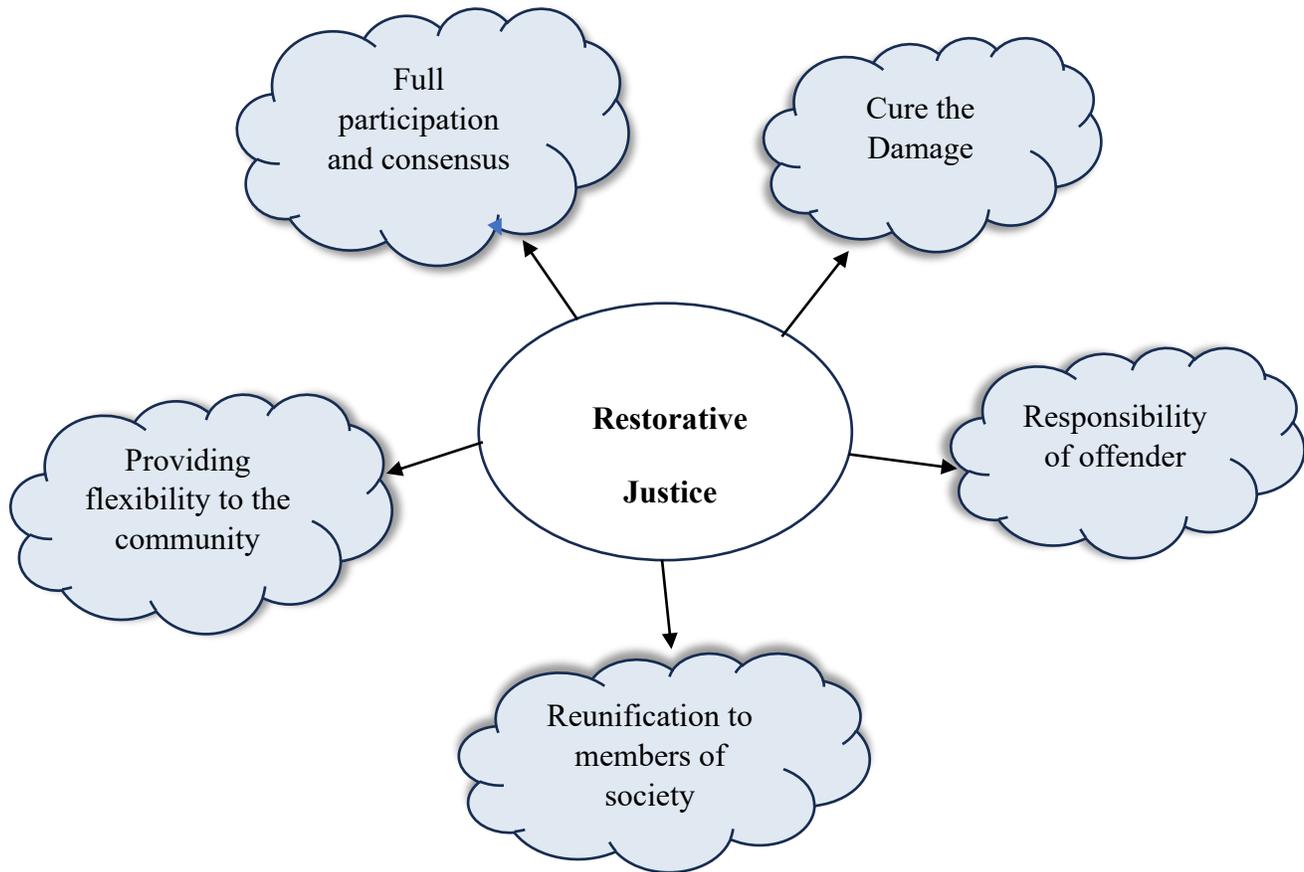


Figure 2. Five restorative justice principles

1. **Full participation and consensus of both parties** Here full participation and consensus of both victim and offender is required to put into action a restorative justice in criminal justice system. This system let both parties to meet and talk to each other in one meeting. It can be called as joint settlement between both parties which do not require proper punishment to be given to victim. This means that for justice everyone's needs, feelings, perspectives and ideas should be taken into consideration in resolution process. This approach aims to create sense of being united and healing for all the parties involved in criminal act.

¹⁶ Meredith Rossner, "Restorative justice, anger, and the transformation energy of forgiveness," *The international Journal of Restorative Justice* 2, no. 3 (2020): 370.



2. **Cure the damage** The crime is not just a word but a certain amount of damage to a victim which cause irregularity in normal functioning of life. To normalize and to compensate the loss offender must give or do something to fulfill that loss.
3. **Responsibility of offender in whole crime** The key principle in Restorative justice is to providing direct responsibility of the offender so that he admits his mistakes. This realization is given to offender that his acts were the only reason of this crime and the whole chaos.
4. **Reunification of members of society** The crimes cause division of society members so restorative justice seeks for the reunification of members of society that are disconnected because of the criminal behaviors and acts. As restorative justice not only requires victim and offender to be satisfied but the whole society which carry the effects of offence. So, to rejoin people of society on one path of justice restorative justice plays a crucial role in this regard. Human beings are interconnected so the effect of crime against one person is not just on that person but the whole community to which he interacts.¹⁷
5. **Providing flexibility to community** This principle of restorative justice is a preventive measure for crime that no other offence can be repeated as community become flexible and can make a way to resolve the issue. This resilience is an essential step to pave the way for betterment in society and to avert the major crimes which requires punishment.¹⁸

1.8 Usage of Restorative Justice Programs in Criminal Matters

Growth of restorative justice worldwide, is a prove that the efforts for developing it are greatly based on the traditional justice practices that crime is seen as harm to people. This emphasize that importance of restorative justice in creating a response oof a crime which respects dignity of everyone. It promotes understanding and to make peace by involvement of community, offender and victim, that victim can explain their feelings and needs which were harmed by offender. Offender in this regard explain understand his mistake and take the responsibility of his actions as well as victim can get justice. the involvement of community can lead to betterment with people knowing the crime, causes, improvement for well-being and to easily prevent future crime.¹⁹

1.9 When Restorative Justice Can Be Used

- It depends on law and can be used any time in the justice process.
- If victim and offender are agreed on a decision and there are enough evidences for a charge then restorative process can take place instead of traditional justice system.
- The main point is that both victim and offender should agree on the facts of the case. It doesn't mean that offender just admit his offence in court.
- Any type of difference which may be between the two conflicting parties should be taken into consideration before starting the process like the difference of power and culture.
- The process must contain safety of the involved parties to make sure no one can harm other.²⁰

¹⁷ Teiahsha Bankhead and Rachel V. Brown, "the restorative justice path to healing our communities," *The culture of punishment: a critical approach* no. 41 (2023): 2.

¹⁸ Ramdlany, "Restorative justice in Islamic legal philosophy perspective," 1.

¹⁹ UN ECOSOC, "Basic Principles on the use of Restorative Justice Programs in Criminal Matters," 93.

²⁰ Ibid, 95.



1.10 Working of Restorative Justice Program

The laws by Countries- The laws can be made by countries that could be used for restorative process these laws can be implied if referred cases are brought, what happens after the process, the training of facilitator, the management of program and the ethics for the justice that must be followed.

Fairness must be ensured for both Victim and offender- For the purpose of basic fairness both parties should talk to the lawyer and interpret the results if needed and in this case, minors can take help from their guardian to understand the law. The understanding of rights, process to attain justice and its possible outcome. No enforcement for accepting the outcomes is allowed for restoration process.²¹

Group Meeting- A formal conference can take place between an offender and a victim in which offender would accept and understand their mistake and apologize to victim and for Victim he can define the impact of offender's action on his life and life of other people. Larger number of people can participate as many people may be affected by his action.²²

There can be private discussions and both parties should stay confident until everyone agrees. Agreements can be supervised by courts and they should be considered as legal ruling just like any other system. Afterwards no further prosecution will be taken for the same crime.²³

1.11 Theories on Restorative Justice

Restorative justice contains many theories to clearly understand the meaning of restorative justice and to know the implementation process of restorative justice. There are many techniques for the offender to feel shame and to overcome the moral damage caused by offender. The main focus is to avoid punishments of offender and to re gain their image in front of community. Like the theory of reintegrative shaming contain feeling shame over criminal act not the offender. Emotional changes can help in positivity by resulting in social bonding. Procedural justice results in fairness of the process.²⁴

1.11.1 The theory of Reintegrative shaming

This theory is about taking responsibility of crime committed by a person that if he commits a crime the community should consider his action as wrong and disapprove his bad action, means to shame them. This has to be done for realization, neither he will be punished nor he will commit it again. A person feels guilty of his actions because shame and guilt are linked closely as shame can cause person to feel the guilt which is useful in changing a person overall behavior, but then community have to welcome the person back after the realization of his actions. The main aim of this theory is to improve the behavior of a person and to again make him a part of community. This can only be possible if shame comes from closely related people of offender whom he most cares about. This situation can only happen if a person understands and accept his mistake that what he

²¹ Ibid, 95-96.

²² Brett Grell and Robert Swan, "Restorative Justice| Definition, Examples and Process," *Criminal Justice* (2023): 2.

²³ UN ECOSOC, "Basic Principles on the use of Restorative Justice Programs in Criminal Matters," 94-95.

²⁴ College of Policing, "Theoretical mechanism for restorative justice," Accessed on June 28, 2025, <https://www.college.police.uk/guidance/restorative-justice/appendix-theoretical-mechanisms-restorative-justice>



did wrong. This is theory of restorative justice because in both concepts the major aim is same like it is not about punishing the offender but for healing, learning and to reunite the society.²⁵

Retributive punishment Vs Reintegrative shaming

Furthermore, the theory of reintegrative shaming is totally opposite of retributive theory because reintegrative theory aims to only shame a person and to change his behavior by realization but the retributive punishments focus mainly on suffering from which an offender should undergo. As *Braithwaite says: "crime will never be obstructed without punishment unless people believe they will be caught."* The key point in difference of these two were pain verses change.²⁶

Restorative Justice vs Reintegrative shaming

These two concepts are alike because the bases of both are to make an offender realize their mistakes and not to perform them again. This community engagement for betterment can use the ways like a proper healing circles, reconciliation and conferences which are held on healing and responsibility taking of offender.²⁷ There are three basic components which need to be balanced



Figure showing basic components of restorative Justice

1.11.2 Theory of Procedural Justice

“This theory explains methods which are used by officials that to make sure they are fair in applying law or making decisions. It wants to treat people fairly in the process of application of Law for crime.” It’s not just about getting the right outcome or results that it should contain punishment but it seeks to the methods for the whole process. This is because people are curious about the results as well as the whole procedure. The results may be found and offender is punished or not but the main point to be notice is about the public concern whether the process is fair or not and offender and victim were given equal rights or not. This is the reason for importance of developing trust among community. Public interest mainly rests in the fair treatment in the system for justice and also if the officials show law abiding behaviors. This is the power that state holds for officials. The theory of procedural justice further contains theoretical ideas.²⁸

²⁵ Michael Marotta, “Reintegrative Shaming: The Essence of Restorative Justice? E00715351 CRIM 610: Theories of Criminal Behavior,” (2009): 1-2.

²⁶ Ibid, 3.

²⁷ Ibid, 5.

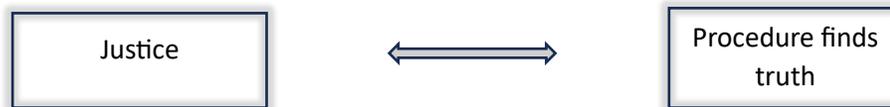
²⁸ Denise Meyerson, Catriona Mackenzie and Therese MacDermott, “Procedural Justice in Law, psychology and philosophy”, *Procedural Justice and Relational Theory: Empirical, Philosophical and Legal Perspective* DOI: 10.4324/9780429317248 (2020): 1-3.



Instrumental view- This is the theory of procedural justice in which the main focus is on the “Outcome” if the outcome is correct the decisions are consider correct. The main goal of it is correct decisions by officials. The illustrations of two people are given in this context the first one is **Dworkin** whose idea is that if there is injustice the outcome must be wrong, so, this can be a sign that outcomes can tell the decisions of the officials.



Other person who presents his idea was **Rawls** who talks about justice that if the results are just and the truth is seen then it can clearly display that procedure takes place in the way that find the truth most of the time.²⁹



Dignity prioritizing View- This theory focuses on the Respect and Dignity of every person taking part in justice process. The goal of this view is to respect the dignity of rational agency (people who perform actions according to the provided information). Here the Example of **Antony Duff** and **Jeremy Waldron** is given who prefer that everyone should be given chance to speak no matter whether the outcome is obvious.³⁰

Relational view- The major type of view in procedural theory is about the social interaction. Every human is a social being so everyone deserves to be respected in the same way. The respect for dignity contains Relationships to be maintained, emotions and identity of person should be protected and given preference over anything else. In this regard fair treatments should base on real life experiences not just by considering the rules.

People judge the fairness of outcome on bases of four key factors such as: Respect (treatment of protecting dignity), being Trustworthy (authority is capable of being trusted), Neutrality (unbiased decision maker), Voice (public is allowed to share their views). If the comparison for Process and result is considered it can be seen that the process matter as much as results. Justice in every case is not just what happens it is how it happens.³¹

Group Value Theory Everyone wants to be felt valued in social groups like their voices should be heard and considered. If the treatment is fair, it is evidence that everyone matters which boots the self-worth of each person in society. That is the reason that procedural justice leads to trust and law-abiding behavior.

²⁹ Ibid, 3.

³⁰ Ibid, 3-4.

³¹ Ibid, 4.



Furthermore, procedural justice motivates people to obey the law and this was done in two ways. Instrumental means (self-interest) that a person obey law to avoid punishments. Normative (moral belief) when a person believe that law is fair and the authority has right to lead then law will be obeyed. Many people believe that fairness should be the reason of obedience to law not just out of the fear. Procedural Justice contains trust and compliance with legal systems so the matter is not just for fairness but also to ensure that people accept the decision of law and follow what was made by legal authorities. Fairness is not a luxury it is essential for legal rulings. Fair trials should be exercised by all powerful sources not just for formal trials. Informal or small disputes also require fairness for conflict resolution.³²

1.11.3 Communitarian theory

Practitioners of Restorative justice says that they work in areas of formal justice system but this system is imagined more than real. Restorative justice program is like outsider within the system so there are two main approaches to deal with these ideas.

Govern mentalists- This approach wants to be the part of justice system that contain works of police and courts which is dependent on government. It focuses on discipline the offenders and it also reduces the states cost. This approach was backed by government and this is the reason it differs from Restorative approach. The main issue regarding it was that it is highly dependent on government and there is great risk of losing its independence by too much alliance with state control.³³ The Governmentalist view is in the theory of Restorative justice because it wants restorative justice to be the part of official justice system. The reason for this addition is to make attraction of their programs in front of judges and officials.

Communitarian- this approach stays independent from other justice systems, which rely on governmental control. Justice is maintained from the processes of community values. Its major purpose is to maintain social justice, fulfill local people's need, and to develop social capital. Unlike governmentalist approach which has state control to facilitate, communitarian approach, try to get support from schools and other community groups. It prefers community to run justice as it believes that the involvement of government or state can reduce their flexibility. It opposes standardization as there is possibility of removing the personal touch.³⁴

New social movement by restorative justice

Social movement is the part of communitarian theory because it shares traits with social movements like environmental movement which involves community for progress. This is idealistic state in which is value driven. It's not hierarchical but loosely organized structured scheme in which public can take part. It gives preference to cultural change rather than political powers. This thought is inspired by nomadic thinking in which nomads challenge dominant norms same as nomadic, Restorative justice can challenge mainstream justice from outside. In social movement some people want to remain indulge in system and consider it as a success and others want to create deep social change by using their marginal position.³⁵

³² Ibid, 4-6.

³³ Woolford and Ratner, "Nomadic Justice? Restorative Justice on the Margins of Law," *Social Justice* 30, no.1 (2003): 177-178.

³⁴ Ibid, 178-179.

³⁵ Ibid, 179-182.



1.12 Historical development of restorative Justice

Restorative justice is an alternation to the traditional justice system which only contain punishment for crime rather than healing or bringing the positivity. Restorative justice system is new in a sense that it brings balanced proportion of decision which aims at making things right. This method is used initially to check whether it works positively or not for this purpose some moments are shared as follows:

1989- New Zealand, first passed the Law for “Children, youth and families Act” which includes the involvement of only conflicting people’s families like a group conferencing where the offender, victim and their families come together to talk to each other and find solution in between them without involvement of third party. This method was known to be the first formal use of restorative justice. Likewise, In *Australia* the same law has been established in this state and began using family group conferencing in different regions of the country.

In Canada the introduction of restorative justice starts from prisoners to make up for their crime and to reconnect themselves to society. In 1996 the Church Council on Justice made a list of community-based programs in which restorative justice idea is attained. Then after its successful implications the Law of commission support restorative justice for more usage of it.

British Columbia (B.C.) Canada-1998 has the ministry of Attorney General that officially contain the Restorative justice framework. This system is not only limited to criminal cases but it can be applied to civil cases. This is the start of the support that government contain for Restorative practices.

1.12.1 From the mid-20th century onwards

In 1950s and 1960s there were always given punishments to people but it cannot fix the problem so the questions were arisen in minds of people that does giving this punishment like locking someone up really fix the problem? These questions played a big role in establishing and promoting Restorative Justice mainly focused in criminal case.³⁶This idea was prevailed due to *Howard Zehr* and *Mark Yantzi* who were the pioneers in the year 1970s and 1980s. They are of the opinion that the main issue is with offender so if they take responsibility and repair the harm they can be relieved from punishment.³⁷

1.12.2 Recognized globally

After the experimental stage from which Restorative justice go through in many countries, restorative justice made its path and remain successful which is the reason that it is supported worldwide. People began to realize that restorative justice is working better than traditional justice system which focuses on punishment system especially for rehabilitation purpose of offender and healing for victim’s side. Many organizations like United Nations agree that it is a valuable and humanitarian supporting system to specially deal with crimes. It further agrees on restoration done by offender that he should be given a chance to make things right which are harmed by his actions. This claim can be proved that restorative justice is used in schools, societies, communities and many times in courts in many countries and it works across different cultures. The UN not only act upon restorative justice but it also offers guidelines for how to use and run restorative justice in country.

³⁶ Priyanshi Purohit, “Comparative Analysis Of Restorative and Retributive Justice Systems,” *Journal of legal Research and Juridical Sciences* 2, no.4(2023): 966.

³⁷ Ibid, 967.



The example of UN is given in this regard because it contains a strong message to all countries that this is valid and trustworthy method. Furthermore, the involvement of this system in schools work as resolving student conflict, preventive measure for bullying and can built a strong community within school system. This is because it uses methods without involvement of police or courts. Like if students are fighting then everyone in the restorative circle talks about the issue and try to fix it rather than suspending a student.³⁸

1.13 Need of Restorative Justice

The way of resolving conflicts in the past is usually by diplomacy and which practice was started in 1800s. As time become advanced so these practices are not enough to resolve modern conflicts. This is because, **Old style of interventions**. These practices are used by powerful countries as they can easily stop violence by using forces. This is not a just mean because the countries which do not have such power will be doomed for not having that much control over people. This is the reason it is not acceptable in the world today. **People under Government are not Passive**. Now people know their values and principles as this is not the time of slavery where people are obedient by force to abide by leaders but people have NGOs and unions which can support them globally and they do not need to obey political leaders without questioning them. **Democracies should not be hated**. If the leaders are unknown and citizens feel humiliated and ignored by punishments they might be influenced by bad leaders who spread hate and are a threat for democracy. As a result, Private negotiations are essential as public talk involve many people in conversation which can cause fights due to difference of opinions. This private talk helps in reducing public shame and works for healing.³⁹

1.14 Traditional Justice System in Pakistan

The Criminal justice system of Pakistan, lacks proper police investigation which is major cause of weak prosecution. Arresting people become random without gathering any evidence. There was delay in FIR which cause crimes to be prevailed in society. The prisons are overcrowded with lack of basic facilities. Offenders are put into prison according to their status rather than their actual crime as a result more criminals are found in prison. Moreover, the protection of witness is a big issue as province has denied the witness protection laws.

1.15 Comparison of Retributive vs. Restorative Justice

Retributive Justice System	Restorative Justice System
This system attains Justice by focusing on punishment for wrong doings. The idea of this system is like “an eye for an eye”. This means that justice is given to victim by punishing offender with penalties equal to the crime committed by him. In this system victim and community are not directly involved. ⁴⁰	Justice is provided to victim without punishing offender in restorative Justice System. Victims are not left aside but are heard and supported on the other hand, the acceptance of responsibility of crime by offender is promoted and victim agreed for amends by offender. Community is directly involved in this system which greatly helps in social healing. ⁴¹

³⁸ Ibid, 967.

³⁹ John Braithwaite, Restorative Justice and Responsive Regulation (Oxford University Press, 2002), 187-188.

⁴⁰ Ibid, 964.

⁴¹ Ibid, 963.



<p>Pay back for criminal is its main focus and the punishment of any crime is equal to the proportion of crime. Punishment=crime. Punishment is given so that repetition of crime can be prevented.⁴²</p>	<p>Repairing harm is its major purpose not to punish offender. It gives voice to a victim and helps them to heal. Offender himself admit harm without forcefully convincing him for acceptance. This is prevention for future wrongdoings rather than just punishing offenders.⁴³</p>
<p>Procedure of retributive justice is based on formal court processes and Laws. Victim is involved for only giving testimony or impact statement not the actual outcome.⁴⁴</p>	<p>Process of restorative justice involves community in the resolution of the matter and to mold the situation according to what is suitable for victim, offender as well as society.⁴⁵</p>
<p>Retributive justice linked with problems like treating people unfairly because of their race and money or putting too many people in prison etc. sometimes it omits root cause of crime and it promote punishment over rehabilitation.⁴⁶</p>	<p>Restorative justice is useful for adjustment of specific form of Criminal behaviors and conflicts when people involved in the crime are willingly participating. The success of this approach depends on method of application, assessments and circumstances depend on every situation. This approach encourages to move forward for more compassionate and efficient way to resolve criminal activity.⁴⁷</p>

1.16 Restorative Justice in Islam

Islam is a religion of peace and tranquility but also suggest punishment for criminals. But it more specifically emphasizes forgiveness over punishment. Through revelation sent by Allah required implementation of justice by Muslims through following the standards and guidelines given by Allah through those revelation. Islam teaches us to not to act with revenge but with forgiveness if the interests of the society and public are not violated. Allah also forgive those who were not given punishment by people if they hold that right. This is because Allah extend forgiveness for the sake of love and respect for Allah so that people will not be indulge in material gains.⁴⁸ Restorative justice is Islam shows that laws can be applied in peaceful manner with regards to maqasid e shariah and the principle of “Islah”.

وَلَكِنْ صَبَرُوا وَعَفِّرَ إِنَّ ذَلِكَ لَمِنْ عَزْمِ الْأُمُورِ⁴⁹

⁴² Ibid, 965.

⁴³ Ibid, 963.

⁴⁴ Ibid, 965.

⁴⁵ Ibid, 963.

⁴⁶ Ibid, 976.

⁴⁷ Ibid, 975.

⁴⁸ Ramiza Wan Muhammad, “Forgiveness and Restorative Justice in Islam and the West,” 290-291.

⁴⁹ Al-Quran, Surah Shoora 42: 43



Those who remain patient and forgive others, these people have great courage to forgive and to resolve conflict.⁵⁰ This verse is about will that if a victim wants to resolve the conflict without giving punishment to offender than he is the courageous person. Restorative justice requires patience from victim party so that affairs of society can run smoothly.

وَجَزَاءُ سَيِّئَةٍ سَيِّئَةٌ مِّثْلُهَا فَمَنْ عَفَا وَأَصْلَحَ فَأَجْرُهُ عَلَى اللَّهِ إِنَّهُ لَا يُحِبُّ الظَّالِمِينَ ٤٥

Allah Almighty gave an opportunity to take recompensation of equal amount of harm but mention that recompensation is best for those who want reward from Allah.⁵² Justice must have to be prevailed but if there is concept of forgiveness then this justice can be given by reconciling loss of victim and offender will not be punished. This type of justice is restorative justice which is clearly mention in Quran.

وَلْيَعْفُوا وَلْيَصْفَحُوا أَلَا تُحِبُّونَ أَنْ يَغْفِرَ اللَّهُ لَكُمْ وَاللَّهُ عَفُورٌ رَحِيمٌ ٥٣

...Allah motivate people to resolve issue by forgiving others and in return Allah will forgive them for their sins.⁵⁴ Allah want people to forgive others and in return Allah will forgive them. This is the biggest reward so Allah wants to make sure that forgiveness should dominate and revenge would be limited.

يَا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ الْحُرُّ بِالْحُرِّ وَالْعَبْدُ بِالْعَبْدِ وَالْأُنثَىٰ بِالْأُنثَىٰ فَمَنْ عَفَىٰ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتِّبَاعٌ بِالْمَعْرُوفِ وَأَدَاءٌ إِلَيْهِ بِإِحْسَانٍ ذَلِكَ تَخْفِيفٌ مِّن رَّبِّكُمْ وَرَحْمَةٌ فَمَنِ اعْتَدَىٰ بَعْدَ ذَلِكَ فَلَهُ عَذَابٌ أَلِيمٌ ١٧٨⁵⁵

“O ye who believe! the law of equality is prescribed to you in cases of murder: the free for the free, the slave for the slave, the woman for the woman. But if any remission is made by the brother of the slain, then grant any reasonable demand, and compensate him with handsome gratitude, this is a concession and a Mercy from your Lord. After this whoever exceeds the limits shall be in grave penalty.”⁵⁶

According to Tafsir of Moududi in His Book Tafheem-ul-Quran, the word Qisas means the return of life for life as in case of murder. It does not mean that the process of killing would be same but the main reason is to maintain equality. There is no matter of clan or rank all people are equal before justice. the value of blood is same for all and require retribution and murderer himself is responsible for paying blood. When Islam was unknown to Arabs, they put higher value of blood for their own clan member like to give more than one life in return or to kill a person of high rank. If murderer belongs to higher class clan, then they judge like forgiveness for murderer or not to take life of him. This inequality is not only limited to the era of ignorance even today this practice is common. The civilized nations openly declare that if one person is killed, they will take life of

⁵⁰ Ali, Abdullah Yusuf, trans. The Holy Quran: English Translation of the meanings and Commentary (Al-Madinah, Saudi Arabia: King Fahd Holy Quran Printing Complex, 1987), 1489-1490.

⁵¹ Al-Quran, surah shoorah 42: 40

⁵² Ali, Yusuf, trans. “The Holy Quran: English Translation,” 1488.

⁵³ Al-Quran, surah An-Nur 24: 22

⁵⁴ Ali, Abdullah Yusuf, trans. “The Holy Quran: English Translation of the meanings and Commentary,” 1009.

⁵⁵ Al-Quran, Surah Baqarah 2: 178

⁵⁶ Ali, Abdullah Yusuf, trans. “The Holy Quran: English Translation of the meanings and Commentary,” 72.



fifty people belonging to the subject nation. That is the reason for revelation of these rules from Allah Almighty in order to guard against these unjust rules.

Brother is used in this verse which softly give favor to offender means whether the conflict between you and offender is big but he still is your brother in humanity. Therefore, if you remain patient and do not show your anger towards offender than it is more appreciable in sight of humanity. From this verse it can be seen in the Islamic Law, whether the offence is as huge as murder it can be solved through conflict resolution agreement. Victims family has a right to forgive murderer and for this case court cannot take action on its own and kill the offender. But as mentioned “*then grant any reasonable demand, and compensate him with handsome gratitude,*” this shows that victim’s loss should be recovered so, in that case blood money should be given to victim.⁵⁷This explanation clearly mentions the use of Restorative justice to conceal the harm caused by offender. The word *ma’ruf* has been used in many places in Quran. It refers to those just and rational rules of conduct which are generally known and accepted by all fair-minded people. The end of the verse says that if heirs retaliate after accepting the ransom, then it will be transgression.

1.17 Conclusion

The overall introduction of restorative justice is that it focuses mainly on healing and doing justice by involving both parties Victim and offender by having interest of community in sight. The procedure of justice contains a proper way which ensure justice to be done in effective manner. Usually, justice procedure does not allow offender to participate but restorative justice provide effective involvement of offender and victim to solve the issue.

Bibliography

- * Haley, John Owen. “Introduction- Beyond Retribution: An Integrated Approach to Restorative Justice.” *Washington University Journal of Law And Policy* 36, no. 1 (2011): 1-3.
- * Shaw-Parker, Ph.D. Ben. "Criminal Justice System: Legal Definition." *Juristopedia*. Accessed February 27, 2025. <https://juristopedia.com/criminal-justice-system-legal-definition/>.
- * Jones, Nicholas A. and Patenaude, Allan L. “The Criminal Justice System, in Pursuing Justice: An Introduction to Justice studies.” ed. Hurlbert, Margot A. Fernwood Publishing (September 2011): 244-245.
- * Abdullah bin Bayyah, Shaykh. “A historical glimpse over criminal laws.” *Islamic Criminal Law*. <https://islamqa.org/?p=29847>.
- * Siegel, Larry J. “Overview of the Criminal Justice System.” in *Criminology*, 7, 185193 (2000): 472-497.
- * OHCHR. *Human Rights and traditional Justice System in Africa*. Human Rights Publications Geneva: Office of Higher Commissioner for Human Rights, July 2016. ISBN: 978-92-1-154216-5: 1-2.
- * O’Mahony, David and Doak, Jonathan. “transitional Justice and Restorative justice.” *international criminal law review* 12, no. 3 (2012): 305-306.
- * Karp, David R. “Restorative Justice.” *Criminal Justice*. Accessed on May 15, 2025.
- * Marshall, T F. “Restorative justice: An overview.” *U.S. Department of Justice*. 1998.
- * Rossner, Meredith. “Restorative justice, anger, and the transformation energy of forgiveness.” *The international Journal of Restorative Justice* 2, no. 3 (2020): 370.

⁵⁷ Syed Abul Ala Maududi, Tafheem-ul-Quran (Lahore: Idara Tarjuman-ul-Quran, 1972), 134-135.



- * Ramdlany, Ahmad Agus. “Restorative justice in Islamic legal philosophy perspective.” *international Journal of Business, economics and Law* 24, no. 2 (2021): 1.
- * Ramizah Wan Muhammad. “Forgiveness and Restorative Justice in Islam and the West: A comparative Analysis.” *Islam and Civilizational Renewal Journal* 11 no.2 (2020): 276.
- * Cole, Daniel and Poortvliet, Kenneth. “Retributive Justice vs. Restorative Justice| Overview and Examples.” *Introductory Business Law*. 21 November 2023. Retributive vs. Restorative Justice | Overview & Examples - Lesson | Study.com.
- * UN ECOSOC. “Basic Principles on the use of Restorative Justice Programs in Criminal Matters.” *Traditional and customary Justice Systems* (2002): 93-94.
- * Bankhead, Teiahsha and Brown, Rachel V. “the restorative justice path to healing our communities.” *The culture of punishment: a critical approach* 1, no. 41 (2023): 2.
- * Grell, Brett and Swan, Robert. “Restorative Justice| Definition, Examples and Process.” *Criminal Justice* (2023): 2.
- * College of Policing. “Appendix A- Theoretical mechanism for restorative justice.” Accessed on June 28, 2025. <https://www.college.police.uk/guidance/restorative-justice/appendix-theoretical-mechanisms-restorative-justice>.
- * Marotta, Michael. “Reintegrative Shaming: The Essence of Restorative Justice? E00715351 CRIM 610: Theories of Criminal Behavior.” Last updated 2009. 1-2.
- * Meyerson, Denise, Mackenzie, Catriona and MacDermott, Therese. “Procedural Justice in Law, psychology and philosophy.” *Procedural Justice and Relational Theory: Empirical, Philosophical and Legal Perspective* (2020): 1-3. DOI: 10.4324/9780429317248.
- * Woolford and Ratner. “Nomadic Justice? Restorative Justice on the Margins of Law.” *Social Justice* 30, no.1 (2003): 177-178.
- * Purohit, Priyanshi. “Comparative Analysis Of Restorative and Retributive Justice Systems.” *Journal of legal Research and Juridical Sciences* 2, no.4(2023): 966.
- * Braithwaite, John. *Restorative Justice and Responsive Regulation*. Oxford University Press, 2002. 187-188.
- * Al-Quran, Surah Shoorā 42: 4.
- * Ali and Yusuf, Abdullah. trans. *The Holy Quran: English Translation of the meanings and Commentary*. Al-Madinah, Saudi Arabia: King Fahd Holy Quran Printing Complex, 1987. 1489-1490. <https://archive.org/details/the-holy-quran-english-transl-abdullah-yusuf-ali-translator/page/852/mode/1up>.
- * Al-Quran, surah shoorā 42: 40
- * Al-Quran, surah An-Nur 24: 22
- * Al-Quran, Surah Baqarah 2: 178
- * Maududi, Syed Abul Ala. *Tafheem-ul-Quran*. Lahore, Pakistan: Idara Tarjuman-ul-Quran, 1972:134-135.