
APPLICABILITY OF RESTORATIVE JUSTICE IN INDIA: AN OVERVIEW

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ABSTRACT

Crime has been inseparable from human society. The relationship of law, society and crime is one that is deeply rooted. But it has been high time to review the ability of the traditional criminal justice system to control the degree of these crimes from taking place or reoccurring. Several studies around the globe show the effectiveness of the restorative justice process to prevent the crimes from reoccurring and provide the victims needs from seeking the satisfaction by various methods like that of taking to the offender and other such measures. Does the current legal system have provisions to repair the harm caused to the victim? Numerous legislations in India denote restorative justice on various occasions, but they do not possess guidelines for this concept. This paper seeks as to why there is an urgent need for the process of restorative justice in the criminal legal system in India and the need for legislative rules and regulations to establish a procedure to facilitate this process.

INTRODUCTION

“For too long the law has centered its attention more on the rights of the Criminal than on the victim of Crime. It is high time, we reversed this trend and put the highest priority on the victims and potential victims.”¹

-Gerard Ford, the former President of USA

Every society needs a criminal justice system which should be stable and balanced to provide an appropriate living condition to its members. The court shall not place an undue emphasis on either the penological or criminological aspects of any of the case. In the administration of criminal justice, it is necessary to strike a balance between the interests of society and the victim. As it is the public interest to ensure that no additional crimes are committed, it makes the assumption that criminology is important. It requires that the accused be given the appropriate sentence based on the nature of the offence, the accused's antecedents, and other factors. It is also critical that the court does not ignore the victim in imposing punishment. The victim's and his family's interests must also be safeguarded. An affected victims of the society generally seeks two kinds of redressal, mostly vengeance and the other is to be restored to the previous state. In circumstances where the latter isn't possible the vengeance is pursued. If the law fails to provide the satisfaction, they desire the victims at times may take on itself this role thereby causing chaos in the society as such. Even if the offender is found guilty, the victim's interests are not guaranteed to be safeguarded. The punishment of the wrongdoer alone will not achieve the goals of justice. The victim's and his dependents' plights play an important role in ensuring adequate justice. They must also be dealt with appropriately.

Victimology and victim's rights become important in this context. In the words of justice Krishna Iyer *“It is the weakness of our jurisprudence that victims of crime and the distress of the dependents of the victim do not attract the attention of law. In fact, the victim reparation is still the vanishing point of our criminal law.”²* However, due to a shift in perspective, victimology and victim rights are progressively making inroads into the criminal justice system. Most common law jurisdictions now provide a charter or declaration of victim rights outlining the rights and obligations of government agencies in their treatment of victims by providing modes of criminal injuries compensation that provide standard amounts of

¹ Message to American Congress by President Gerald R. Ford in 1975. Quoted from Ahmed Siddiqui, *Criminology — Problems and Perspectives*, 4th Edition, Eastern Book Company, P. 504.

² *Rattan Singh v. State of Punjab*, (1979) 4 SCC 719.

compensation for prescribed injuries resulting from an alleged criminal offence; and by allowing victims to present a victim impact statement during sentencing proceedings to detail the harms incurred as a result of the crime.³ This thought of change introduces the concept of Restorative justice and extends to the scope of it.

Restorative justice should be given the equivalent degree of importance as the traditional criminal justice system; it focuses on mediation between the victim, offender and the community involved and providing appropriate sanctions or other redressal assistance, steering to limited recurrence of crimes. Though the process of restorative justice is incorporated in the Juvenile Justice (Care and Protection) Act, 2015, the applicability of these concepts into the cases pertaining to juvenile justice still lacks clarity. Not all cases can be dealt with through the process; this system has to co-exist with the traditional criminal system. Thus, there is a need for the proper legislature to determine the method to distinguish cases. Even if they are distinguished, there is no adequate procedure established to follow. This paper seeks as to why there is an urgent need for the process of restorative justice in the criminal legal system in India and the need for legislative rules and regulations to establish a procedure to facilitate this process. To determine the current restorative justice methods existing in India and the effect of false implementation due to the lack of proper legislation and proper guidelines established. Also, to draw the line in the impact of this new approach when compared with the traditional criminal modes of punishment and to examine the perspective on conciliation which is a form of restorative justice and its future developments.

At the completion of this we hope to find solution as to whether the retributive approach meets the needs and gives a sense of justice in criminal cases in India? Whether conciliation can be used as an effective method of restoring the victim and offender back into society and help in the cases of sexual harassment and does the Indian legal system cater to the requirements for this change?

RESTORATIVE JUSTICE - MEANING

During the 1970s, the concept of restorative justice gained traction in the criminal judicial system. Restorative justice is a balancing approach to criminal justice administration that

³ Tyrone Kirchengast, "The Landscape of Victims' Rights in Australian Homicide Cases-lessons from International Experience", 31 *Oxford Journal of Legal Studies* (2011) pp. 133-163.

ensures the engagement of all stakeholders. Tony Marshall's definition of restorative justice is widely recognized. It states:

*“Restorative justice is a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future.”*⁴

As a result, it is a collaborative endeavor in which the State, the offender, the victim, and all other stakeholders, all play a significant part. The ideals of restorative justice are heavily emphasized in

Holding the criminal to a higher standard of accountability,

Making amends for the harm caused by the offence,

Restoring the victim's and community's sense of well-being,

Reintegration of the offender into society, and so forth.⁵

Restoration is viewed as a method of societal and individual reintegration. In each scenario, outcomes are primarily judged by the satisfaction of the stakeholders. One of the goals of the restorative justice movement is to replace traditional systems of state justice by redefining the word criminal justice. It envisions active victim engagement in the criminal justice system without depriving offenders of safeguards and rights that should be guaranteed to them in any fair trial procedure.⁶

THEORETICAL BACKGROUND

Justice is defined by Black's law dictionary as 'protecting rights and punishing wrongs using fairness'.⁷ Administration of justice is among the most essential functions of a state and it is a necessity in every community. Most of the justice systems around the globe are mainly concentrated on establishing the guilt of offenders and punishing them in the name of justice, fairness, deterrence and safety.⁸ Thus it can be derived that rather than Justice, Justice according to law prevails in current times. But it is common knowledge that surviving victims or their families are neglected during this process of seeking justice. Justice is subjective for

⁴ Tony Marshall, Restorative Justice: *An Overview*, <<http://library.npia.police.uk/docs/homisc/occ-resjus.pdf>>.

⁵ Restorative Justice in India: An Over View, [2012] 2.1 NULJ 1

⁶ Andrew Ashworth, "Responsibilities, Rights and Restorative Justice", 42 Brit. J. Criminol 578(2002).

⁷ *Justice*, Black's law dictionary, (10th ed. 2014)

⁸ Howard Zehr, *Changing Lenses: A New Focus for crime and justice*; 69 (2015)

each party. Victim's perspective differs from the offender's perspective; the community's perspective will not be similar to that of the victim's family. During these circumstances the question arises as whether the law has an obligation to provide justice for each one according to their wishes? Well as said earlier our system is based on proving the offender guilty and does not care about the needs or wishes of the victim. Even though criminal offences are said to be an action against the public as a whole, the bereaved ones are the victims and their families.

Several countries around the globe have recognized an alternative approach to justice called Restorative justice. Though the concept existed earlier it has started gaining popularity for the last forty years. The benefits of a restorative approach have led the United Nations and regional intergovernmental organizations to encourage using restorative practices and to provide guidance for how to incorporate them into the justice system.⁹ It implies repairing the damage that the offender or his criminal actions caused or disclosed to the victim. It is best achieved through the collective cooperative of all the stakeholders. According to Howard Zehr, who is regarded to be a pioneer of modern concept of restorative justice, "It is a method to involve, to the extent feasible, those involved in a particular offense and to jointly recognize and address harms, needs and responsibilities in order to cure and put stuff as right as possible. It is the Conference of the family or group and circles of Peace and Conviction."¹⁰

Restorative justice consists of five indispensable objectives

1. The reaction to the crime should remedy the victim's damage as much as possible;
2. It should be made clear to the perpetrators that their behavior is not acceptable and that it has had some actual implications for the victim and community;
3. The offenders can and should be held responsible for their actions;
4. Victims should have a chance to express their requirements and engage in identifying the best way to create reparation for the offender; and
5. To contribute to this process, the community should also be engaged.¹¹

⁹ ECOSOC (United Nations' Economic and Social Council) Resolution (2000/14 and 2002/12) on the Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters

¹⁰ H. Zehr & A. Gohar, *The Little Book of Restorative Justice*, (2003).

¹¹ S.Z. Amani and Nisha Dewani; *Restorative Justice: A Contrivance of Compensatory Jurisprudence for the Victims of Rape in India*; *Journal of Victimology and Victim Justice* 2(2) 202–214, 2019

Restorative justice is based on self-realization as a way to eradicate crime. It can be argued that justice can be achieved more appropriately through the process of restorative justice than the regular penal system. The emphasis of restorative justice is more on right relationships rather than right rules.¹² The notion of restorative justice derives its basis from the *therapeutic, corrective and preventive* theories of punishment. But in India the restorative justice with certain exceptions here and there like in the case of rehabilitation of juveniles, is more or less redundant.¹³ The reason is that the Indian justice system is keener on punishment of offenders. Thus, the time for a new procedure is a necessity and restorative justice is an ideal alternative. It is true that this system cannot be incorporated into all situations but will be more productive and fruitful in most of the situations in which it can be accommodated. The need of this system and its methods of implementation are a topic that has to be carefully evaluated and studied. And the background of the concept will facilitate to a better understanding of the process.

INTERNATIONAL LAW

Restorative justice is practiced and well-established in countries like New Zealand, Canada, South Africa, France, Australia, etc. These countries provide victim-offender mediation, which provides a better platform and opportunity for the victim and offender to meet. The Ninth Congress, conducted in Cairo in 1995, included several sessions on crime victims and restorative justice. While interest in the topic was strong, presentations during Ancillary Meetings had little effect on the debate during the Committee and Plenary Sessions of the Congress itself. As a result, a group of NGOs participating in the Alliance on Crime Prevention and Criminal Justice (NY) decided to form a Working Party on Restorative Justice. "We believe that the United Nations has a unique opportunity to help shape a new model for criminal justice and crime prevention, one which will serve to restore peace in communities and societies throughout the world." Working Party on Restorative Justice(1998). In 1999, ISPAC (International Scientific and Professional Advisory Council) released An Overview of Restorative Justice Programs and Issues, concluding that guidelines and standards are desperately needed because of three dangers.

¹² Barbara Hudson, Restorative Justice: The Challenge of Sexual and Racial Violence, *Journal of Law and Society* Vol. 25, No. 2 (Jun., 1998), pp. 237-256 (20 pages)

¹³ G.S. Bajpai, *Victim in the Criminal Justice Process: Perspective on Police and Judiciary* (Egully.com, 1997).

That initially, restorative programs recreate the courtroom process and, in turn, undermine rather than cultivate restoration;

That the legal basis for initiating the process can get lost;

That the etiological factors producing crime - poverty, racism, cultural/social values, individualism will not be addressed as they are uncovered in the process.¹⁴

In April 2000, at the Commission on Crime Prevention and Criminal Justice meeting, the governments of Canada and Italy introduced a resolution proposing development of basic principles on the use of restorative justice. Thirty-eight other countries joined as cosponsors and the resolution was approved unanimously and referred to the Economic and Social Council.¹⁵ In July 2000, ECOSOC resolution entitled Basic principles on the use of restorative justice programs in criminal matters requested the Secretary-General to seek comments from Member States and relevant intergovernmental and nongovernmental organizations, as well as institutes of the United Nations Crime Prevention and Criminal Justice Program network, restorative justice programs in criminal matters, including the advisability of developing a new instrument for that purpose. In July 2002, the United Nations Economic and Social Council adopted "Basic Principles on the Use of Restorative Justice Programmers in Criminal Matters" [E/CN.15/2002/5/Add.1] as a guide to encourage member states to implement restorative justice in the operation of their domestic juvenile criminal justice systems.¹⁶

MUNICIPAL LAW

Need for this new mechanism is at need more than ever now, as there is rise in crimes which involve juveniles especially. An initiative has been made thought the provisions of the criminal procedure code 1973. Section 320 of the code has been provided in an effort to incorporate restorative justice into the justice system. In Juvenile Justice (Care and Protection), 2015, Section 18 provides for outcomes which are restorative in nature however no provision explicitly mentions restorative justice in offenses committed by children. Adding

¹⁴ Friday, P. (1999). United Nations Overview of Restorative Justice. Working group of Resource Committee No. 1, Victims, Report on restorative justice issues. International Scientific and Professional Advisory Council (ISPAC) of the United Nations Crime Prevention and Criminal Justice Program

¹⁵ Van Ness, D. (2003). Proposed basic principles on the use of restorative justice: Recognizing the aims and limits of restorative justice In A. von Hirsch, et. al., (Eds.), Restorative justice and criminal justice: Competing or reconcilable paradigms? (pp. 157-176) Oxford: Hart Publishing

¹⁶ United Nations Economic and Social Council 37th plenary meeting, 24 July 2002 E/2002/INF/2/Add.2

provisions in the Act or the Rules could permit restorative justice practices. In IPC, the convictions are limited to fine, death and imprisonment, and it is not victim-oriented. It does not include measures to provide reparation, rehabilitation and 27 restitution and empower victims. There are no measures where offenders should be encouraged and could take responsibility and restore the victim back to their original position. In Protection of Women from Domestic Violence Act, 2005 and Rules contain restorative provisions in nature. There could be services provided for counselling and reconciliation services. It is however observed that practices of restorative justice should be incorporated in various sections of the Code of Criminal Procedure in appropriate cases.¹⁷ These existing laws, both in international and municipal law has only open an opportunity, and the extent to which this concept of restorative justice can be applied and implemented has yet to be determined further studies and analysis.

POSITION IN INDIA

In any civilization, for that matter, informal arrangements to resolve various types of disagreements have always existed in some form or another. Informal settlement procedures in India have their origins in village settlements through panchayat, which allowed parties to a dispute to present their case informally and make decisions based on their local customs and conventions. However, with a few exceptions (for example, the rehabilitation of adolescents), restorative justice is more or less redundant under Indian penal law. The reason for this is that India's criminal justice system is not victim-centered.¹⁸ In India, there is no distinct statute that allows victims to have a say in the criminal court system. Compensation, restitution, and restoration are still uncommon in this country. The main explanation for this could be that the country's procedural law does not allow for many of these practices. In terms of reparation, Sections 357–58 of the Criminal Procedure Code of 1973 have some extremely weak restrictive provisions. The process for obtaining the mandated compensation is far too lengthy to be of any assistance to the sufferer. Since 1860, when the IPC was formed, the amount of fine imposed on the criminal, which is the major source of compensation, has remained unchanged.

¹⁷ SHIVANI SHEKHAR, *Incorporating the Idea of Restorative Justice in Indian Criminal Justice System: Pondering or Contemplating the Possibilities and Challenges*, NLU journal, 2018-19.

¹⁸ G.S. Bajpai, *Victim in the Criminal Justice Process: Perspective on Police and Judiciary* (Egully.com, 1997)

RESTORATIVE JUSTICE: THE SOLE REMEDY?

There are two options for bringing all parties involved in a criminal act onto a single platform. The existing criminal justice system will be replaced with restorative justice, and a system that combines elements of both traditional and restorative justice will be developed. Restorative justice provides an alternate framework for thinking about wrongdoing, but it is insufficient to sustain law and order while also addressing the complex issues surrounding crime.¹⁹ So, for the time being, we'll need a combination of both unless and until society has progressed to the point where they can be involved in key criminal justice issues. This is especially true in the underdeveloped and emerging communities of countries where victim blaming is still prevalent. People's mindsets cannot be changed quickly, and this will necessitate changes in both the society and educational systems. Until that time comes, it is more proper to act in the best interests of society and the victim as a whole. As a result, it is not a substitute for prison and can be used in conjunction with a prison term. Restorative justice isn't simply about forgiveness or reconciliation, either. It provides a setting in which either or all of these things could occur. Primarily, it is fully up to the participants to choose which of the numerous possibilities they want to pursue without any form of coercion or pressure. We keep the following articles of international law in mind when it comes to using the restorative justice system alongside the standard criminal justice system. According to Article 6(2) of the International Covenant on Civil and Political Rights, the death sentence can only be applied for the most serious offences and only after a definitive verdict by a competent court. Nothing in Article 6(6) of the same treaty shall be cited to delay or impede the abolition of capital penalty by any State Party to the current Covenant, but Article 7 stipulates that no one should be subjected to torture or to cruel, barbaric, or degrading treatment or punishment.

TOWARDS RESTORATIVE JUSTICE?

The juvenile justice system eventually relegates victims, criminals, and their families to a passive role or excludes them entirely due to its defective structure and intrinsically problematic core concepts.²⁰ It ignores the shame attached to the child's family as a result of the label of sexual violence, as well as the family's ability to serve as a rehabilitative agent.

¹⁹ Howard Zehr, *The little book of restorative justice*. Available at: <https://books.google.co.in>

²⁰ Chris Cunneen & Rob White, *Masculinity and Juvenile Justice*, 29 *The Australian and New Zealand Journal of Criminology* 69 (1996), 71.

Current therapy procedures are particularly problematic in that victims cannot expect any recompense or even acknowledgement from offenders (even after they have been freed), and the offender, on the other hand, has no way to make amends to the victim.²¹ Furthermore, in establishing treatment plans, mental health specialists' opinions are given precedence over those of offenders and family members, and the community is expected to rebound with perpetrators without addressing the fear and fury produced by their actions.²² The restorative justice approach is a procedure "in which the parties having a stake in a particular offence come together to collaboratively agree how to deal with the offence's aftermath and future ramifications."²³

Victim offender mediation, family group conferencing or community conferencing, which is a larger meeting between victims, offenders, family members, and peers, and 'peacemaking circles,' which are employed in indigenous contexts, are all common restorative methods. Though they are not intended to totally replace the regular criminal process, they can be used as a pre-trial or parallel dispute resolution method, as well as a post-conviction procedure. As a result, the restorative process allows the victim to not only repair the physical harm inflicted by the crime but also to get symbolic compensation through mediation with the offender.²⁴ The victim's ability to accept or reject an apology from the offender helps to their re-empowerment. Through the offender's confession of their act and the emotional harm caused to the victim, she has a chance to be released of the wrath and bitterness produced by the crime.²⁵

Restorative justice opponents claim that it could lead to the "erasure of victimization" and a reduction in formal justice choices. Offenders and their family may also try to dominate the victim during the procedure, especially if the victim and the criminal are related. As a result, the victim may be re-victimized. However, a considerable proportion of complainants are already becoming antagonistic in the current system, particularly in situations of child sexual assault. This is due in part to the trial's length and the fact that the bulk of the perpetrators are known to the victim. Hence, they face internal psychological pressure as well as external

²¹ *Rattan Singh v. State of Punjab*, (1979) 4 SCC 719.

²² Mary P. Koss et al., *Disposition and Treatment of Juvenile Sex Offenders from the Perspective of Restorative Justice in the Juvenile Sex Offender* 338 (Howard E. Barbaree & William L. Marshall (ed.), 2nd ed., 2006)

²³ Tony F. Marshall, *Restorative Justice: An Overview* (1999).

²⁴ Kathleen Daly & Julie Stubbs, *Feminist engagement with restorative justice*, 10 THEORETICAL CRIMINOLOGY 9 (2006), 17.

²⁵ Jean Hampton, *Correcting harms versus righting wrongs: the goal of retribution*, 39 UCLA L. REV 1959-1702 (1992).

influence to exonerate the perpetrators. If the state implements a systemic restorative justice framework, it will be a step forward from the current situation in that survivors will be able to seek remedies without fear of being labelled "hostile" or "false witness" and facing prosecution. Furthermore, the presence of trained mediators can arguably ensure that the offender appropriately expresses remorse to the victim and is compelled to undergo additional sanctions or counselling, as opposed to the current scenario, where the mediation is at the behest of relatives or community leaders, takes place in a largely uncontrolled setting, and may result in monetary compensation without providing any psychological closure to the victim or ensuring deterrence on the part of the offender, as opposed to the current scenario, where the mediation. It could be argued that this approach minimizes the importance of victim revenge. Retributive and restorative justice, on the other hand, do not have to be considered as mutually exclusive. Jean Hampton argues that retributive punishment is not the same as a 'revenge' response.²⁶ The aim is not to denigrate the offender's worth but to vindicate the victim.²⁷ It's vital to remember that the apologies of the perpetrator isn't the primary purpose of the restorative process. There will inevitably be victims who refuse to forgive or reconcile, as well as perpetrators who fail to feel sorrow for their acts. What matters is that the victim be given the opportunity to present her side of the tale. It's also important to remember that the apology is only the first step in the restorative process. It is critical for conferences to impose sanctions on the offender and to guarantee that apologies are carefully considered.²⁸

The meeting must be part of a larger multi-systemic strategy for developing particular treatment plans for sexual offenders. The benefit of this strategy is that community participation can result in more personalized and successful strategies than those created by certified mental health experts. Instead of generic 'community service' measures, such a strategy for sexual offenders might include gender equality counselling, participation in courses, and particular mandated volunteering with NGO's supporting sexual harassment victims. For juvenile offenders, such a technique must also allow for the investigation and building of alternative masculine identities. Restorative justice can be used in all cases of sexual offending by children of any age, and is not limited to false dichotomies of 'heinous' crimes committed by sixteen- to eighteen-year-old. The lack of formal victimization surveys

²⁶ Jean Hampton, *Punishment, Feminism, and Political Identity: A Case Study in the Expressive Meaning of the Law*, 11 CAN J.L. AND JURISPRUDENCE 23 (1998).

²⁷ Kathleen Daly, *Restorative justice: the real story*, 4(1) PUNISHMENT AND SOCIETY 55-79(2002).

²⁸ Barbara Hudson, *Restorative Justice and Gendered Violence: Diversion or Effective Justice?* 42 The British Journal of Criminology 616 (2002), 624-26.

in India, which can enquire into victims' expectations and disappointments with the criminal justice system, is a key impediment to applying this technique.²⁹ As part of creating awareness, a feminist legal method would ask women to discuss their experiences with the formal trial system and how they have been empowered or disadvantaged by it. According to surveys conducted in the United Kingdom, the United States, and New Zealand, the majority of victims want the chance to confront their criminals and seek reparation, or to negotiate an arrangement even if there is no direct encounter.³⁰ It is thus, necessary to evaluate whether sexual assault survivors in an Indian context would prefer such a remedy either as an alternative or a parallel proceeding to the criminal trial. In the interim, it can be explored as a post-conviction process for victims who are dissatisfied with formal criminal sanctions and juvenile offenders as part of the reformation process.

CONCLUSION

It is high time that the spirit of restorative justice is to be carried further to develop a parallel and effective remedy by a separate legislation under which the victim should be able to seek compensation before a court of law irrespective of whether the accused is convicted or not.³¹ In addition, the legislation must give resources to satisfy the needs of victims. It is also preferable to retain a portion of the criminal's prison salary for the benefit of the victim of the crime committed by him. The potential of an Insurance Scheme similar to Public Liability Insurance can also be investigated, as it is the State's bounden obligation to protect every individual's life and liberty, and in the event of a failure to do so satisfactorily, to recompense the victim and his dependents. This type of legal change could make a significant difference in the victim's case. Any new legislation should reflect the goals of the victim rights movement. Though it has questionable benefits and demerits, the legislature could have attempted to add elements of reparation in the light of decreasing number of convictions.³² The new modification to the Criminal Procedure Code is unacceptable and should be changed in light of the new criminal justice system's viewpoint and a new set of international

²⁹ Non-governmental organizations have conducted regional surveys. However, there is no official nation-wide victimization survey. See Commonwealth Human Rights Initiative, Crime Victimization and Public Perception : A Public Survey of Delhi and Mumbai, http://www.humanrightsinitiative.org/download/1461662128Crime%20Victimisation_Soft%20File_distribution.pdf

³⁰ Mary P. Koss et al., *Disposition and Treatment of Juvenile Sex Offenders from the Perspective of Restorative Justice in the Juvenile Sex Offender* 338 (Howard E. Barbaree & William L. Marshall (ed.), 2nd ed., 2006).

³¹ Action civile under Arts. 2, 3, 85, 86, 89, 90, 91, 114 to 121, etc. of French Criminal Procedure Code, 1957

³² Andrew Ashworth, "Responsibilities, Rights and Restorative Justice", 42 Brit. J. Criminol 578(2002).

principles. Instead of piecemeal legislation, the state should implement a comprehensive plan that balances the rights of both the victim and the guilty. As a result, it looks at the crime's impact on victims and others who are directly affected, rather than only looking at it as a crime against the state.

Restorative justice has been offered as an alternative to conventional criminal prosecutions, as it satisfies both the need for a system that accommodates for adolescent offenders' lack of psychosocial maturity and victims' lack of agency. Restorative justice isn't a flawless answer, to be sure. It will take enough resources to ensure that a system can be built with the essential safeguards to allow for community conferencing and mediation. In such circumstances, power dynamics could potentially bias outcomes in favor of offenders. Despite these flaws, the restorative justice process offers the victim the agency to tell her own story, free of the limits imposed by a formal adversarial trial. Because the majority of sexual assault cases are perpetrated by friends or family members, victims may prefer a restorative approach to punitive measures. Clearly, if such an approach were to be adopted, simply admitting guilt and apologizing would not suffice, and offenders would be compelled to receive customized treatment and explore alternative constructs of masculinity in conjunction with the community and other stakeholders. This would help to lower the recidivism rate after release. For the time being, this paper has proposed using restorative justice in the context of post-conviction strategies. Greater empirical research and case studies on adolescent sex offenders, their origins, and post-release trajectories, including recidivism, would be required for the establishment of a large-scale restorative justice system that allows victims to commence proceedings at any stage of the trial. It would also necessitate conducting national victimization surveys, research into the potential for a slippery slope in allowing non-adversarial settlements of sexual offence cases, restorative justice preliminary trials at various stages of the criminal process, and training for counselors and mediators. Despite the seeming practical difficulties, such an experiment is unavoidably beneficial in terms of building alternatives to current carceral criminal justice practices.