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## Introduction of restorative justice practices in criminal justice system: An overview

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### Abstract

Conventional criminal justice systems focus largely on applying the law, assessing guilt and administering punishment. But with the passage of time, the conventional criminal justice system transformed to restorative justice model, whereby all parties with a stake in a specific offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future. It reflects a more relational theory of justice because it emphasizes the restoration of respect, equality, and dignity to the relationships affected by wrongdoing. Restorative justice practices intended to compensate the victim for their loss, to fix the causes of the offender's crime, and to reassure society that the offender has been healed and is no longer a threat to society. Restorative justice views crime as more than simply a violation of the law. It violates human relationships and injures victims, communities, and even offenders. Each party is hurt in different ways, and each has different needs that must be met in order for healing to begin. An often-overlooked result of crime is that the victim and offender have a relationship—they have a painfully negative experience in common. Left unresolved, that hostile relationship negatively affects the welfare of both.

Justice requires restoration for victims, offenders, and communities affected by crime. To promote healing, society must respond to the needs of victimized parties as well as to the responsibilities of offenders.

**Keywords:** Restorative justice, victim-offender reconciliation, offenders' accountability, victim compensation, reformation of the accused, reintegration of the society

### Introduction

Crime, the intentional commission of an act usually deemed socially harmful or dangerous and specifically defined, prohibited and punishable under the criminal law. Most criminal justice systems view crime as an offense against both the individual and the community. Basically, Crime occurs when people inflict harm on one another and violate their relationships. People who are expected to live in peace and tranquillity within the community break those implicit promises and commit acts that harm the social justice guaranteed to us by the Constitution of India. Conventional criminal justice systems focus largely on applying the law, assessing guilt and administering punishment. Certain acts are classified as 'crimes' because they are considered to be offences against society at large, not just against individual victims. They are thought of as public wrongdoings rather than private and, accordingly, criminal justice systems respond on behalf of society as a whole. Conventional justice responses to crime tend to focus on punishment, deterrence, denunciation, retribution, and community safety for breaches of the law, considerations which have to be balanced by the court in the process of sentencing.

The dominant form of criminal justice system where State is given the primacy, the victims' involvement or satisfaction is not given much weightage. But with the passage of time, the conventional criminal justice system transformed to "restorative justice" model which involves four parties *viz.* the "victim", the "offender", the "society" as well as the "government". Restorative justice is a wide word that encompasses a variety of initiatives. But there is no consensus on a specific definition of "restorative justice". It can be a process whereby all parties with a stake in a specific offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future.

Restorative justice refers to a way of responding to crime, or to other types of wrongdoing, injustice or conflict, that focuses primarily on repairing the damage caused by the wrongful action and restoring, insofar as possible, the well-being of all those involved. It reflects a more relational theory of justice because it emphasizes the restoration of respect, equality, and dignity to the relationships affected by wrongdoing. Restorative justice is called 'restorative'

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because it employs restorative processes, that is, processes that restore agency, ownership and decision-making power to those directly affected by the harmful event - victims, offenders, their supporters and the wider community. Rather than deferring all responsibility to the state or to legal professionals, it aims to engage the immediate participants in resolving the harm.

#### **There are five R's that the methods of restorative justice should work on**

- Relationship.
- Respect.
- Responsibility.
- Repair.
- Reintegration.

Some examples of techniques used to restore justice are restitution, community service and victim-offender reconciliation. Restorative justice practices intended to compensate the victim for their loss, to fix the causes of the offender's crime, and to reassure society that the offender has been reformed. Restoration is future oriented because it is concerned with resolving the problem created by the offender's acts in the future. As a result of the procedure, the criminal has been healed and is no longer a menace to society. Offenders' experiences with the restorative justice practices, such as realizing the harm they caused, actively engaging in the process, and communicating with victims, may have significant impact on decreased subsequent offending. Restorative justice reduces criminal behaviour by holding the offenders accountable for their behaviour and trying to show them the impact their crime has had on society. To reduce recidivism rates, restorative justice aims to reduce criminal and anti-social behaviour and increase pro-social behaviour, ie; the voluntary behaviour intended to benefit another.

While acknowledging the harm to victim/s is crucial, accountability also means assuming responsibility for addressing the consequences of one's actions. When the criminal justice system holds someone accountable, this means ensuring they get the punishment they deserve, irrespective of whether they accept personal responsibility for what happened. In restorative justice, accountability has a much more demanding character. It requires three things of offenders: an acceptance of personal blame for inflicting harm; a willingness to witness first-hand the consequences of their actions on the lives of those they hurt; and an assumption of active responsibility for doing all they can to put things right again.

Restorative justice views crime as more than simply a violation of the law. It violates human relationships and injures victims, communities, and even offenders. Each party is hurt in different ways, and each has different needs that must be met in order for healing to begin. An often-overlooked result of crime is that the victim and offender have a relationship-they have a painfully negative experience in common. Left unresolved, that hostile relationship negatively affects the welfare of both. Justice requires restoration for victims, offenders, and communities affected by crime. To promote healing, society must respond to the needs of victimized parties as well as to the responsibilities of offenders. Victim compensation schemes also play a crucial role in restorative justice, providing means of redress to victims and promoting accountability for offenders.

#### **Objectives**

“We believe that to break the cycle of re-offending, we need to work out measures including rehabilitation programmes and support to the offenders and even their families.”

Report of the Committee on Reforms of Criminal Justice System <sup>[1]</sup>.

According to Howard Zehr, often-considered founding father of the concept of restorative justice, there are three major objectives of the system of restorative justice.

- To put the power to decide on the people "most affected" by the crime.
- To "repair" the harm caused because of the crime.
- To rehabilitate the offender.

One characteristic feature of his theory is that the process is not limited to the victim, but includes all who are most affected by the crime <sup>[2]</sup>. A very important objective of any restorative model is to repair the consequences of the crime. In this direction victims' rehabilitation holds a great significance. But sadly, this has not been a major focus of the traditional criminal justice system which only believes in retribution as a method of prevention of crimes. A very important aspect of rehabilitation is the compensation (in monetary terms) which is to be granted to the victim <sup>[3]</sup>.

The nature and purpose of restorative justice is to restore the victim's interest. Participation of the victim in the settlement process is encouraged in restorative justice. It is a voluntary process of negotiation and collaboration between the offender and the victim, either directly or indirectly. According to the Gujarat High Court, in the realm of victimology, this decision is one step toward fulfilling the design and desideratum of restorative justice for victims of crime <sup>[4]</sup>.

#### **Advantages**

“We brought the needle to sew the torn social fabric, not the knife to cut it” - Bantu proverb.

Restorative justice provides a large number of advantages in comparison to the adjudicatory processes. They are.

- Speedy disposal.
- Cost effectiveness.
- Maintenance of good relationship.
- Chances of continuity of relationship.
- Less formality.
- More compliance.

Restorative justice is an approach to crime that focuses on trying to repair the harm that it has caused by involving those who have been affected. It understands crime not only as a legal infraction that requires public condemnation, but also as an injury to real people and relationships that needs healing. Those caught up in the event are left with a range of physical, emotional, psychological, spiritual and material needs, and these so-called 'justice needs' have to be addressed if they are to feel that justice has been served.

Although it has been realised and recognised by many authorities that restorative justice is not a viable option for all, it most definitely is an approach that needs to be more widely implemented into the justice system. There are many reasons as to why restorative justice should be administered more; and most of these benefits can be broadly categorised as the advantages awarded to the offender, as well as the victim <sup>[5]</sup>.

#### **Methods/ways of restorative justice system**

The methods of restorative justice aim to restore the

individual from a criminal to a law-abiding citizen. Not only it is used to help convicted criminals, but it also helps victims come to terms with what happened to them. Restorative justice system allows victims to meet the offender in a safe environment and come to terms with what happened, providing closure and the opportunity to question the criminal on why they committed the crimes. Usually, the offender apologizes during this, which can also help victims.

The victim-offender mediation programmes were among the initial restorative justice methods in the 1970s. The victims can tell a criminal how the crime has affected them, and it can be empowering for many to ask the person why he/she did it. Offenders can reveal the reason what incited them and have an opportunity to compensate the victim. While releasing a person under probation, this process could be incorporated and reparation made. These efforts are centred on resolving the victim's/aggrieved party's harm, involving all parties affected by the crime or civil wrong, empowering victims, and facilitating dialogue among various stakeholders. In different parts of the world, people started using restorative justice system within criminal Justice System in different ways, such as.

- Plea bargaining.
- Victim-offender mediation.
- Conferencing.
- Circles.
- Out of court settlement.

Benefits obtained by such processes in other jurisdictions have compelled our legislature to use it within the Indian Criminal Justice System. The result of such incorporation of different processes within criminal justice is emergence of 'Plea Bargaining' within criminal procedure. Moreover, since the beginning of the criminal procedure in India there were provisions which could have been instrumental for using restorative justice within CJS such as compounding of offence, withdrawing from prosecution etc. Thus, the study shows that out of court settlement within criminal justice system was not alien in India.

Where restorative justice intersects with criminal justice institutions, legislative and financial provisions are vital to ensure its accessibility and availability. Legislative recognition not only enhances credibility and trust in restorative justice, it can also contribute to a more systematic implementation. Quality of practice cannot, however, be legislated, but must emerge from the practitioner community itself, informed by evidence and responsive to the cultural context. It is important, moreover, that legal preconditions and severity of offence do not restrict the type of cases that are eligible for restorative justice.

### Provisions in international documents

We have various international documents dealing with provisions of restorative justice, like: United Nations Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (2002), Economic and Social Council Resolution 2002/12, preamble, the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1989), The Doha Declaration, 2015, the European Union Victims' Rights Directive (2012), the Convention on the Rights of the Child, 1989 etc.

The UN General Assembly Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power constituted an important recognition of the

need to set norms and minimum standards in international law for the protection of Victims of crime<sup>[6]</sup>. The UN Declaration recognised four major components of the rights of Victims of crime- Access to justice and fair treatment<sup>[7]</sup>, Restitution<sup>[8]</sup>, Compensation<sup>[9]</sup> and Assistance<sup>[10]</sup>. This declaration is the magna carta of the rights of Victims globally.

Various treaties demand that Member States treat victims fairly and respectfully by providing them with information, consulting them at appropriate phases of the criminal justice process, ensuring victim participation, and ensuring their safety<sup>[11]</sup>. However, there is, nevertheless, substantial evidence that Member States have only partially implemented them<sup>[12]</sup>.

### Application in different countries

The limitations and shortcomings of conventional criminal justice have led to a relook and re-examination of the relationships between offenders, victims and the State in criminal cases. The idea of restorative justice has moved in many countries to the forefront of public discourse concerning crime and criminal justice. At the international level, a number of countries have adopted this practice by way of Acts like: in South Africa: The Child Justice Act, 2008, in USA: The Crime Victims' Rights Act, 2004, in Australia: Crimes (Restorative Justice) Act, 2004, in UK: Domestic violence, Crime and Victims Act, 2004, in EU Irish Law: Criminal Justice (Victims of Crime) Act, 2017 etc.

By looking into the practice of countries, like: UK, USA, Australia, Canada, Wales, New Zealand, Japan and Germany which have already introduced the restorative justice, it can be seen that, the offenders who participated in the restorative justice programmes committed significantly fewer offences later. The various countries, like: UK, New Zealand, etc. have introduced practice standards also relating to the use of restorative justice in the criminal justice process. The statistical data shows that restorative justice positively affects satisfaction levels of both victims and offenders, with notably higher rates compared to conventional court proceedings. According to the Restorative Justice Council, 85 per cent of victims who have been through restorative justice were satisfied with the process. By contrast, only 33 per cent of victims felt that conventional criminal justice met their needs<sup>[13]</sup>. These findings suggest that restorative justice, if well administered, is consistent with the public interest.

Numerous studies have indicated that restorative justice contributes to reducing recidivism among offenders. In their evaluation of three restorative justice schemes in England and Wales, (2008) found that those offenders who participated in restorative justice committed significantly fewer offences in the following two years than offenders in the control group. Offenders' experiences with this practice, such as realizing the harm they caused, actively engaging in the process, and communicating with victims, had a significant impact on decreased subsequent offending. The New Zealand Ministry of Justice Reoffending Analysis for Restorative Justice Cases 2008-2016 showed that the reoffending rate for adult offenders who participated in restorative justice was lower than comparable offenders including violence and property related offences.

### Position in India

When looking into the situation in India, as was the case with the traditional model, in restorative justice practices also the concerns and needs of the victim is dwarfed by that of the

society and the government. Although a role is provided to the victim or his/her representative, but a greater role is provided to the other parties leaving the victim with a sense of deep injustice. In India, we haven't any such comprehensive legislation and practice standards to regulate the restorative justice system as prevails in other countries even though in the new criminal code, ie; Bharatiya Nyaya Sanhitha, 2023 community service has been added as a form of punishment which can help in reforming offenders and reducing overcrowding in prisons.

In addition to the conflict resolution benefits, restorative approaches have been shown to develop people's social and emotional competencies, such as increased empathy, improved self-discipline and more responsible decision-making. It empowers the people most affected by the crime to make decisions and repairing the harm caused by it. These benefits contribute to pupils' personal, social and moral development. By bringing together the victims, offenders, families and other key stakeholders in a variety of settings, restorative justice helps offenders understand the implications of their actions and provides an opportunity for them to become reconnected to the community.

The criminal justice system in India is also somewhere afflicted with the problem of lack of effective victim involvement. The techniques used may cause harm to victims who have done no harm, it may be distressing for them. However, the victim is always asked beforehand if they wish to partake. Although the criminal procedural laws in India do not specifically mention the principle of restorative justice, some provisions of such laws provide some features of this model. Further, many of such provisions were not part of the original laws.

### **The conventional criminal justice system mainly poses three questions, like**

- Which law has been broken?
- Who broke the law? And
- What punishment do they deserve.

### **But from a restorative point of view different set of question is asked like**

- Who has been hurt?
- What are their needs?
- Whose obligation is these.

That is, the conventional system focuses on punishing the offenders for their crimes, while restorative justice is a system that focuses on rehabilitating the offenders in order to prevent them from committing future crimes. The present resent criminal justice system, by punishing the criminals just because they have acted inappropriately does not address any underlying issues that may have led to the crimes in the first place. Some offenders need treatment rather than punishment; without treatment, the cycle of crime will continue unabated.

The restorative justice system is distinguished by the presence of humanity as well as accountability. In creative restitution, the offender is required to find ways to make amends to the victims of his actions and to walk a second mile with other offenders. Not only is the offender held accountable to those he has harmed, but he is also obligated to change the other offenders. It aims to compensate victims for their losses by attending to their needs, as well as to address the concerns of the offender, who is given the opportunity to reform himself and reintegrate into society.

### **Legislative framework**

The Code of Criminal Procedure 1973 has some rules that are based on restorative justice. Because of this, the victim and the people who harmed him/her are encouraged to come to an agreement. The concerned provisions in CrPC can be seen in the following areas:

#### **Plea Bargaining**

The Sections from 265A-265L of the Code of Criminal Procedure, 1973 contain provisions for Plea Bargaining. As a result, the prosecution saves time that would have been spent proving those charges, and both the victim and the offender avoid the court's sluggish process. The other advantage is that the offender will receive a lenient sentence if he/she admits guilt, whereas in other cases, the offender would have faced the punishment after proving the charges in a lengthy trial.

#### **Compoundable offence**

Section 320 of the Code of Criminal Procedure 1973 allows for the compounding of an offence. It is applicable only to the offences listed in the section. The Code makes the section applicable to a broad range of offences (Carrying a maximum sentence of seven years imprisonment), but excludes socioeconomic offences and offences related to women and children.

#### **Compensation**

It provides for a court order requiring the victim to be compensated. It states that when a court imposes a fine as the prescribed punishment for a particular offence, the court may order that the fine be paid to the victim to cover prosecution costs or as compensation for the victim's loss as a result of the offence. Compensation can be paid for both property crimes and crimes against the human body. Again, pursuant to Section 357A of the Code of Criminal Procedure 1973, each State Government, in consultation with the Central Government, shall develop a scheme providing funds for compensation to the victims or to their dependents who have suffered loss or injury as a result of a crime and require rehabilitation.

#### **Probation**

Section 360 of the Code of Criminal Procedure, 1973 empowers the court to order the release of an offender on probation after he or she demonstrates good behaviour or after being admonished and directed to maintain good behaviour.

Besides the above-mentioned provisions in CrPC, there also related provisions dealing with restorative justice in Probation of Offenders Act, 1958 and Juvenile Justice (Care and Protection of Children) Act, 2015. According to Probation of Offenders Act, the Court directing the release of an offender may also order compensation for loss or injury caused and for such costs <sup>[14]</sup>. The Act also mentions that, if the age of the accused is below 21 years, the Court shall not sentence him/her to imprisonment <sup>[15]</sup>. According to the Juvenile Justice Act, the Juvenile Justice Board can direct the juvenile to participate in group counselling and order the child to perform community services like: maintaining a park, serving elderly, serving at local hospital, serving disabled children, serving as traffic volunteers, etc. <sup>[16]</sup>.

#### **Scope of application**

In the adversarial model, a major focus during the trial remains on trying to prove one's innocence. So, the natural



inclination is to deny, until the very end. There is just no incentive for the offender to come clean and say, "I actually did this." This is also reflected in the few cases of plea-bargaining which was introduced with the hope that it would lead to reduction in undertrials in prisons. It still continues to remain at around 65 per cent since the last decade. There is also a belief that even if not proved guilty, let the person spend some time in prison as an undertrial. The miscarriage of justice is seen in the cases of those wrongfully convicted<sup>[17]</sup>.

The scope of the restorative justice system includes empowering the people most affected by the crime to make decisions, repairing the harm caused by the crime and rehabilitating the offender. It can resolve conflicts and prevent them becoming crimes. This practice allows people to see the consequences of their actions on the community. But some people may conceive this principle as applicable only to minor offences. Again, practice has shown that there may be even more to gain by working in this way with serious crimes, especially in terms of victim benefits, but also in terms of prevention. Too often, the victim's and the offender's status have not been carefully assessed or their needs have not undergone a comprehensive analysis. Also, there was a distinct lack of awareness of what restorative justice is and the availability of the service.

According to Howard Zehr, there are three main pillars to the approach. These pillars are based on the idea that crime is essentially the violation of people and interpersonal skills, and to correct a crime, is to correct the wrong done to these relations. The above mentioned three pillars are as follows.

- Harms and needs.
- Obligation.
- Engagement of stakeholder.

The first pillar looks into what was the harm done to the victim, alongside the consideration of harm that could have been inflicted on the offender that has caused them to commit the crime. The judicial, social and other relevant needs of all the parties are taken into account and they are not seen only as the parties to the said incident, but as individual beings, that have a past and a future.

Restorative justice has been widely and wrongfully understood as the mere forgiveness of the offender. However, the second pillar establishes that there is much more to it. A party that has committed the crime is allowed to analyze the harm they have caused, and further allows them to be accountable and take responsibility for their actions. Thus, it should be noted that restorative justice does not begin and end with a mere apology, but rather extends to the actions and obligations taken up to fulfill that apology.

The third pillar allows all affected parties to be involved in the process of attaining justice. It rightly allows family members, loved ones and members of the society to gain closure and knowledge of the incident, allowing the society to progress with compassion and bridge gaps in hurt relations<sup>[18]</sup>.

## Outcomes of restorative justice

### Restitution

The most widely seen outcome of restoration is restitution, because the most obvious way to hold offenders responsible for the injuries they cause is for them to make restitution to the victims. A court restitution order usually requires offenders to pay the fair market value of the loss to the victims. They make scheduled payments, usually collected by

a criminal justice agency such as a probation department, to be disbursed to victims.

While restitution provides an avenue for the recovery of losses, its real importance lies in the acknowledgment of the wrong and a statement of responsibility. Restitution also helps offenders to confront their guilt in a constructive way, and it helps the community by placing fewer nonviolent offenders behind bars. Advocates of restitution suggest that it results in lower rates of recidivism (A tendency toward chronic criminal behaviour) among offenders.

### Community service

Another output of restorative justice is community service, which is used as a means of repairing damage to the community. Court-ordered community service requires an offender to perform a specific number of hours of free work for a charitable agency, nonprofit organization, or governmental agency, and it can be ordered as a condition of probation or as an alternative to incarceration. Generally, a nonviolent offender is assigned to community service, and careful screening must occur to ensure that the offender is appropriate for the site-and vice versa-and to ensure public safety.

The benefits of community service are very similar to those of restitution. It can help to change an offender's values. For many, successful completion of a community service court order represents the first time they have done something, over an extended period of time, that contributed to society in a positive way. While community service does not address the needs of a specific victim, it gives offenders the opportunity to repay the community at large. In addition, the necessary monitoring and supervision associated with community service is often less expensive than incarceration.

### Victim-offender reconciliation

Victim-offender reconciliation is also an important outcome of restorative justice. The victim and the offender discuss the crime and the harm it caused. Often, with the aid of a specially trained mediator, the victim and the offender develop a course of action that allows the offender to right the wrong caused by the crime. While victim-offender reconciliation is most common to cases involving nonviolent crime, it has been and can be used successfully in cases of serious and violent crime, provided that adequate screening and preparation of the victim and offender occur.

Victims value reconciliation meetings because they provide a forum for confronting the offender in a structured and monitored way to detail the impact that the crime had on their lives. In addition, many victims have unanswered questions that were not addressed by the court process. They can put these questions directly to the offender. Victims report that reconciliation meetings were helpful in allowing them to gain closure. They report that the meetings "humanize" the criminal justice system, and they experience a reduced fear of revictimization. Offenders also often report that the reconciliation meeting was helpful. Offenders who meet their victims are less likely to commit similar criminal acts than offenders who do not<sup>[19]</sup>.

Though restorative justice may seem as an approach that is more favourable to the victim, it should be noted that it allows the offender to enjoy just as many advantages. To begin with, the offenders are allowed many alternatives to detention, such as restitution, reconciliation, community service, to name a few. Detention is usually only seen as a last resort. The

offender is allowed to make personal relations with the victim and other stakeholders, to understand the consequence of their act, so as to make amends by taking ownership of the same, and fulfilling other obligations that would set right the wrong that was done. Studies have also shown that restorative justice has resulted in lower recidivism amongst offenders.

### Impact on the accused

One of the primary goals of restorative justice is to address the underlying causes of criminal behaviour. It takes a humanistic approach of bringing about positive change in supposed offenders and addressing the root causes of crime instead of the current retributive approach of imprisonment as punishment.

Our scriptures reflect lofty ideas like: "we are one human family," "we are created in the image of God," or "we are all children of one Supreme Being." What is loudly expressed is vengeance against the offender and calls for appropriate punishment, even the death penalty. This brings us to the crucial question of what constitutes an effective restorative justice model.

"Crime is a disease like any other malady and is a product of the prevalent social system," wrote Mahatma Gandhi in 1946. In an independent, nonviolent India, he said, "there will be crime but no criminals. They will not be punished. Whether such an India will ever come into being is another question." Gandhiji's main points are.

- Crime is like a disease that needs to be treated.
- Punishment does not prevent the spread of the disease.
- The overall socio-economic system causes the disease. Treating the individual can only be effective if we address underlying socio-economic issues.

Having said that, as a country that has deeply embedded values of Ahimsa and Satyagraha, India should strive to enforce restorative justice by all possible means.

### A compassionate approach

#### Some aspects of restorative justice are

- Focus on the victim and the victim's family who suffer indirectly due to their family member being victimised or killed.
- Focus on the perpetrator as well. This should include causes of dysfunctional behaviour, including structural causes and familial problems.
- If incarceration is involved, the role of the officers within the correctional services is also essential in making fundamental changes.

At present, society and the officers in the correctional services see their role as ensuring that incarceration punishes the individual. They humiliate the person and force them to endure hardships so they do not repeat the offence. While the goal is noble, the means to it are not the most appropriate<sup>[20]</sup>.

### A paradigm shifts

A key consideration includes using indigenous knowledge systems – a conscious paradigm shifts from the Western models to accepting a diversity of knowledge to create a more appropriate model for those involved. Understanding people is a crucial part of the restorative process. It is essential to consider their understanding of the issues, belief systems, and what is meaningful or not meaningful to them before implementing a programme. Only when perpetrators of

violence understand and appreciate the injustice and inhumanity of their act of violence may they change and never repeat such offences. Indeed, in our world today, we need more compassion, less arrogance, more justice, less vengeance, more restoration of dignity, and less condemnation and punishment<sup>[21]</sup>.

### Judicial Pronouncements

Criminal justice would look hollow if justice is not done to the victim of the crime. A victim of crime cannot be a forgotten man in the criminal justice system. It is he who has suffered the most. His family is ruined particularly in case of death and other bodily injuries. An honour which is lost or life which is snuffed out cannot be recompensed but then compensation will at least provide some solace. To compensate and retribute the victim becomes the most important duty of every criminal justice machinery across the world<sup>[22]</sup>.

In the case of *Sanjeev Nanda*<sup>[23]</sup>, the sentence of convict was reduced to the time he served in the jail and was further given two years of community service. In another case, *Anupam Sharma v NCT of Delhi and Another*<sup>[24]</sup>, the Delhi High Court said that restorative justice can be used in lieu of mediation. Again, in the case of *Ramji Nisar v. State of Bihar*<sup>[25]</sup>, the Supreme Court observed that: the object of Probation of Offenders Act, 1958 is to prevent the turning of youth offenders into criminals by association with hardened criminals in prisons.

In *Manohar Singh v State of Rajasthan and Ors*, the Supreme Court said that the whole point of Section 357 the Code of Criminal Procedure, 1973 is to make sure that the interests of the victims are taken into account in the criminal justice system. Sometimes, the situation is so bad that it doesn't make sense to keep a person in prison. Instead, directing the accused to pay some money to the victim or the person who was hurt due to the crime can make sure that total justice is served<sup>[26]</sup>.

Through all these we come to know that though India doesn't have a restorative justice system but have multiple pockets within the laws following its principle.

### Conclusion

Although the ideas of restorative justice were traditionally embedded in India, with the arrival of British laws they got diluted in favour of a model of retributive justice. From a system where victim was an integral part of overall process, the victim was relegated to a mere witness who is a passive observer of the whole process. Even the Supreme Court has admitted that a lot needs to be done in the area of victim jurisprudence<sup>[27]</sup>.

The brief review of the existing legal framework in relation to right of victims towards rehabilitation reveals that except in the area of providing compensation, very little has been done either statutorily or through schemes to address the entire range of problems faced by the victims. Although there will always be debate about what can and should be offered, it is high time for the legislature to come out with diverse and elevating rehabilitation schemes which would genuinely benefit the victim to forget his plight.

Reformation of the legal system to keep up with the dynamic society and the changes that technology and modernization brings, is of the essence in dispensing justice. Though the criminal justice system has been currently followed in India, it is high time that the India legal system accommodates

restorative justice to a more increasing extent. In cases where incarnation is a requirement, the authorities and parties in conflict should take all possible measures to see if a hybrid of both the justice systems may be applied. Furthermore, the judicial system should be able to create more awareness amongst the society and its citizens, about the field of restorative justice.

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