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RESTORATIVE JUSTICE IN PAKISTAN: INTEGRATING TRADITIONAL PRACTICES WITH FORMAL LEGAL SYSTEMS FOR COMMUNITY HEALING AND REHABILITATION

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ABSTRACT

Restorative justice in Pakistan focuses on healing and reconciliation rather than punishment. It brings together victims, offenders, and the community to address harm and find ways to repair it. Traditional methods like Jirga and panchayat are used for local dispute resolution but often face criticism for bias and lack of legal oversight. To ensure fairness, efforts are being made to incorporate restorative justice principles into the formal legal system, emphasizing dialogue, accountability, and rehabilitation. Despite these efforts, challenges remain, including limited public awareness, inadequate legal support, and cultural resistance. Yet restorative justice has notable benefits, such as reducing re-offending rates, easing the burden on courts, and fostering a sense of justice and community healing. By promoting understanding and empathy, it offers a more inclusive approach to justice, benefiting both victims and offenders. Restorative justice holds promise for building a more peaceful and equitable society in Pakistan.

Keywords: Alternate dispute resolution; International practices; Islam; Reconciliation; Restorative justice.

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INTRODUCTION

Restorative justice is a compassionate approach to crime that focuses on healing, accountability, and restoring relationships. Unlike traditional systems focused on punishment, it involves victims, offenders, and the community in dialogue (Melvin et al., 2023). This process helps victims express how they have been affected and encourages offenders to take responsibility. By promoting empathy and understanding, restorative justice offers a holistic resolution that benefits individuals and communities (Emling, 2024). One of the core principles of restorative justice is repairing the harm caused to the victim. Victims are given an active role, allowing them to express their needs and emotions. It empowers them and can lead to personal healing. Offenders, on the other hand, are encouraged to engage with victims and take steps to make amends. This approach fosters rehabilitation and positive change, helping to prevent future harm. (Cherry, 2023). Restorative justice also emphasizes community involvement. Crime is not just a violation of the law but a disruption to social harmony. This approach helps rebuild trust and relationships by involving community members and mediators. It promotes collective responsibility in resolving conflicts and contributes to long-term peace. Unlike traditional systems, restorative justice focuses on inclusive healing rather than isolating offenders (Evans, 2022).

In Pakistan, restorative justice is gaining attention as an alternative to the conventional legal system. The country's justice system faces issues like overcrowded prisons and delayed court processes. Restorative justice offers a solution by focusing on rehabilitation over punishment. Traditional conflict resolution methods, like Jirga and panchayat, share similar principles but have been criticized for perpetuating power imbalances, especially in marginalized communities (Ahmed, 2023). The potential for restorative justice in Pakistan is powerful in the juvenile justice system. The Juvenile Justice System Act of 2018 supports rehabilitation programs for young offenders. These programs allow young people to take responsibility for their actions through community service and counseling. By focusing on healing and reconciliation, restorative justice helps reduce recidivism and supports both offenders and their communities (Hodgson, 2022).

Despite its promise, restorative justice in Pakistan faces challenges, such as a lack of formal legal frameworks and limited public awareness. There is also resistance from those who favor retributive justice models. However, with continued efforts to promote reform and educate the public, restorative justice could play a vital role in creating a more humane and equitable system in Pakistan, leading to a more just society (Faiz, 2022). Restorative justice offers a compassionate and effective alternative to traditional punitive systems by focusing on healing, accountability, and community involvement. It empowers victims, encourages offenders to take responsibility, and promotes rehabilitation. Despite challenges, especially in Pakistan, restorative justice can potentially create a more humane and equitable justice system, benefiting both individuals and society (Eaton, 2023). Restorative justice, an approach focusing on repairing harm and promoting reconciliation, is increasingly relevant in Pakistan's legal and societal landscape. With the country's complex social dynamics, including tribal justice systems and a strained formal judiciary, exploring restorative justice provides insight into more effective ways of resolving conflicts, addressing victims' needs, and reducing recidivism (Hodgson, 2022).

Addressing the overburdened judicial system, Pakistan's judiciary faces significant backlogs and delays, causing frustration among citizens seeking justice. Researching restorative justice offers an alternative that could reduce the courts' caseload by encouraging community-based conflict resolution and rehabilitation of offenders. This can help ease the pressure on the formal legal system while delivering timely justice (Khan, 2024). Cultural and religious alignment: Restorative justice aligns with Pakistan's cultural and religious values, particularly Islamic principles of forgiveness, restitution, and community cohesion. Investigating how restorative justice could integrate with Pakistan's cultural practices will provide a practical and culturally sensitive model, offering more socially acceptable outcomes (Khan, 2023). Potential for conflict resolution in a country often grappling with internal conflicts, research into restorative justice offers hope for a more peaceful society. Focusing on reconciliation and healing rather than retribution can contribute to long-term stability, particularly in areas prone to communal violence and unrest (Khan, 2024).

Research Objectives

- 1. To discuss the historical background of restorative justice in Pakistan.
- 2. To highlight the theoretical context of restorative justice in Pakistan.
- 3. To analyze the leading laws that govern restorative justice in Pakistan.
- 4. To identify the key challenges regarding restorative justice in Pakistan.
- 5. To explore the opportunities for restorative justice in Pakistan.
- 6. To propose effective prevention and intervention strategies.

METHODOLOGY

This study employed a systematic review methodology, with research objectives established accordingly. A comprehensive literature review was conducted (Komba & Lwoga, 2020). Research findings were

categorized based on their content (Hiver et al., 2021; Petticrew & Roberts, 2006), and classified information was incorporated into the study by organizing it into headings (Gan et al., 2021; Pawson et al., 2005). The evaluation of classified information and titles formed the basis of the study (Page, 2021; Rahi, 2017), ensuring the integrity of the research subject and its contents (Egger et al., 2022; Victor, 2008).

LITERATURE REVIEW

Restorative justice is a model of criminal justice that emphasizes healing, reconciliation, and community involvement in addressing crime. Unlike retributive justice, which focuses on punishment, restorative justice aims to repair harm and foster dialogue between victims, offenders, and the community. Globally, restorative justice has been implemented in countries like New Zealand, Canada, and South Africa (Kureshi, 2022). However, applying restorative justice in Pakistan, a country with complex legal and cultural dynamics, remains limited but holds potential due to existing cultural and religious practices (Kaaren et al., 2023). Restorative justice originated from indigenous practices where communities resolved conflicts through dialogue and reconciliation rather than punishment. Restorative justice involves all stakeholders in addressing the harm caused by crime and seeks healing rather than retribution. Howard Zehr (1990) explains that crime is seen as a violation of relationships rather than just a breach of law, and justice should focus on repairing these relationships. These global concepts provide a foundation for exploring how restorative justice could be applied in any country (Levers, 2023).

Cultural and religious context in Pakistan: Pakistan's cultural and religious traditions uniquely align with restorative justice principles. Islamic law emphasizes forgiveness Afw, compensation Diyat, and reconciliation Sulh, which resonate with restorative values (Lodhi, 2024). The Qisas and Diyat Ordinance of 1990 allows for forgiveness and compensation in certain criminal cases, particularly murder, where the victim's family can forgive the offender or accept monetary compensation. This framework is deeply rooted in Islamic teachings and reflects restorative justice's focus on repairing harm (Melvin et al., 2023). Analogously, traditional dispute resolution systems like Jirga and Panchayat in rural Pakistan emphasize reconciliation over punishment. These informal systems restore social harmony through negotiation, apologies, and compensation. However, these systems are often criticized for being patriarchal and lacking formal oversight, especially in cases involving vulnerable groups like women and minorities (Molanphy, 2022). Legal frameworks supporting restorative justice: While not fully institutionalized, elements of restorative justice can be found in Pakistan's legal system. The Pakistan Penal Code 1860 PPC and Criminal Procedure Code 1898 CrPC allow for the compounding of offenses, enabling victims and offenders to settle certain crimes outside court through mutual agreement CrPC, Section 345. This provision encourages reconciliation and compensation, embodying restorative justice principles (Raphael et al., 2024).

The Juvenile Justice System Act (JJSA) of 2018 is a notable advancement in incorporating restorative justice into Pakistan's legal system. The JJSA emphasizes rehabilitation for juvenile offenders and introduces diversionary measures like probation and community service, which align with restorative principles. It also promotes restorative dialogues between victims and offenders, recognizing the importance of addressing the root causes of juvenile delinquency and promoting reintegration into society (Orton, 2023).

The Alternative Dispute Resolution (ADR) Act of 2017 further contributes to the restorative justice framework. ADR mechanisms such as mediation and arbitration provide non-adversarial means of resolving conflicts, allowing parties to negotiate settlements outside the formal judicial system. While mainly applied in civil cases, ADR offers the potential for expanding restorative justice to criminal cases, particularly for minor offenses (Talpur, 2022). Challenges in implementing restorative justice in Pakistan: Despite its cultural and religious alignment, the implementation of restorative justice in Pakistan faces significant challenges. The formal legal system in Pakistan is predominantly retributive, focusing on punishment and deterrence. This profoundly ingrained approach makes it difficult for restorative practices to gain widespread acceptance within the formal judiciary (Richmond, 2023).

Pakistan's judicial system is overburdened but lacks infrastructure, trained personnel, and policies for restorative justice. Informal systems like Jirga and Panchayat face criticism for bias, particularly against marginalized groups, undermining their effectiveness (Ullah, 2024). Public awareness of restorative justice is also limited in Pakistan. Many people equate justice with punishment, and there is skepticism about approaches prioritizing reconciliation and rehabilitation. Educating the public and legal professionals about the benefits of restorative justice is essential for broader acceptance and implementation (Thorsborne & Vinegrad, 2022). Prospects for restorative justice in Pakistan: Restorative justice has significant potential in Pakistan, especially in addressing the country's overburdened judicial system and providing culturally appropriate conflict resolution mechanisms. Initiatives like the Juvenile Justice System Act of 2018 and the Alternative Dispute Resolution Act of 2017 have already begun integrating restorative principles into the legal framework. Expanding these initiatives to include adult offenders and more serious cases could lead to meaningful justice reforms (Zehr et al., 2022).

Given the alignment between restorative justice and Islamic teachings on forgiveness and reconciliation, Pakistan has a strong foundation for further developing restorative justice practices. However, addressing the infrastructure challenges, public awareness, and oversight of informal justice systems will be critical for restorative justice to become a mainstream approach in Pakistan's legal system (Waseem, 2022).

Historical Background of Restorative Justice in Pakistan

Restorative justice in Pakistan has its roots in traditional conflict resolution practices, such as the Jirga and Panchayat systems, which have been used for centuries in rural and tribal areas. These systems emphasize communal decision-making, reconciliation, and victim compensation rather than punitive measures. Historically, they aimed to maintain harmony within the community by addressing disputes, including family matters, property disputes, and minor criminal offenses. In the modern legal framework, restorative justice gained attention as a formal alternative to conventional criminal justice in the late 20th century. Pakistan's criminal justice system, influenced by British colonial law, had focused more on punitive measures, which often led to prolonged legal processes and overcrowded prisons. The shortcomings of the conventional system prompted discussions on integrating restorative justice principles.

In recent years, Pakistan has tried incorporating restorative justice, particularly in juvenile justice reforms. The Juvenile Justice System Act (JJSA) 2018 reflects this shift by promoting rehabilitation and reconciliation over punishment for young offenders. Non-governmental organizations and legal reform advocates have also promoted community-based mediation programs, emphasizing victim-offender dialogue, compensation, and reintegration into society. While restorative justice is not yet widespread, these efforts mark a growing interest in integrating traditional practices with modern legal reforms to ensure justice and community healing.

Theoretical Context of Restorative Justice in Pakistan

The theoretical context of restorative justice in Pakistan's laws stems from a blend of Islamic principles and traditional dispute resolution mechanisms integrated with modern legal reforms. In Islamic jurisprudence, Sulh (settlement) and Diyat (compensation) reflect restorative justice principles by emphasizing reconciliation, forgiveness, and compensation to restore social harmony. Islamic law focuses on reparation for victims and rehabilitation of offenders, aligning with restorative justice's goals of healing and reintegration rather than solely punitive measures. Traditional systems like Jirga and Panchayat also underpin the restorative framework in Pakistan. These community-based councils have historically played a central role in resolving disputes through dialogue and consensus, focusing on restoring relationships and promoting social cohesion. These customary systems often prioritize reconciliation, compensatory solutions, and community involvement, which resonate with restorative justice's core values.

In modern legal theory, restorative justice in Pakistan emphasizes the importance of community-based resolution, victim-offender mediation, and reintegration of offenders into society. This approach is evident

in laws like the Juvenile Justice System Act (JJSA) 2018, which highlights rehabilitation over punishment. Integrating alternative dispute resolution (ADR) mechanisms within the Criminal Procedure Code 1908 (CrPC) further reflects the theoretical shift towards a more reconciliatory and restorative justice model in Pakistan's legal framework.

Leading Restorative Justice Laws in Pakistan

- 1. At Provincial Level: Sindh does not have a specific standalone law dedicated entirely to restorative justice. However, elements of restorative justice are integrated into broader legal frameworks, such as:
- i. Sindh Juvenile Justice System Act, 2018: This law encourages restorative approaches like mediation and reconciliation for juvenile offenders. While restorative justice concepts are applied in various forms, Sindh has no specific Restorative Justice Law.
- 2. At Federal Level: There is no specific standalone restorative justice law in Pakistan at the federal level. However, restorative principles are embedded in various laws related to juveniles and alternative dispute resolution. Notable examples include:
- i. Juvenile Justice System Act, 2018: This federal law promotes rehabilitation over punishment for juveniles, emphasizing alternatives like diversion, mediation, and reconciliation, which are core principles of restorative justice.
- ii. Alternative Dispute Resolution (ADR): The ADR framework, recognized under various federal laws such as the Code of Civil Procedure 1908 (CPC), encourages mediation and arbitration to resolve disputes, indirectly supporting restorative justice practices. While these laws incorporate elements of restorative justice, there is no comprehensive federal restorative justice law specifically for adults.
- iii. Code of Criminal Procedure (CrPC) 1898 (Amendments): Amendments have introduced Alternative Dispute Resolution (ADR) mechanisms. Section 345 allows compounding of offenses, enabling out-of-court settlements. Diyat (compensation under Islamic law) reflects restorative justice principles.
- iv. Muslim Family Laws Ordinance, 1961: This law promotes reconciliation in family disputes through arbitration councils, encouraging dialogue and conflict resolution, which align with restorative justice ideals.
- v. Police Order 2002: The Police Order 2002 promotes community policing, which aligns with restorative justice by encouraging police officers to engage with communities and resolve minor disputes without resorting to formal court proceedings. It emphasizes mediation and dispute resolution at the local level, often in coordination with community elders or local councils.

Challenges and Opportunities for Restorative Justice in Pakistan

Challenges

- 1. Cultural Resistance: Traditional dispute resolution systems like Jirga and Panchayat, though aligned with restorative principles, can be biased, particularly against women and marginalized groups. It limits the equitable application of restorative justice.
- 2. Limited Awareness: Many legal practitioners and law enforcement officials lack training in restorative justice, leading to a preference for punitive methods over reconciliation and rehabilitation.
- 3. Weak Institutional Framework: Despite legal provisions such as the Juvenile Justice System Act (JJSA) 2018, there is insufficient infrastructure, resources, and staff to implement effective restorative programs.
- 4. Legal System's Focus on Retribution: Pakistan's legal system remains largely punitive, making it difficult for restorative practices to gain traction. Despite some legal reforms, Pakistan's criminal justice system remains mainly punitive. The Criminal Procedure Code and other laws still focus primarily on retribution, making it difficult for restorative justice mechanisms to gain widespread acceptance.

Opportunities

- 1. Islamic Law Foundations: Restorative justice principles align with Islamic jurisprudence, particularly through Sulh (settlement) and Diyat (compensation), offering a culturally accepted foundation for promoting reconciliation and rehabilitation.
- 2. Juvenile Justice Reforms: The JJSA 2018 promotes rehabilitation and community-based justice for young offenders, setting a precedent for broader restorative justice practices.
- 3. Integration with Traditional Systems: Reforming Jirga and Panchayat systems to emphasize reconciliation can make justice more accessible and swift.
- 4. NGO and Civil Society Involvement: Non-governmental organizations and civil society groups have been playing a key role in promoting restorative justice practices, especially at the community level.

They have the potential to bridge gaps between formal and informal justice systems, helping to implement restorative justice initiatives on a broader scale. While challenges remain, there is significant potential for restorative justice to grow in Pakistan through legal reforms, cultural integration, and community involvement.

Discussion

Restorative justice offers an alternative to traditional punitive measures by focusing on healing, reconciliation, and community involvement. In Pakistan, it aligns well with cultural and religious traditions. Islamic principles such as Afw (forgiveness), Sulh (reconciliation), and Diyat (compensation) reflect the values of restorative justice. These concepts are present in informal dispute resolution systems like the Jirga and Panchayat and formal legal frameworks, such as the Qisas and Diyat Ordinance 1990. This cultural alignment provides a solid foundation for restorative practices in the country.

However, there are significant challenges to implementing restorative justice in Pakistan. The formal legal system is still largely retributive, prioritizing punishment and deterrence over reconciliation. Additionally, informal justice systems, while restorative in nature, are often criticized for their lack of fairness and transparency, particularly in cases involving women and marginalized groups. These systems require reform and oversight to ensure just outcomes.

The Juvenile Justice System Act (JJSA) of 2018 and the Alternative Dispute Resolution Act of 2017 represent important steps toward adopting restorative justice in Pakistan. These laws promote rehabilitation and reconciliation, particularly for juvenile offenders. However, extending these practices to adult offenders and increasing public awareness of restorative justice is critical for its broader adoption. Restorative justice holds promise for Pakistan, but institutional reforms and societal acceptance are essential for its successful implementation on a larger scale. While it aligns with Pakistan's cultural values, it requires institutional reform, transparency, and public awareness for broader implementation.

CONCLUSIONS

Restorative justice presents a transformative approach to addressing crime in Pakistan by prioritizing healing and reconciliation over punishment. This model resonates with the country's cultural and religious values, particularly those rooted in Islamic teachings emphasizing forgiveness and communal harmony. Concepts like Afw (forgiveness), Sulh (reconciliation) and Diyat (compensation) align closely with restorative justice principles, offering a pathway to mending relationships and restoring social balance. Despite these cultural alignments, implementing restorative justice in Pakistan faces significant challenges. The formal legal system predominantly leans toward retributive justice, emphasizing punishment, which hinders the adoption of restorative practices. Additionally, while possessing restorative elements, informal justice mechanisms such as Jirga and Panchayat often lack fairness and transparency, particularly concerning vulnerable populations.

Recent legislative developments, including the Juvenile Justice System Act of 2018 and the Alternative Dispute Resolution Act of 2017, signify a positive shift towards integrating restorative practices into the legal framework. These laws emphasize rehabilitation and dialogue, particularly for juvenile offenders. However, extending these practices to adult offenders and fostering public awareness about restorative justice's benefits are critical for broader acceptance. For restorative justice to thrive in Pakistan, it is essential to implement institutional reforms, strengthen legal frameworks, and promote public education. Addressing these areas can significantly enhance the effectiveness of restorative practices. By fostering a deeper understanding of restorative justice, the country can alleviate pressures on its judicial system while cultivating a more compassionate and inclusive approach to addressing crime and conflict resolution. Restorative justice aligns with Islamic values, but it faces implementation challenges.

Recommendations

- 1. Revise Legal Framework: Update laws to incorporate restorative justice principles.
- 2. Training Programs: Provide training for legal professionals and law enforcement on restorative practices.
- 3. Public Awareness Campaigns: Educate communities about the benefits and principles of restorative justice.
- 4. Strengthen Informal Justice: Improve oversight and guidelines for Jirga and Panchayat to ensure fairness.
- 5. Victim Support Services: Establish support systems for victims to meet their needs.
- 6. Diversion Programs: Implement diversion options for minor offenses focusing on community service or mediation
- 7. Collaborate with NGOs: Partner with NGOs to leverage expertise in restorative justice initiatives.
- 8. Monitoring and Evaluation: Create systems to assess the effectiveness of restorative justice programs.
- 9. Pilot Programs: Launch pilot initiatives to test and refine restorative justice practices.
- 10. Integrate into Education: Include restorative justice concepts in school curricula to promote conflict resolution skills.

Research Limitations

Research on restorative justice in Pakistan faces several limitations. First, there is a lack of comprehensive data and scholarly literature on the topic, which makes it challenging to draw definitive conclusions or assess the effectiveness of existing practices. Second, many restorative justice initiatives are localized or informal, leading to inconsistencies in implementation and outcomes. Cultural attitudes toward justice can hinder open discussions about restorative practices, as retributive approaches remain deeply ingrained in societal norms. This cultural bias may affect both the availability of data and the willingness of individuals to participate in restorative processes. Moreover, Pakistan's political and legal landscape can change rapidly, potentially impacting the stability and support for restorative justice initiatives. Lastly, the focus on high-profile cases in media can overshadow the everyday application of restorative justice, limiting the understanding of its potential benefits in more common contexts. Restorative justice in Pakistan faces data, cultural, and implementation challenges.

Research Implications

The study of restorative justice in Pakistan has significant implications for policy and practice. Research can foster greater acceptance of these practices within communities and legal systems by highlighting the alignment between restorative principles and Islamic values. Policymakers may be encouraged to integrate restorative justice frameworks into existing laws, enhancing the legal landscape to serve victims and offenders better. Furthermore, research can inform the development of training programs for legal

professionals, ensuring they have the necessary skills to implement restorative practices effectively. Understanding community perceptions and barriers to restorative justice can lead to targeted awareness campaigns, improving public understanding and participation. Findings can contribute to designing pilot programs that test restorative justice in diverse contexts, providing valuable insights into its effectiveness and scalability. Ultimately, this research can pave the way for a more compassionate and inclusive approach to justice in Pakistan.

Future Research Directions

Future research on restorative justice in Pakistan should focus on several key areas to enhance understanding and implementation. First, longitudinal studies examining the long-term effects of restorative justice practices on recidivism rates and community relations would provide valuable insights into their effectiveness. Such studies could identify best practices and areas for improvement. Second, qualitative research exploring the experiences of victims, offenders, and community members involved in restorative processes is essential. It can uncover restorative justice's emotional and social impacts, offering a deeper understanding of its benefits and challenges from multiple perspectives. Third, comparative studies between formal restorative justice programs and traditional punitive systems can highlight differences in outcomes, efficiency, and community satisfaction. Moreover, research should investigate the role of gender and socio-economic factors in shaping experiences with restorative justice, ensuring inclusivity and fairness in implementation. Finally, exploring the integration of restorative justice into educational settings can foster early understanding and acceptance, shaping future generations' views on conflict resolution. Collectively, these research directions can contribute to a more nuanced understanding of restorative justice and its potential to transform the justice landscape in Pakistan. Future research should also examine the scalability of restorative justice programs across diverse Pakistani communities.

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