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Does International Law Acknowledge Restorative Justice?

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Article	Abstract
<p>Keywords: Criminal Preventions Strategy; International Legal Principles; Penal system; Restorative Justice.</p> <p>Article History: Received: Sep 3, 2022; Reviewed: Dec 27, 2022; Accepted: Jan 28, 2023; Published: Jan 31, 2023.</p> <p>DOI: 10.28946/slrev.Vol7.Iss1.2130.pp121-134</p>	<p>Global criminal political considerations are strengthening national laws to realise Restorative Justice for the achievement of recovery for victims, perpetrators and the social order of society. The perspective of Restorative Justice can not only be seen from the concept of national law but of course, it can also be seen from the perspective of International Law. One form of Restorative Justice includes Diversi in the Juvenile Criminal Justice System, where Diversi is the result of International Conventions, one of which is the United Nations Rules for The Protection of Juvenile Deprived of Their Liberty (UNRPJ). This paper focuses on the principle that the purpose of criminalising and rectifying criminals is not only a national problem by a particular state but also a general problem by all countries. The research uses a Normative Juridical method with a statute approach, concept and doctrine approach. This research specifically how the contribution of international law in strengthening the ideas and values of Restorative Justice, and its conclusion, restorative justice in the development of criminal policy needs to be given a special space, namely given space for the implementation of restorative justice through policy modify which of course puts forward the idea of recovery for victims, perpetrators and also the community. Restorative justice is familiar in international law, even via the UN congress greater than as soon as it has issued thoughts of struggle by promoting restorative justice. An extra humanist purpose is to be the primary character of international law, as is the precept of worldwide law that each conflict that arises requires a decision that has to be primarily based on humanity.</p>

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INTRODUCTION

Restorative justice should also be observed regarding criminology and the correctional system. From the prevailing fact, the criminal device that applies in nice criminal law has no longer fully assured included Justice, specifically Justice for perpetrators, Justice for sufferers,

and Justice for society.¹ Quoting Bagir Manan's view that the substance of Restorative Justice contains principles, including building joint participation between perpetrators, victims, and community groups to resolve an event or criminal act; placing perpetrators, victims, and the community as stakeholders who work together and directly try to find a solution that is seen as fair for all parties. Another issue that is no less important happens in the view of countering crime. Restorative justice is part of the process of dealing with crime by methods through non-penal efforts for recovery.² Of course, the main implication that is desired is the purpose of punishment that can be felt by all parties and certainly has an effect on the sustainability of the social order so that it returns to be conducive.³ The perspective on Restorative Justice cannot only be seen from the concept of national law, such as in the national criminal procedural law, which procedural law provides space for criminal procedural law to formally guarantee legal certainty for the implementation of Restorative Justice, including the application of Diversion to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.⁴

Nonetheless, victims of crime feel this theory of retribution lacks satisfaction in seeking justice. The criminal conviction of the perpetrator apparently cannot recover the suffering and losses suffered by the victim. This is what then makes the gaze that was originally only fixed on the perpetrator change direction. This paradigm then shifted further to more recent developments in criminal law, which pay attention to not only the rights and interests of criminal offenders but also the rights and interests of victims of criminal acts. The concept and philosophy of criminal law and the criminal justice system that provides balanced protection of the rights and interests of perpetrators and victims of criminal acts, society and the state is currently known as restorative justice as a judicial concept that produces restorative justice. Restorative justice also can be known as relative justice, one of the theories of punishment within the crook justice device.⁵

Victims can demand the fulfilment of compensation through a peace agreement containing the results of the diversion agreement. Indemnity payments do not always have to be real money. In a decision dated May 24, 1918, Hoge Raad considered that the return on the original state was the most appropriate payment of damages. Article 1365 of the Civil Code aims to determine how probable it is to return the victim to its original nation, at least in the instances that it is miles feasible to acquire if no illegal activity is dedicated. What has been sought is an actual return. This is more suitable than the price of repayment in the form of money because the charge of a certain amount of cash is simply an equivalent price.⁶

¹ Hariman Satria, "Restorative Justice: Paradigma Baru Peradilan Pidana /A New Paradigm Criminal Justice," *Jurnal Media Hukum* 25, no. 1 (2018): 111–23, <https://doi.org/10.18196/jmh.2018.0107.111-123>.

² Josefhin Mareta, "Application of Restorative Justice through the Fulfillment of Restitution on Victims of Child Crimes," *Indonesian Legislative Journal* 15, no. 4 (2018): 309–19.

³ Randy Pradityo, "Restorative Justice Dalam Sistem Peradilan Pidana Anak / Restorative Justice In Juvenile Justice System," *Jurnal Hukum Dan Peradilan* 5, no. 3 (2016): 319–30.

⁴ Howard Zehr, *The Little Book of Restorative Justice* (Pennsylvania: Intercourse, 2002).

⁵ Josefhin Mareta, "Application of Restorative Justice through the Fulfillment of Restitution on Victims of child crimes," *Indonesian Legislative Journal* Vol 15, no. 4 (2018): 309–319.

⁶ Sri Redjeki Slamet, "Claims for Compensation in Unlawful Acts: A Comparison by Default," *Lex Juristica Journal* 10, no. 2 (2013): 113.

Crime prevention coverage is referred to as crook politics and covers a reasonably extensive scope. Within the crook coverage, there are goals of diverse crook regulations which are poured out. One of the desires of punishment is to acquire recuperation situations within the network. The circumstance of restoration within the network because of the presence of crook acts is the existence of Restorative Justice. On the other hand, the crook policy could be better based totally on issues of countrywide regulation. However, it additionally considers worldwide regulation.⁷

Restorative justice should not only be seen as a positive legal concept that applies nationally but must also consider aspects of the criminal political approach macro and globally. Of course, macro and global criminal political considerations strengthen national law to realise Restorative Justice for the achievement of recovery for victims, perpetrators and the social order of society. Based on this view, it is not an exaggeration if this paper parses and analyses the concept of Restorative Justice using the perspective of International Law. It is based on the principle that the purpose of conviction and improvement of criminals is not only a national problem in a particular country but also a common problem in all countries.⁸

RESEARCH METHODS

This study uses the normative Juridical method. Sudarto in Barda Nawani Arif divides the Normative Juridical method into two meanings the Juridical method in the Narrow sense and the Juridical method in the Broad sense. In the narrow sense, the juridical method is the use of a method that sees only the logical or anti-logical, or in any other systematic way, in the whole set of norms, either in the form of concepts or doctrines. As used in this study. On the contrary, what is seen has nothing to do with the mere set of norms but also, even more so, is seen as the importance of the social effect of the formation of norms (law), so that it is seen as the importance of the social background. This method is juridical in a broad sense.⁹ The research presented in the paper uses the approach of rules, concepts and doctrines of experts. Then, the analysis results are expected to produce the concept of legal reasons so that restorative justice can become a form of criminal politics,¹⁰ especially in the scope of international law on strengthening the idea of restorative justice, which is significantly discussed at the UN judiciary.

ANALYSIS AND DISCUSSION

Concept of Restorative Justice

Packer dictated the criminal justice system in these two categories because there were significant differences in the conduct of criminal proceedings.¹¹ Consequently, Packer stated,

⁷ Launching the Journal of Law Dictum Volume 14, Number 1 July 2016: 67 – 75, International law, according to Mochtar Kusumaatmadja, is the entire method and principles that regulate relations or problems that cross the boundaries of countries between countries and countries with other legal subjects not countries or subjects of law not states with each other.

⁸ Bassiouni, "International Recognition of Victims' Rights."

⁹ Barda Nawani Arief, *Policy on the Formulation of Criminal Provisions in Laws and Regulations* (Semarang: Pustaka Magister, 2016).

¹⁰ Peter Mahmud Marzuki, *Penelitian Hukum*, cetakan ke (Jakarta: Kencana Prenada Media Group, 2019).

¹¹ Packer Hebert L, *The Limits of the Criminal Sanction* (Oxford: Oxford University Press, 1968).

there may be an important function that can differentiate between the version of legal control and the version of due procedure. First, a crime can cause a sentence hassling issue with the procedure. The due manner version tends to make it primary. Second, to attain this excessive reason, the crook version calls for that number one interest struggling to the performance with which the crook procedure operates to display suspects decide guilt and comfortable suitable inclinations of jail convicted of the crime. Third, if the crime manage version resembles a meeting line. The due procedure version is similar to an impediment path. Fourth is the presumption of guilt. It operates inside the crime management version. A man who, after a police investigation, is charged with having committed a crime can hardly be said to be presumptively innocent when addressed to factual innocence.¹²

Within the various concepts and fashions of restorative justice strategies, the technique of debate between the offender and the sufferer is the primary component and the maximum critical part of the utility of this justice. Direct talk between the culprit and the sufferer lets the sufferer explicit what he feels, expressing hopes for the success of the rights and desires of a crook case agreement. Through communication, the offender is likewise anticipated to be moved through his coronary heart to accurately recognise his errors and take delivery of duty because of crook acts dedicated with complete attention. From this communication procedure, the network also can take part in figuring out the effects of the settlement and display its implementation. Consequently, restorative justice is likewise called the agreement of instances via mediation (penal mediation).¹³

Crime countermeasures are part of criminal politics. Formally, there is a need for integration between criminal and social politics. In addition, another integration that needs to be synergised is the integration between countermeasures through criminal procedural law of penal and non-penal nature.¹⁴ Non-penal countermeasures or often also referred to as penal mediation efforts are “mediation in crook instances” or “mediation in penal subjects”, which in Dutch phrases is referred to as *strafbemiddeling*; in German phrases, its miles referred to as *Der Außergerichtliche Tataus-gleich* (ATA) and in French phrases it is well known as *de mediation pénale*. The purpose of penal mediation especially brings criminals and sufferers collectively. Penal mediation is regularly additionally referred to as Sufferer Perpetrator Mediation (VOM), *Täter Opfer Ausgleich* (TOA), or Culprit Sufferer Association (OVA).¹⁵

Figure 1 depicts that when penal mediation is connected with the idea of restorative justice, managing non-penal crimes is in step with the idea of restorative justice.¹⁶ It can be understood that the essence of restorative justice is the recovery for the victim, the perpetrator

¹² Packer Hebert L.

¹³ Pradityo, “Restorative Justice Dalam Sistem Peradilan Pidana Anak / Restorative Justice In Juvenile Justice System.”

¹⁴ Barda Nawawi Arief, *Mediation Penal Settlement of Criminal Cases Outside the Court* (Semarang: Master’s Library, 2012).

¹⁵ Jennifer J. Llewellyn, “Integrating Peace, Justice and Development in a Relational Approach to Peacebuilding,” *Ethics and Social Welfare* 6, no. 3 (September 2012): 290–302, <https://doi.org/10.1080/17496535.2012.704386>.

¹⁶ Sidney W.A. Dekker and Hugh Breakey, “‘Just Culture:’ Improving Safety by Achieving Substantive, Procedural and Restorative Justice,” *Safety Science* 85 (June 2016): 187–93, <https://doi.org/10.1016/j.ssci.2016.01.018>.

and the social communities. So, this concept of recovery is a challenge for lawmakers in terms of issuing criminal policies prioritising recovery as a restorative feature.

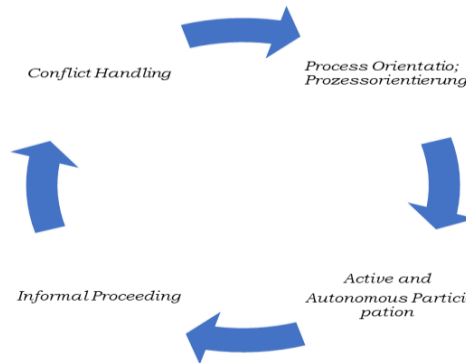


Figure 1. *Penal Mediation Enhancing Factors*

In that regard, Bazemore and Walgrave then put forward three principles of restorative justice. First, it would seek to ensure that each event is handled fairly, which means that they and others in comparable situations will experience that they may be dealt with in addition. Secondly, it looks for the sufferer, perpetrator and network stratification. Thirdly, it would provide prison safety for people in opposition to an unwarranted national movement. A comparable argument becomes recommended by utilising Van Ness and sturdy, who diagnosed three different concepts in restorative justice. First, justice calls for us paintings to heal sufferers, of-fender and groups injured through crime. Second, sufferers, perpetrators and groups have to have the possibility for energetic involvement within the justice procedure as early and absolutely viable. Third, we need to reconsider the relative roles and responsibilities of the presidency and network. In promoting justice, authorities are answerable for maintaining a simple order and network for setting up a simple peace.¹⁷

Wesley Cragg attributes the emergence of restorative justice to the principle of retribution in crook law. In line with Cragg, retaliation is much less a hit in suppressing the incidence of crime. Consequently, a try to exchange the paradigm of punishment from retaliation to restorative or restoration will make the subjects worse. It is impossible to restore the victims' losses.¹⁸ In its improvement, the idea of restorative justice maintains to conform with diverse phrases. It has ended up being the dominant version of crook justice in most of the records of the humanity of all international locations.¹⁹

While regarding the definition of restorative justice, following the concepts contained therein as expressed via Bazemore and Walsgrave or using Van Ness and robust above, we can find that there may be a paradigm that at first centred on retribution retributive to restorative – restorative. For this reason, restorative justice departs from a few essential values. First, restorative justice is a long way extra involved in the approximate healing of the victim and victimised community than with ever greater pricey punishment of the culprit. Second, restor-

¹⁷ Johnstone Gerry, Van Ness, and Daniel W, *Handbook of Restorative Justice* (USA & Canada: Willian Publishing, 2007).

¹⁸ Wesley Cragg, *The Practice of Punishment: Toward a Theory of Restorative Justice* (London and New York: Routledge Taylor and Francis Group, 1992).

¹⁹ Alvianto R.V Ransun, "Mechanisms for Providing Compensation and Restitution for Victims of Acts Criminal," *Lex Crimen Journal* 1, no. 1 (2012): 62.

ative justice elevates the significance of the sufferer in the crook justice system via accelerated involvement, entry and offerings. Third, restorative justice requires that offenders be immediately held responsible for the character and/or network they victimised. Fourth, restorative justice encourages the complete network to be involved in conserving the perpetrator responsible and selling a restoration response to the wishes of victims and offenders. fifth, restorative justice locations greater emphasis on the offender accepting duty for their behaviour, and every time viable, than on the severity of punishment. Sixth, restorative justice recognises a community's responsibility for a social condition contributing to offender behaviour.²⁰

A few conclusions regarding restorative justice may be summed up while talking approximately restorative justice. First, restorative justice emphasises efforts to inspire the offender to reflect on consideration and offer answers (accountable) for the crimes he has dedicated to the sufferer. Second, the primary party to consider when a criminal offence occurs is the sufferer resulting from the crime. Third, the offender and sufferers of crimes can then mediate to talk about the stairs that may be taken to clear up the issues that befell (*restitutio in integrum*).²¹ Fourth, the country or authorities ought to ensure that the recuperation technique for sufferers proceeds with a mutual settlement between the wrongdoer and the sufferer to no longer propose an extended war. Fifth, society is inseparable in implementing restorative justice between the offender and the sufferer. The network will play a critical position in encouraging and assisting trouble fixing by emphasising the healing or development of crook acts devoted by the offender.²²

The scope of crime prevention as criminal politics is consistent with G. Peter Hoefnagels' description in figure 2.²³

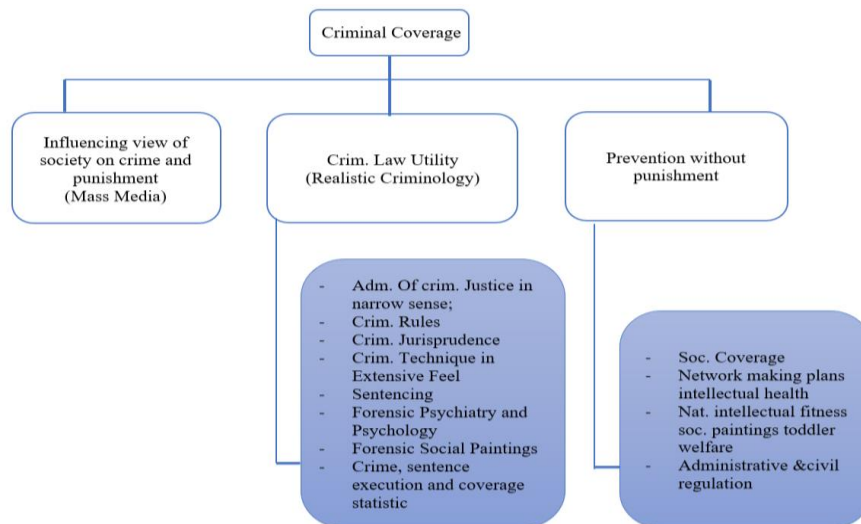


Figure 2. Scope of Criminal Policy²⁴

²⁰ Joshua Dressler, *Encyclopedia of Crime and Justice: Abortion-Cruel & Unusual Punishment*, 1st ed. (New York: Gale Group Thomson Learning, 2002).

²¹ Llewellyn, "Integrating Peace, Justice and Development in a Relational Approach to Peacebuilding."

²² J Rawls, "A Theory of Justice," *Choice Reviews Online* 37, no. 07 (Mar 1, 2000): 37-4151-37-4151, <https://doi.org/10.5860/CHOICE.37-4151>.

²³ G. Peter Hoefnagels, *The Other Side of Criminology*, 1969.

²⁴ The results of the writing team's data processing

In figure 2, it can be seen that according to G.P Hoefnagels,²⁵ efforts to combat crime can be taken with three approaches: a) criminal regulation utility, b) Prevention without punishment, and c) influencing society's views on crime and punishment/mass media.

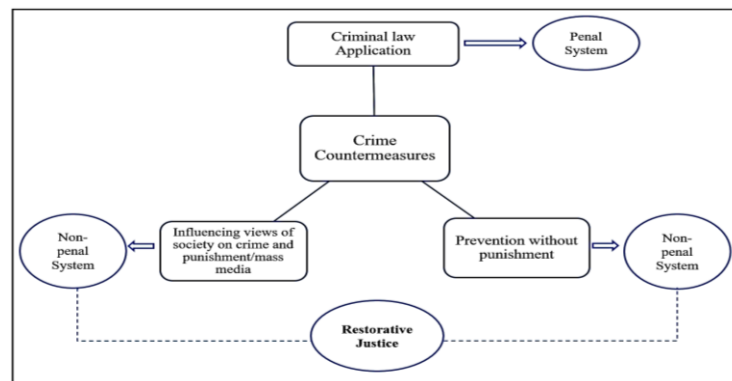


Figure 3. *Crime Prevention Scheme*²⁶

It can be seen from figure 3 that, in general, crime prevention is divided into two, namely through the penal system (criminal law) and through the non-penal system (outside the criminal law / not criminal law). The non-penal system used focuses more on the preventive nature of the concept of prevention, deterrence and control. Therefore, it is even more significant explicitly that the nonpenal system is a recovery effort synonymous with the concept of restorative justice.²⁷

Efforts to fight crime through non-penal channels are extra recuperation, so of the path, the primary goal is to address the primary elements inflicting crime. The principal elements of such conduciveness consist of the trouble of social situations which could at once and not directly deliver an upward push to crime. Consequently, from a macro and international crook political factor of view inside the attitude of global law, restorative justice efforts have a strategic role. This has been said in global congressional conferences in numerous resolutions.

Restorative Justice in the Crime Preventions Strategy by the UN Resolution

The idea of Restorative Justice has seemed for pretty a long term, approximately greater than two decades in the past, as an opportunity to fix crook cases, particularly kids with numerous issues. As John Braithwaite mentioned, restorative justice is a brand-new route between justice and welfare mode, then between retribution and rehabilitation.²⁸ In North America, Austria and elements of Europe, restorative justice is already carried out in any respect tiers of the traditional crook justice method, specifically the degree of research and prosecution, the level of adjudication and the level of execution of imprisonment. The improvement of the increase and dissemination of restorative justice has been the guide of the United Nations (UN).²⁹

²⁵ Aiden Stark, "Environmental Restorative Justice," *Pepperdine Dispute Resolution Law Journal* 16, no. 1 (2016): 435–62, <https://digitalcommons.pepperdine.edu/cgi/viewcontent.cgi?article=1364&context=drlj>.

²⁶ The results of the writing team's data processing

²⁷ Ntemi Nihilwa Kilekamajenga, "Learning from Contemporary Examples in Africa: Referral Mechanisms for Restorative Justice in Tanzania," *South African Crime Quarterly*, no. 63 (Mar 30, 2018): 17–26, <https://doi.org/10.17159/2413-3108/2018/v0n63a4368>.

²⁸ John Braithwaite, *Restorative Justice and Responsive Regulation* (Oxford: Oxford University Press, 2002).

²⁹ Eriyanto Wahid, *Keadilan Restoratif Dan Peradilan Konvensional l Dalam Hukum Pidana* (Jakarta: Universitas Trisakti, 2009).

within the fifth Congress in Geneva in 1975, the United countries commenced being aware of redress for sufferers of crime as an opportunity to retributive criminal justice.³⁰

Essentially, restorative justice prioritises the means of assembly among involved parties in crime and the duration after that, as said by Achmad Ali, who quoted the opinion of Howard Zher, a pioneer of restorative justice in the US, deciphering restorative justice as a system that includes fascinated parties from a specific offence and at the same time identifies losses and fulfils duties and wishes and setting the retaliation as a proper to be common.

Primarily based on this opinion, efforts to remedy conflicts and at the same time heal among the perpetrator and the sufferer are by way of bringing collectively or introducing the culprit in a single forum with the sufferer or his own family to foster empathy on both aspects. as a result, in the decision of the conflict highlighted is not always affirming thus inside the resolution of the struggle highlighted is not maintaining the guilt of the violator then enforcing criminal sanctions. However, the energetic function of the conflicting celebration through mediation or compensation for cloth and immaterial losses is within the shape of restitution or repayment and restoration of the respect of humanitarian family members among the events (humanisation).

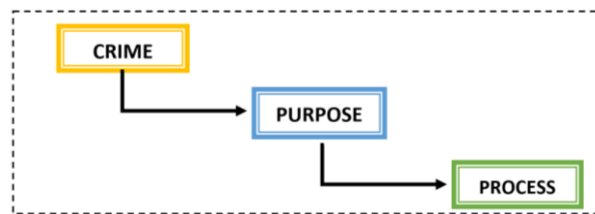


Figure 4. Characteristics of Restorative Justice

Figure 4 explains that crime is warfare among people that damages the sufferer, society, and the culprit himself. The purpose is the goal to be done of the crook justice manner is to reconcile the events together, correcting the damage as a result of the crime. At the same time, the criminal justice procedure should facilitate the energetic participation of sufferers, offenders and society. It ought to now not to be that criminal justice must be ruled with the aid of the nation by setting apart others.

The problem of Restorative Justice inside the crook Justice machine has been covered within the timetable for dialogue on a worldwide degree, particularly in the ninth/1995th and tenth UN Congresses on the Prevention of Crime and the remedy of Offenders and within the worldwide Penal Reform Convention in 1999;

The worldwide conferences induced the emergence of three global documents regarding restorative justice and mediation problems in crook lawsuits, namely: (1) the advice of the Council of Europe 1999 No. R (99) 19 on “Mediation in Penal topics”; (2) the European Framework selection 2001 on the status of sufferers in criminal complaints; and (3) the UN concepts 2002 (draft ECOSOC) on "basic ideas on the usage of Restorative Justice software in crook subjects.³¹

³⁰ Juhari, “Restorative Justice Dalam Pembaharuan Hukum Pidana Di Indonesia,” *Jurnal Spektrum Hukum* 14, no. 1 (2017): 96–108.

³¹ Diane Crocker, “Implementing and Evaluating Restorative Justice Projects in Prison,” *Criminal Justice Policy Review* 26, no. 1 (Feb 26, 2015): 45–64, <https://doi.org/10.1177/0887403413508287>.

As for the heritage of questioning, there wishes to be mediation because a few perspectives are related to crook regulation renewal (penal reform), and a few are related to the hassle of pragmatism. The historical past of the ideas of "penal reform" includes the concept of victim protection, the concept of harmonisation, the idea of restorative justice, the concept of overcoming stress/formality in the winning system, the idea of averting the terrible effects of the criminal justice gadget and the current criminal gadget, mainly in seeking out other alternatives to imprisonment (adjust-native to custody) and many others. The heritage of pragmatism consists of lowering stagnation or the accumulation of cases (the issues of court docket case overload), for simplification of judicial strategies and many others.

Regarding the background of the ideas of Recommendation Number R (99) 19 of the Committee of Ministers of the Council of Europe of Sept 15 1999, stated that the idea of mediation unites those who want reconciliation of the previous model, those who want to strengthen the position of victims, those who want criminal alternatives, and those who want to reduce the financing and workload of the criminal justice system or make this system more effective and efficient.

In the Global Penal Reform Conference held at the Royal Holloway College, University of London, on 13-17 April 1999, it was stated that one of the key factors of the brand new timetable for penal reform became the want to complement the formal judicial device with simple, locally based totally, dispute decision mechanisms which meet human rights requirements.

The convention additionally recognised nine improvement techniques in reforming the crook regulation, specifically growing/ constructing: restorative justice, opportunity dispute decision, casual justice, custody options, alternative approaches of dealing with juveniles, managing Violent crime, lowering the jail populace, the right control of Prisons, the position of civil society in penal reform. In the Vienna Declaration, the 10th UN Congress/2000 (document A/CONF. 187/4/Rev.3), it was stated that to protect victims of crime, there should be an introspected mechanism of mediation and restorative justice (restorative justice).

The series of UN Congresses carried out gave the view that sanctions prioritise civility and must consider the principles of what objectives to achieve in the criminal process. The humanist purpose is to become the primary individual of international law, as is the precept of worldwide regulation that everyone conflicts that arise require decision-based totally on humanity, within the experience of honouring the human dignity and dignity of the perpetrators.

The worldwide angle at the reasons for crime, inside the UN congress, suggests how the circumstance of crime happens because of conducive elements, which might be the primary elements within the incidence of crime. The subsequent may be visible within the desk below so that it is analysed that the constraints of the penal gadget route are hard to conquer social issues and decrease crime.

Table 1: *Global Outlook on Crime-Conducive Factors Requires Restorative Justice*

Con- gress/year	Place	Description
6 th UN	Cara-	Resolution considerations regarding crime trends and crime prevention strategies

Congress ³² /1980	cas, Vene- zuela	that: 1. The crime trouble impedes development in the direction of the attainment of an appropriate excellent of existence for everybody; 2. Crime prevention techniques; 3. The primary reasons for crime in many nations are social inequality, racial and countrywide discrimination, the low trend of residing, unemployment and illiteracy amongst extensive sections of the populace. After considering the preceding, this resolution states, among other things. Name upon all nation's participants of the United nation to take each degree of their electricity to put off the situations of existence which detract from human dignity and cause crime, together with unemployment, poverty, illiteracy, racial and national discrimination and numerous forms of social inequality.
7 th UN Con- gress ³³ /1985	Milan, Italy	Report A/CONF.121/L.9 on Crime Prevention within the context of improvement that efforts to dispose of the causes and situations that give rise to crime need to be a fundamental crime prevention strategy. Consideration of resolution no. 22 on crime prevention in the context of development affirms the guiding concepts produced via the seventh congress. It was affirmed that crime prevention and crook justice rules need not forget the structural causes, such as socio-financial reasons for injustice, of which criminal activity is often a symptom.
8 th UN con- gress ³⁴ /1990	Ha- vana, Cuba	Document A/CONF.144/L.17 on the social aspect of crime prevention and criminal justice in the development context. ³⁵ The social factor of tendencies is a critical aspect of the success of the goals of the approach for crime prevention and crook justice within the context of improvement and must accept better precedence. The social aspects that the eighth congress identified as conducive factors causing crime include: a. Poverty, unemployment, blindness (ignorance), lack of decent housing and an unsuitable/harmonious education and exercise system. b. The growing range of folks that do now not have possibilities (desire) because of the process of social integration, in addition to because of the worsening of social inequalities c. The loosening of social and circle of relative ties. d. Circumstances/situations that make it hard for people to migrate to towns or different nations. e. The destruction or destruction of indigenous cultural identification, in connection with racism and discrimination, reasons damage/weak points within the social, welfare, and painting surroundings. f. The decline or retreat (pleasant) of the city surroundings encourages growth in crime and lower (inadequate) offerings for community/neighbouring centres. g. The problems for humans in contemporary society combine as they must of their network, in their family/circle of relative's surroundings, in which they paint or in their college surroundings. h. Alcohol abuse, dope, and others whose use is likewise multiplied because of the abovementioned factors. i. The substantial interest in prepared crime, especially the drug change and the ownership of stolen items. j. Impulses (particularly by using the mass media) regarding de-thoughts and attitudes that result in acts of insolence, inequality (rights), or illiberal attitudes (intolerance).

Table 1 describes the problems and social conditions that are conducive factors causing the onset of crime, clearly a problem that cannot be overcome only by the penal system. The limitations of the penal path require efforts to solve problems through other channels, so the

³² Sixth United Nations Congress, Report, 1981, p. 5.

³³ Seventh UN Congress, Report, 1986, p. 94.

³⁴ Document eighth UN Congress A/CONF.144/L.17. p. 2.

³⁵ Document eighth UN Congress.

role of the restorative justice path is very necessary and is certainly supported by social policy, which, based on chart number 2, enters the prevention without punishment system.

Restorative justice is a recovery effort to achieve stability in society which, of course, also impacts national development and world peace. The dealing with or movement of restorative justice could be very critical due to the fact it is far alleged in various UN congresses concerning the prevention of crime and the remedy of offenders that development is crook whilst the development is not always rationally planned, deliberate lame ignores ethical values, does now not encompass a complete network safety method.

Restorative justice is an opportunity inside the crook justice device by selling an exemplary method among the offender and the sufferer and the network as a unit to discover answers and return to the pattern of appropriate societal relations. Knowing the factors of the occurrence of crime, of course, will provide more problem-solving. Implementing restorative justice by mediating between the victim and the perpetrator of the crime in solving the problem has the main objective of recovering losses to the victim and returning to the original situation. Moreover, through RJ (restorative justice), the negative stigma or labelling of “wrong people” is abolished.

The various descriptions of the discussion on solving crimes at the UN congressional level show that the international world also participates in efforts to deal with crime by considering more humanist solutions. The concept of restorative justice was born as an attempt to get over the crimes dedicated. International Law looks at relations between countries and considers how peace can be achieved. Surely, one of the determining aspects of achieving world peace is the lack of crime in each country. The international world has followed the values of restorative justice that solve problems through mediation.

Penal System Weaknesses in Strengthening Restorative Justice

In addition, strengthening the idea of restorative justice is also contained in the various views of experts born from the research carried out. The lack of effectiveness of the penal system gives Restorative Justice a big space to take a role.³⁶ The following table shows experts' considerations in assessing the penal system's ineffectiveness in solving criminal problems in society.

Table. 2: *The experts' opinion on the ineffectiveness of the penal system*³⁷

Name/Year	Statement
Rubin/1971	Conviction (regardless of the essence, whether meant to punish or to treat), a touch or now not, has any impact on the trouble of crime. ³⁸
Schultz/1971	The upward push and fall of crime in a rustic are not always associated with adjustments in its legal guidelines or dispositions in courtroom selections but are associated with the work or functioning of primary cultural adjustments in people's lives. ³⁹
Johannes Andenaes/1972	The work of criminal law must forever be viewed from its entire cultural context. A reciprocal influence between the law and other factors shapes our attitudes and actions. ⁴⁰

³⁶ Crocker, “Implementing and Evaluating Restorative Justice Projects in Prison.”

³⁷ Robert K. Ame and Seidu M. Alidu, “Truth and Reconciliation Commissions, Restorative Justice, Peacemaking Criminology, and Development,” *Criminal Justice Studies* 23, no. 3 (Sept 2, 2010): 253–68, <https://doi.org/10.1080/1478601X.2010.502352>.

³⁸ H.D. Hart, *Punishment: For and Against* (New York, 1971).

³⁹ H.D.Hart.

Wolf Midden- dorf/1971	It is difficult to evaluate the effectiveness of "general prevention" because the mechanism of prevention (prevention) is unknown. We need to find out the true relationship between cause and effect. People can commit crimes or can repeat them without any connection to the presence or absence of laws or criminals imposed. Other ways of social control, such as parental power, habits or religion, may prevent actions as powerful as people's fear of criminality." ⁴¹
Donald R. Taft dan Ralph W. England/1964	The effectiveness of criminal regulation cannot be correctly measured. Regulation is the most effective one of approach to social manipulation. Conduct, non-secular ideals, organisation guide and denunciation, suppression and companies of hobby and have an impact on from public opinion are an extra green approach of regulating human conduct than prison sanctions. ⁴²
R. Hood dan R. Sparks/1967	Some other aspects of "general prevention", such as "reinforcing social values", "strengthening the common conscience", "alleviating fear", and "providing a sense of communal security", are difficult to study ⁴³
Karl O. Christi- ansen/1974	The effect of criminality on society at large is very difficult to measure. That influence (meaning influence in the sense of "general prevention", pen.) consists of several different and closely related forms of action and reactions, which are referred to by various names, for example, deterrence, general prevention, reinforcing moral values, strengthening the collective consciousness, reaffirming/strengthening the safety of society, reducing or easing fear, releasing aggressive tensions and so on. Particularly regarding the effect of imprisonment, it is argued by him that we know its effect on the offender, but its effects on society as a whole (meaning the influence of "general prevention", pen.) are "terra incognita", an unknown territory. ⁴⁴
S. R. Brody/1976	Of the nine studies (on sentencing) observed by him, five of them stated that the length of time spent in prison did not appear to have any effect on the presence of Penghu germs again. ⁴⁵
M. Cherif Bas- siouni/1978	We do not know and never know for sure what methods of action (treatment) are the most effective for preventing and improving. We also need to find out how effective each method of action is. To answer these problems definitively, we must know the causes of b evil, and to know this, we need a complete knowledge of the aetiology of human behaviour. ⁴⁶

The research provided in table 2 become considerations for strengthening the idea of restorative justice to be developed and implemented to combat crime.⁴⁷ This is reasonable because there is a need to utilise and develop non-penal system efforts to compensate for the shortcomings and limitations of the penal system.

CONCLUSION

Restorative Justice is a strategic effort that makes a social environment materially and immaterially gathers society's potential to be used as a potential antidote to crime as the concept of recovery. Healing performed via restorative justice is not most effectively restricted to fixing legal troubles using the sufferer and the offender. However, instead, the idea of restoration of all factors, be it components of the sufferer, society or environmental factors, can enjoy the

⁴⁰ J.Andenaes, *Does Punishment Deter Crime? In Philosophical Perspective on Punishment* (New York: Gertrude Ezorsky, 1972).

⁴¹ H.D. Hart, *Punishment: For and Against*.

⁴² Donald R. Taft and Ralph W. England, *Criminology*, 1964.

⁴³ R.Hood and R Sparks, *Key Issues in Criminology*, 1967.

⁴⁴ R.Hood and Sparks.

⁴⁵ S.R. Brody, *The Effectiveness of Sentencing*, 1976.

⁴⁶ M. Cherif Bassiouni, *Substantive Criminal Law*, 1978.

⁴⁷ Septa Chandra, "Politik Hukum Pengadopsian Restorative Justice Dalam Pembaharuan Hukum Pidana," *Fiat Justisia: Jurnal Ilmu Hukum* 8, no. 2 (August 13, 2015): 255–77, <https://doi.org/10.25041/fiatjustisia.v8no2.301>.

effect of criminal acts. Restorative justice is only a something new in the concept of global law. Even though the UN congress, more than once, has issued conflict resolution ideas by promoting restorative justice. A more humanist goal is to be the main character of International Law, as is the Principle of International Law that all conflicts that occur require resolution by having to be based on humanity.

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