

**POLICY BRIEF:**

**STRENGTHENING THE PRACTICE OF RESTORATIVE JUSTICE IN NIGERIA**

PB/RJ/01

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**KEY TAKEAWAY:**

- Restorative justice encourages the repairing of harm committed through interactions and reconciliation of victims, offenders and the community.
- Experience from the United Kingdom and Canada shows that Restorative Justice can reduce reoffending by up to 14% and 8% respectively.
- Nigeria adopted the restorative approach to justice by enacting the Administration of Criminal Justice Act 2015.
- Nigeria’s current practice of restorative justice is not commensurate with the expansive provisions of restorative justice in Nigerian laws.
- Existing laws on restorative justice ought to be reformed and adequately implemented.

**INTRODUCTION**

The concept of justice is an age-long phenomenon. An important societal institution, justice is intricate to the peace and tranquility of any society. Over time, different systems of justice have been created to suit the specific needs of society. Each manifestation of justice is represented as the

panacea to crime or, at best, the closest to a significant reduction in crime in society. In Nigeria, justice has always been retributive in theory and practice. Crime deterrence has been brandished as the sole reason for justice, leading to an extensive punitive criminal justice system. The criminal code laws of Southern Nigeria (Penal Codes in the North)

emphasize punishment over restoration which is usually implemented by dispensing maximum sentences for offences, including the death sentence and long years of incarceration which only contributes to the problem of prison congestion.

**According to the Nigerian Correctional Service, the Nigerian custodial facilities presently record a population of 82,750 individuals – exceeding the maximum capacity by about 43%**

The increase in crime rate and convictions proves the inadequacies of the punitive justice approach in combating crime, reducing recidivism and promoting peaceful societies in Nigeria.

To efficiently rehabilitate those experiencing incarceration and influence crime deterrence, it becomes imperative for Nigeria to adopt a practical restorative approach to justice. Essentially, the situation calls for an urgent paradigm shift from discussing and deliberating restorative justice to actively practising restorative justice across the country.

### RESTORATIVE JUSTICE IN NIGERIA

Restorative justice connotes a participatory justice system where all the parties affected by an event play a role in the conflict

resolution of such an event to foster healing for victims and restoration for offenders by addressing the harm committed.

In going with the tide of world justice reforms, Nigeria enacted the **Administration of Criminal Justice Act (ACJA)** in 2015 which aims to steer the Nigerian justice system away from retribution to restoration. The ACJA seeks to reform the administration of criminal justice in Nigeria and emphasizes a more restorative approach to justice and conflict resolution for less serious offences.

The ACJA prescribes several restorative means of achieving justice including monetary compensation to victims by Defendants, under **sections 319 and 454(3)**; suspended sentences and community services for simple offences under **section 460**; restitution under **sections 270, 321, 341-342 and 401 (2) (g)**, amongst others.

Nigeria's legislative attempt at incorporating restorative justice into the country's criminal legal landscape is also evident in the **Nigerian Correctional Service Act 2019 (NCSA)**. By **section 43**, the Controller-General of the Nigerian Correctional Service has the responsibility of providing the platforms for restorative measures which may occur at any time before trial, during trial, during imprisonment and post-

imprisonment. Part II of the Act also burdens the Nigerian Correctional Service with the administration of non-custodial measures.

In the administration of juvenile justice, the **Child's Rights Act 2003 (CRA)** emphasizes rehabilitation over punishment. By **section 221**, individuals below 18 years are restricted from certain types of punishments, including corporal punishments, the death penalty and imprisonment. **Section 223(2)** prescribes the institutionalization of a child as a last resort in dealing with a child offender. Other references to restorative justice measures include restitution under **section 223**, and provision of rehabilitative and development programs for minors under **sections 234-235**, amongst others.

#### RESTORATIVE JUSTICE IN PRACTICE

The lack of official data publication on the frequency of recourse to restorative justice measures begs the question of what measures are currently in place to ensure harm is repaired, victims are satisfied and offenders are repentant as well as the adequacy and efficiency of these structures. Besides the Lagos State Restorative Justice Program, the first of its kind, Nigeria lacks any

institutional structure committed to restorative justice practice.

The Lagos Restorative Justice Program is however fraught with factors hindering the adequate recourse to restorative justice practices in the Lagos criminal justice system, including; the stringent restrictions on cases that qualify for the restorative process, the indirect modelling of the traditional criminal justice system which is retributive in nature, and the strict adherence to court protocols.

Additionally, notwithstanding the provisions of the law which prioritize non-custodial measures, there is still a consistent increase in incarceration with many of such incarcerated persons yet to have their free and fair trial at court.

**Data from the Nigerian Correctional Service reveals that 67% of the Nigerian prison population are remanded/pre-trial detainees.**

Although restorative justice has been recorded to reduce reoffending, there has been no official report of any significant reduction in recidivism in Nigeria since the enactment of the ACJA in 2015 and the

NCSA in 2019. The last available official data on recidivism in Nigeria is a [2015 report on the reconviction rates in Nigeria](#) published by the Nigerian Bureau of Statistics.

**A [Restorative Justice Program in Canada](#) reported an 8% reduction in recidivism while the [UK Restorative Justice Council](#) reported a 14% reduction in the rate of reoffending over a 7-year evaluation of three restorative justice schemes.**

These gaps evidence a wide disconnect between restorative justice in theory and

restorative justice in practice. The proof of adequate and effective restorative justice measures should be measurable successes showing balanced justice outcomes for victims and offenders and all other actors involved. Where this is lacking, it signals a need for policy evaluation and reforms to emphasize the implementation of law and policy which in this context, equates to adequate implementation of the ACJA, NCSA and CRA as it relates to restorative justice and the establishment of structures to promote restorative justice.

## RECOMMENDATIONS

### 1. **Involve All Parties:**

Criminal conflict resolution should not be a tussle between the state and an alleged offender alone. For justice to be served, victims should not be relegated to faceless nominal parties. This defeats the purpose of reconciliation and restoration. Victims should be actively involved in criminal justice processes, alongside state and government actors, the community and the offenders. Parties should work towards the common goal of reconciling victim and offender and ensuring victims are satisfied with the judicial outcome and offenders are willing to repair the harm done.

### 2. **Set Up Restorative Centers:**

There should be designated centres across all states to address and handle restorative and conciliative criminal justice procedures. Of all the states in Nigeria, Lagos is the only state

with a restorative justice centre and an institutionalized restorative justice program. Restorative justice will only thrive where there are adequate resources to foster a restorative environment and there is an urgent need for standard restorative justice centres with trained staff across the country.

### **3. Commit to Rehabilitative Structures:**

Rather than establish mega prisons across the states, such resources should be channelled to more rehabilitative-centred initiatives. The focus should be on how to decongest existing correctional facilities, not creating more prisons which only prioritize punishment. If the Nigerian criminal justice system will be restorative in practice, there needs to be the prioritizing of restorative practices. Therefore, instead of more prisons, existing facilities should be reformed to provide adequate standard living conditions; educational facilities within the prisons should be built, staffed and funded to provide rehabilitation through education for incarcerated persons; and regular mental health and counselling services should be funded and made available to residents of incarceration centres.