



Basis and Practices of Restorative Justice: The Case of the Ethiopian Criminal Justice System

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Abstract: The purpose of this study is to assess the legal and institutional basis and practice of restorative justice in Ethiopia. Unlike the traditional Ethiopian criminal justice system, which views crime as an offence against the state and often excludes victim and community participation, restorative justice views crime as a violation of relationships among victims, offenders, and the community. This study employs a qualitative research approach and descriptive research design. Data was collected through document review and interviews with five individuals selected through purposive sampling. The findings indicate that various governmental institutions, including the House of Federation, Peace Ministry, police, court, general attorney, and reconciliation commission, have legal recognition to apply restorative justice values and principles. Additionally, traditional conflict resolution mechanisms and alternative dispute resolution mechanisms have de facto recognition for resolving criminal cases. The identified models of restorative justice in Ethiopia include compromise, withdrawal of charges, probation, pardon, amnesty, plea bargaining, shuttle diplomacy, suspect rehabilitation, and reconciliation based on different laws. The study concludes that there is a need for the House of People's Representatives to enact comprehensive legislation on restorative justice. Furthermore, the police and general attorney should create awareness about restorative justice. The implications of this study highlight the potential benefits of restorative justice in fostering community involvement and improving the effectiveness of the justice system. This study is pioneering in its detailed examination of restorative justice in the Ethiopian context, offering a foundation for further research and policy development.

Keywords: Access to justice, Restorative Justice, Retributive System, Victim Participation

1. Introduction

Conflict is an inherent aspect of human existence, arising from the limited resources available to meet unlimited human needs. Conflict itself is neither inherently destructive nor constructive; rather, it is the mechanism of its management that determines its impact. When conflicts are resolved through force, they can escalate into violence, crime, and even war. Conversely, when addressed through formal criminal justice systems and informal conflict resolution mechanisms, conflicts can promote development, peace, and democracy (Galtung, 2004).

The criminal justice system (CJS) encompasses the processes of crime investigation by the police, prosecution by public prosecutors, adjudication by courts, and the enforcement of punishment by correctional institutions. Despite its comprehensive structure, the CJS often excludes the participation of stakeholders and tends to follow an adversarial process that results in a win-loss outcome. To mitigate these disadvantages, criminologists have introduced the concept of restorative justice, which emphasizes stakeholder participation and aims for a win-win outcome (Zehr, Komiyama, & Stein, 1997).

Restorative justice focuses on repairing the harm caused by criminal behavior through inclusive processes that engage victims, offenders, and the community. This approach contrasts with the retributive nature of traditional criminal justice systems, offering a more holistic method of achieving justice and reconciliation.

Despite its potential benefits, the implementation and integration of restorative justice within the Ethiopian criminal justice system remain under-explored and inadequately documented. Existing studies on restorative justice in Ethiopia are often general and lack specificity, creating a gap in the literature that this study seeks to fill. By examining the practice and models of restorative justice in Ethiopia, and exploring mechanisms of collaboration with the formal criminal justice system, this study aims to ensure the right to justice and enhance the efficacy of conflict resolution processes.

This paper is structured into four sections. The first section provides a general overview of restorative justice, detailing its principles and theoretical foundations. The second section examines the legal and institutional framework of restorative justice in Ethiopia, identifying existing policies and their implementation (Zehr et al., 1997). The third section discusses the current practice of restorative justice in Ethiopia, highlighting case studies and practical applications. The final section presents the conclusion and offers suggestions for future research and policy development.

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In addressing these objectives, this study contributes to a deeper understanding of restorative justice in the Ethiopian context, proposing strategies for its effective integration into the existing criminal justice system to promote a more equitable and participatory approach to conflict resolution.

2. Methodology

This study employed a qualitative research approach and a descriptive research design to explore the models and practices of restorative justice in Ethiopia. The target population included victims, offenders, criminal justice system officials, and traditional dispute resolvers. Data was collected from both primary and secondary sources. Primary data was gathered through semi-structured interviews with five key informants selected via purposive sampling, including representatives from the victim and offender groups, officials from the criminal justice system, and traditional dispute resolvers. This approach allowed for in-depth insights into their experiences and perspectives on restorative justice practices. Secondary data was obtained through a thorough review of relevant documents, including legal texts, policy papers, academic articles, and previous research studies on restorative justice in Ethiopia. The data collected was analyzed thematically, involving coding to identify recurring themes and patterns related to restorative justice practices. The thematic analysis facilitated the organization of data into meaningful categories, enabling a detailed interpretation of the findings. Ethical approval was obtained prior to the commencement of the study, and informed consent was secured from all participants, ensuring awareness of the study's purpose and their right to withdraw at any time. Confidentiality and anonymity were maintained throughout the research process. The scope of this study is limited to the models and practices of restorative justice within Ethiopia (Zehr et al., 1997), focusing on how these models integrate with the formal criminal justice system and their effectiveness in resolving conflicts. Limitations include the small sample size and potential biases due to the subjective nature of qualitative research.

3. General Overview Of Restorative Justice

This section deals with the rationale for restorative justice and the differences between ADR, customary dispute resolution, informal conflict resolution mechanism and restorative justice.

3.1. Rational and Definition of Restorative Justice

Conflicts are a part of social life. Before the emergence of modern government, society resolved its conflicts through informal conflict resolution mechanisms, which can be classified into traditional dispute resolution or popular justice forums (alternative dispute resolution, which will be discussed below) (McCold, 1998).

The phrase 'traditional (indigenous) or customary dispute resolution' refers to the resolution of conflicts by local law and traditional judges, which is effective in most distinct communities due to the cosmo-vision behind this communal character known as 'indirect reciprocity,' characterized by two elements (McCold, 1998). Firstly, members of a community are not primarily seen as individuals with individual rights and duties, nor are they perceived as equal citizens. Instead, they are deemed to belong to one category or status out of a wide range of different categories, such as being a member of the same age-set, an important clan/sub-clan, a man or a woman, a child or an adult, etc. Secondly, for every category of members, there exists the obligation to sometimes refrain from pursuing only individual interests. Everyone in his own place in the community is obliged during times of trouble to take care of others and their welfare in general, trusting that other community members will help him/her in the future if he/she gets into trouble. Additionally, people are expected to know the kind of behavior that is expected from them, such as how a woman or a child is supposed to behave. There is not much room for personal and private interests and hobbies, especially those that would be disruptive to the community (Fekadu, 2009).

Therefore, the local laws of these distinct communities are more of a collection of broad, unwritten, and "vague" principles that everyone has to obey. When someone deviates from those principles, they are considered disrespectful to the community and nature. How to deal with this disorderly behavior? Here, the central question about the suspect is not exclusively whether he/she can be proven to have committed the offense. In determining someone's guilt, it is also a matter of assessing if the suspect is a good or bad community member and how he/she behaves morally. Therefore, doing justice is not what in the CJS would be called a purely "legal" matter, but is more of an evaluation of the totality of someone's relations and whether or not that person is a good and regular worker or conforms to the morals and ways of life of the community.

The phrase popular justice forum or Alternative Dispute Resolution (ADR) refers to a non-state judicial determination, including the process of negotiation between disputing parties up to the intervention of a neutral third party (mediator or conciliator) to resolve a certain dispute. Negotiation is the process of bilateral discussion between conflicting parties without the intervention of a third party in order to solve their dispute (Fekadu, 2009). Mediation is a voluntary, party-centered, and structured negotiation process where a neutral third party facilitates the negotiation process. The conciliator plays the role of an advisor to the disputing parties and may propose certain terms of compromise. The advantages of negotiation, mediation, and conciliation compared to arbitration and court litigation are that they are cheaper, party-controlled from initiation to outcome, confidential, private, speedy, and timely with a win-win result. However, they may face issues such as an imbalance of power between the disputing parties, the absence of precedent, lack of consent of a party, and problems related to the enforcement of compromise (Fekadu, 2009).

Black's Law Dictionary (1997) defines 'Arbitration' as a method of legal dispute resolution involving one or more neutral third parties agreed to by the disputing parties and whose decision is binding. Arbitration is not an Alternative Dispute Resolution because it has an adversarial procedure and win-loss award like a court judgment and is unable to restore the former relationship between the conflicting parties. ADR is a contract while Arbitration is a form of Adjudication, recognizing the principles of a fair hearing such as the right to present one's own version of the case, produce evidence, and challenge opposing evidence and arguments. Additionally, the outcome of arbitration is a binding award similar to a court judgment; the role of the arbitrator is also similar to a court judge. In the case of negotiation and mediation, the principle of fair hearing like adversarial litigation is unthinkable; it is rather the process of working together to satisfy the involved parties' mutual interests (Fekadu, 2009).

The Alternative Dispute Resolution mechanism is effective in a functional society, which refers to the existence of direct reciprocity usually in urban and peri-urban areas where no traditional justice system had previously existed, and in rural areas where the traditional system has broken down. It is based on the conflicting parties' consent to initiate and place as well as the law & language of the proceeding with a win-win outcome. ADR is created through the amendment of a traditional dispute resolution mechanism and is run by non-governmental organizations.

After the emergence of the modern state, the criminal justice components attempted to monopolize the resolution of criminal cases and considered traditional conflict resolution mechanisms as obstacles to development and national unity. The criminal justice system is only expected to strike a balance between the protection of the public against criminal harm and the protection of suspects against unfair treatment during the process. However, it was criticized as being expensive, inaccessible, conflict-inducing, and disempowering for those involved, with prevalent mistrust of the law, fear, intimidation, unfamiliarity with formal procedures and court atmosphere, low legal literacy, and unequal power relations. On the other hand, the informal conflict resolution mechanism is seen as a more accessible, flexible, and efficient form of justice that allows for the active participation of all parties and assists in the preservation of relationships. Therefore, the rationale for the emergence of restorative justice (RJ) is to rectify the limitations associated with the criminal justice system.

There is no universally accepted definition for the term restorative justice (RJ) due to the growing nature of the field. It originated from the criminal justice practices of indigenous peoples and the alternative dispute resolution system around the world. The state should support and control restorative justice in order to limit its demerits. For instance, the indigenous dispute resolution mechanism violates the human rights of minorities, children, and women, so the state controls such disadvantages. Therefore, it is defined as simple as opposed to the formal criminal justice system behaviours as follows:

Table 1: The difference between Criminal Justice and Restorative Justice

Bases	Criminal Justice	Restorative justice
Focus	Victims are not the primary focus of the process.	Victims and community are directly involved and play a key role in response to misbehaviours/offenses.
Actors	Offenders are defined by the misbehaviour/offense.	Offenders are defined by their capacity to take responsibility for their actions and changed behaviour.
	Victim is defined by material and psychological loss.	Victims are defined by losses and capacity to participate in the process for recovering losses and healing.
Crimes	➤ Crimes are the result of individual choice with individual responsibility. ➤ Crime is a violation of the law, and the state is the victim.	Crimes have both individual and social dimensions and are the result of individual choice and the conditions that lead to the behaviour. Crime is a violation or harm to people and relationships.
Problem	➤ Defined narrowly, ➤ Abstract (a legal fiction), ➤ Only legal variables are relevant, ➤ State as the victim.	• Defined relationally, • A violation of people, • Overall context is relevant, • People as victims.
Participant	➤ State is active and but offender passive.	Victim and offender primary, along with the community and state.
Process (how)	➤ Adversarial, authoritarian, technical, impersonal.	Participatory, maximizing information, dialogue and mutual agreement.
	➤ Focus - guilt/blame.	Focus -needs and obligations.
	➤ Neutralizing strategies,	• Empathy and responsibility
	➤ Encouraged	• Encouraged

	The process of justice is a conflict between adversaries in which the offender is pitted against state rules; intentions outweigh outcomes and one side wins while the other loses.	The process involves victims, offenders and the community in an effort to identify obligations and solutions, maximizing the exchange of information (dialogue, mutual agreement) between them.
Outcome	➤ Pain and suffering. ➤ Harm by offender balanced by harm to offender.	• Making things right by identifying needs and obligations, healing, problem-solving. • Harm by offender balanced by making right.
	Oriented to the past.	Oriented to the future.
	The aim of justice is to establish blame (guilt) and administer pain (punishment).	• The aim of justice is to identify obligations, to meet needs and to promote healing.

Source: (Zehr, 1997).

Therefore, for the purpose of this paper, Restorative Justice refers to the de facto or de jure recognition of traditional dispute resolution and alternative dispute resolution by the state to resolve criminal matters in collaboration with the state criminal justice system. This entails the sharing of sovereign resolution of criminal matters with non-state institutions. RJ provides a much greater degree of participation of stakeholders, offers ample opportunity for apologies, forgiveness, reduced fear and anger, and strengthened future relationships. It can proceed in a courtroom setting, employ pre-trial diversion, dismiss charges after institution, and in more serious cases, include a prison sentence with other forms of restitution. It can also proceed in the community, with the concerned community meeting with all parties to assess the experience and impact of the crime.

3.2. Principles of Restorative Justice

The values of restorative justice are respect for the dignity of the individual in the context of the administration of criminal justice and the participation of victims and offenders in the process of conflict resolution to compensate for the harm caused by the offender. The three basic assumptions of restorative justice are that crime is viewed as a violation of people and relationships, violations give rise to obligations, and finally, the resulting obligation is to put wrongs to right (Zehr, 1997). Based on these assumptions, the principles of restorative justice are: firstly, every stakeholder has the right to participate in the conflict resolution process. Secondly, the procedure is voluntary, cooperative, and flexible. Thirdly, the community's disapproval of wrongdoing is accompanied by acts to reintegrate the offender back into the community of law-abiding citizens through words or gestures of forgiveness or ceremonies to decertify the offender as deviant. Finally, repairing the harm by imposing obligations on the offender and the communities for restitution, the performance of community services, making an apology by the offender and showing sincere remorse in a way that he/she acknowledges his wrongful acts (Endalew, 2013)c.

3.3. Models of Restorative Justice

RJ is a new concept but its influence has spread around the world at an amazing speed through innovation and integration of restorative justice values and principles into global justice systems. This program or model does not exhibit a uniform structure and form because the essence of restorative justice is not the adoption of one form or process; rather, it is the adoption of any form or process which fills the limitations of the criminal justice system. Hence, depending on the choice of the parties, types of conflict, and resources, there are different restorative justice programs functioning in different countries (Endalew, 2013). Among these, the most common are:

3.3.1. Victim-Offender Mediation

Mediation is a neutral third party that facilitates the process of negotiation between the victim and the offender to resolve their conflict. It is similar to mediation processes in civil matters, which were first trialed in Ontario, Canada, and then expanded throughout the United States, the United Kingdom, and Europe in the early 1970s. The features of victim-offender mediation include permitting victims to meet their offenders on a voluntary basis, encouraging the offender to learn about the crime's impact and take responsibility for the resulting harm, and providing the victim and the offender the opportunity to develop a plan that addresses the harm. Its outcome is win-win, giving satisfaction to the victims and offenders, lowering fear among victims, providing a greater likelihood that the offender will complete a restitution obligation, and assuring that fewer offenders will commit new offences than through the normal court process (Endalew, 2013).

3.3.2. Family or Community Group Conferencing

This is an extension of the victim-offender mediation through collaboration between the victim, offender, family, friends, and key supporters to resolve the conflict together. Conferencing allows the victim an opportunity to be directly involved in responding to the crime, increasing the offender's awareness of the impact of his or her behavior and providing an opportunity to take responsibility for it, engaging the offender's support system for making amends and shaping the offender's future behavior, and allowing the offender and the victim to connect to key community support. It originated from Maori traditional practices in New Zealand, where it is operated out of the social services department, and was further modified in Australia for use by the police. It is now being used in North America, Europe, and southern Africa (Endalew, 2013).

3.3.3. Peace-making or Sentencing Circles

This is a process designed to develop consensus among community members, victims, victim supporters, offenders, offender supporters, judges, prosecutors, defense counsel, police, and court workers on an appropriate sentencing plan that addresses the concerns of all the interested parties. It is a court-annexed traditional conflict resolution mechanism, in which the court gets a sentence opinion from the community instead of the public prosecutor. The goals of circles include promoting the healing of all affected parties, giving the offender the opportunity to make amends, giving the victims, offenders, family members, and communities a voice and shared responsibility in finding constructive resolutions, addressing underlying causes of criminal behavior, and building a sense of community around shared community values. Circles were adapted from certain Native American traditional practices and are being used throughout North America (Dekeyser et al., 2013).

4. Foundation Of Restorative Justice In Ethiopia

The purpose of this section is to explain the basis of restorative justice in Ethiopia. Disputes and resolutions are normal. Ethiopia has more than 80 nations, nationalities, and peoples, all of which have their own traditional dispute resolution mechanisms such as the institutions of Gadaa among the Oromo and the Shimagelle by the Amhara, to resolve their conflicts through traditional conflict resolution. Moreover, after the emergence of the modern state, the resolution of conflict is only attempted by the criminal justice system. However, due to the weaknesses of the criminal justice system, Ethiopia has legally and factually recognized principles and values of restorative justice, which are discussed in the following subsections (Hill, 2002).

4.1. FDRE constitution

This is the supreme law of Ethiopia. The Federal Democratic Republic of Ethiopia (FDRE) Constitution Article 37(1) states that everyone has the right to bring a justiciable matter to a court of law or any other competent body with judicial power to access justice. In addition to this, article 9(1) of the constitution allows customary practice or a decision of an organ of the state or a public official, which does not contravene the constitution. Similarly, Constitution articles 34(5) and 78(5) describe the adjudication of disputes relating to personal and family cases by religious or customary laws established by parliament with the consent of the parties to the dispute. Constitution articles 39 and 88(2) also explain that the government shall respect the identity of Nations, Nationalities, and Peoples and uphold the duty to strengthen ties of equality, unity, and fraternity among them. This means that everybody has the right to access justice from the criminal justice system or restorative justice system. The government has the duty to respect, fulfil, and protect the right to access justice.

4.2. House of Federation

The House of Federation is the upper house of the parliament, which is the representative body of the nations, nationalities, and peoples of Ethiopia. It is vested with the constitutional mandate to manage conflicts and find solutions to disputes that may arise between states or the Federal and State governments as enshrined in the FDRE Constitution under Articles 48 and 62(6). Specifically, proclamation No. 251/2001 i.e. articles 32 and 33 states that it shall request the parties to resolve their conflict by peaceful means and discussion where their misunderstanding is other than border disputes. This means that the first means of conflict resolution between states is negotiation. The House of Federation shall also attempt to abridge their differences; if the concerned parties cannot resolve their misunderstandings through discussion, they shall strive to find a solution via any mechanism possible be it traditional or modern ways of conflict prevention and resolution. Therefore, the House of Federation has the responsibility to facilitate the resolution of conflict through the criminal justice system and restorative justice.

4.3. Peace Minster

This ministry was established based on Proclamation No. 1097/2018 Articles 9(1) and 13(g) (p) (q), which is responsible for identifying factors that cause conflicts among communities, submitting a study proposing recommendations to keep communities away from conflicts and instability, and implementing the same upon approval. It also facilitates the resolution of disputes arising between Regional States by devising and implementing sustainable solutions. This ministry has different departments to discharge these responsibilities such as conflict prevention and peacebuilding, the reconciliation commission, and the federal police.

4.4. Ethiopian Reconciliation Commission

This was established based on proclamation number 1102/2018, which has the following responsibilities: to reconcile based on truth and justice the disagreement that developed among the peoples of Ethiopia for years because of different societal and political conflicts; to identify and ascertain the nature, cause, and dimension of the repeated gross violation of human rights so as to fully respect and implement basic human rights, providing the victims of gross human rights abuses in different times and historical events with a forum to be heard and the perpetrators to disclose and confess their actions as a way of reconciliation and to achieve lasting peace; to establish free and independent institutions that inquire and disclose the truth of the sources causes, and extent of conflicts and take appropriate measures and initiate recommendations that enable lasting peace, and to prevent the future occurrence of such conflicts. For instance, the commission chairperson in the 2020 press conference stated that identifying the root causes of various conflicts will be the focus of the Commission over the coming three years. It makes preparations to discharge the responsibilities that the people and the government of Ethiopia have

entrusted to it including setting up its administrative structure and preparing budget proposals as well as holding consultations with stakeholders.

4.5. Peace committee or forum

The peace minister has policies and strategies to establish conflict management institutions hierarchically at federal and regional government levels throughout the country. There are also attempts at State and local government levels to create inter-governmental committees designed to manage inter-ethnic conflicts and related issues in the common borders of the States or between different ethnic groups of a State. Some neighboring States have established Peace Committees at various levels of administrative hierarchies which meet regularly to monitor the peace and security of their localities and resolve any issues of ethnic conflicts that may arise. For instance, the Afar National Regional State had established Peace Committees at neighboring Kebeles, Woredas, and Zones with National Regional States of Tigray, Amhara, and Oromia and also at the inter-state level (Gilligan, Hoddinott, & Taffesse, 2009). The federal government and regional states conducted several forums and councils to resolve mutual problems, including the Joint House Speakers Forum, the Forums of Dialogue between the House of Federation and each Regional State, the Five Eastern Adjoining Regional States Joint Forum, the Oromia and Somali Regional States Joint Cooperation Forum, the Afar and Tigray, and Afar and Amhara Cooperation Forums, as well as the Amhara and Benishangul Gumuz Joint Cooperation Forum (Gilligan et al., 2009).

4.6. The FDRE Criminal Justice Policy

Ethiopia introduced a new criminal justice policy in September 2015. According to this policy, the general principles guiding the referral of criminal cases to the informal dispute resolution mechanisms take into account the type of crime, the character of the accused, and the circumstances of the commission of the crime if it is believed that the interests of the public and the victims are better protected by the use of customary dispute resolution mechanisms than the regular court system; if the accused or the offender is a youth (juvenile), female, disabled, elderly, non-recidivist criminal, and he/she is accused of crimes punishable with simple imprisonment and a reconciliatory agreement is reached between the accused and the victim.

It also provides the following specific conditions, which must be fulfilled to refer the criminal case to informal dispute resolution mechanisms: the accused person must willingly admit all ingredients of the crime and sincerely express his repentance in writing after receiving sufficient legal advice to that effect; the accused person must ask for forgiveness from the victim and must express his/her readiness to retribute or compensate for the damage caused; and the accused person should be informed in advance that he/she has the right to refuse the referral of the case to customary dispute resolution mechanisms, all of which are the basic elements in a restorative justice ideal (Gilligan et al., 2009).

Based on the above general principles and specific conditions, the police, prosecutors, and judges are given discretionary power to refer the criminal case anytime to informal dispute resolution mechanisms.

4.7. Ethiopian Criminal Law (substantive & procedural)

In order to implement the Ethiopian criminal justice policy, substantive and procedural criminal laws are enacted. First, the Ethiopian Criminal Procedure Code Article 223 states that the Atbia Dagnia has jurisdiction to mediate minor offences such as insult, assault, petty damage to property, or petty theft where the value of the property stolen does not exceed five Ethiopian Birr. Where it is unable to achieve a compromise, it may sit with two assessors to adjudicate such offences and, upon conviction, impose a fine not exceeding 15 Ethiopian Birr. It shall also cause a record to be kept which, among others, shall show the opinion of the assessors. Secondly, Accusation is a rule to set justice in motion, but a complaint is an exception for crimes that are punishable upon complaint and require the prior consent of the victim because public interests are not at stake as the offence does not endanger society at large. The institution of proceedings against the will of the injured party might often be more harmful to him than the commission of an offence. For instance, Articles of the Criminal Code of 212 with 380(2), 399, 556 (1), 559(3), 560, 580, 581, 583, 593, 603, 606, 613, 625, 643(2), 646(2), 652, 658, 664, 667, 679, 678, 680, 685, 686 (1), 700, 704, 705, 717-719, 725, and 726 are phrased as “...is punishable upon complaint with ...” or “...proceeding shall be instituted only upon complaint by the injured party...”. When these offences are committed, it is up to the injured or related person to set justice in motion. The police, prosecutor, and court first try to mediate them based on the Criminal Procedure Code Article 151. If the reconciliation is affected, it will be recorded by the court to have the effect of a judgment. However, if the reconciliation has not been made, the court continues to hear the case as ordinary prosecution, and all the rules and procedures of an ordinary trial are followed. So the public prosecutor can refuse to institute a criminal charge due to insufficiency of evidence to justify conviction for crimes that are punishable only upon formal complaint. Thirdly, the FDRE General Attorney also enacted directive number 14/2015 for the mediation of criminal matters, which states that for crimes punishable upon complaint cases committed by non-recidivist and non-concurrent crime, the police or the public prosecutor should try to mediate the conflicting parties.

5. Practice Of Restorative Justice In Ethiopia

This refers to the application of traditional conflict resolution and Alternative dispute resolution mechanisms for criminal case resolution. The state also supports it through the recognition and enforcement of its compromise, technical and budget support, and also controls human rights violations and procedural unfairness. Therefore,

restorative justice for the purpose of this paper refers to the use of negotiation, mediation, conciliation, arbitration, and customary dispute resolution mechanisms for criminal cases in Ethiopia, which are discussed as follows:

5.1. Compromise

The outcome of the negotiation and mediation process is a compromise or contract, which is law for contracting parties. Conflict is a part of life, and the victim and offender may resolve it through negotiation and mediation, especially for crimes punishable upon complaint (minor crime). When it is approved by a competent authority, it has a *res judicata* effect. It is similar to the victim-offender mediation model of restorative justice. Therefore, for crimes punishable upon complaint in Ethiopia, the victim has the option to resolve the case through negotiation, refer it to mediation, or institute private prosecution.

5.2. Withdraws of charge

Proclamation No.943/2016 article 6(3)(e) states that the General Attorney has the responsibility to institute criminal case charges by representing the federal government, withdraw charges when found necessary in the interest of the public, and resume withdrawn charges based on the directive enacted with consultation of the Prime Minister. For instance, the General Attorney conducted a press conference on February 25, 2020, stating that the government had suspended the charges of 63 suspects of corruption and human rights violations in consultation with the prime minister to promote democracy and national unity in Ethiopia. Additionally, the General Attorney conducted a press conference on March 25, 2020, stating that the government had suspended the charges of 39 suspects of low participation in identity violence.

5.3. Probation

This entails the release of a convicted offender under the supervision of a probation officer subject to revocation upon default of the conditions attached to his/her release pursuant to Articles 190-199 of the FDRE criminal code. The first form of probation is that the court may postpone the imposition of a sentence for a specific period pursuant to Article 191 of the Criminal Code, which states:

"When the criminal has no previous conviction and does not appear dangerous and where his crime is punishable with fine (Art. 90), compulsory labour (Arts. 103 and 104) or simple imprisonment for not more than three years (Art. 106), the Court, after having convicted the criminal, may suspend the sentence and place the criminal on probation, where it is of the opinion that such decision will lead to the reform of the criminal."

The second form of probation is when the courts impose the sentence and order the suspension of its enforcement based on Articles 192 and 194, which state:

"When the Court considers that the criminal whether previously sentenced or not (Art 194), shall receive a warning, it shall enter a conviction and pass sentence but may order that the enforcement of the sentence be suspended for a specified period of probation. It shall not be allowed where the criminal has previously already undergone a sentence of rigorous imprisonment or a sentence of simple imprisonment for a term exceeding three years and where he is sentenced again to one of these penalties for the crime for which he is tried without prejudice to the provisions regarding recidivism."

Regarding probation, one informant was told as follows:

Mr. John and Madam Aster had concluded marriage and had borne two children. One day, conflict arose between them where Mr. John became angry and bit her teeth with a stone, thus breaking all her teeth. When she shouted, the police arrived and took him to the police station. After investigations, the public prosecutor charged him with serious bodily injury while Madam Aster asked the court to withdraw the charges on her husband because he is the only means of income for the family and her children are facing hunger. Therefore, the judge decided on a sentence of 5 years imprisonment and released him on probation for the sake of his family.

5.4. Parole

This is granted by the pardon committee after receiving recommendations from the prison administration and having taken into consideration the behavioural reform of the criminal. The Criminal Code (Art. 202) states that:

"The requirements that must be fulfilled to allow parole are that the prisoner has to serve two-thirds of a sentence of imprisonment or twenty years in case of life imprisonment, the prisoner or the management of the institution must submit a petition and recommendation respectively, the criminal should present tangible proof of behavioural reform during the period of imprisonment, the prisoner must repair or agree with the victim or his/her families to repair the harm caused, and that the character of the prisoner warrants the assumption that he/she will be of good conduct when released."

According to this article, one of the requirements for releasing the prisoner on parole is that he/she must repair or agree with the victim or his/her family to repair the harm caused, which is one of the principles of restorative justice. For instance, the Ethiopian government released over 18,000 prisoners after the outbreak of the COVID-19 pandemic in 2020. The General Attorney indicated that the decision to release the prisoners was made to reduce the number of casualties in coronavirus outbreaks in prisons. Women with children, those who demonstrated good behaviour, older people, and those suffering from serious illnesses were selected to benefit from it. Meanwhile, if

the prisoners released are found to re-engage in crimes, the Office of the Attorney General has the right to cancel its pardon and bring them back to prison.

5.5. Amnesty

This is given by the legislative organ of government to a group or class of persons, usually for a political offense (Black's Law Dictionary, 1992). The FDRE Criminal Code Article 230 states that an amnesty may be granted in respect of certain crimes or certain classes of criminals, either absolutely or subject to certain conditions or obligations, by the appropriate competent authority when circumstances seem to indicate that such a measure is expedient. The implementation of the amnesty proclamation was ratified by the House of Peoples Representatives on July 20, 2018, which benefits individuals and groups detained for breaking and committing crimes that violated the annulled terrorism law and uplifted the state of emergency, which will not include prisoners imprisoned for killing, corruption, and rape. It also quits ongoing court processes and removes any criminal list of suspected individuals, especially benefitting all citizens in the country and abroad for crimes committed until May 7, 2018. The amnesty committee will certify the beneficiary individuals, as stated by the attorney general.

The Attorney General indicated that the proclamation would help individuals accused of committing various political crimes and participating in public violence that may have put the constitution in danger such as criminal code articles 238, 241, 247, 249, 252, 256, 257, 288, 486, and terrorism proclamation article 622/2001. Those who participated in activities that may have put the Constitution in danger and violated the constitutional ethics of both the Federal and Regional governments will also benefit from the proclamation. Individuals and groups suspected of committing crimes by using weapons will be exempted. This includes those who participated in forcing government officials, religious leaders, and individuals for economic and political gains. In the amnesty proclamation, suspected individuals will have the right not to be registered on the criminal list. Moreover, their court case will be terminated, and they could be accused of the same crime again. For instance, in 2019 the Ethiopian government said that the amnesty was made to promote national reconciliation and enhance democracy. Over 13,000 people have been pardoned under Ethiopia's amnesty law, including lifting designations of terrorism from organizations such as the Oromo Liberation Front (OLF), Patriotic Ginbot 7 (PG7), and the Ogaden National Liberation Front (ONLF), which were all classified by the Ethiopian parliament as terrorist organizations. In Ethiopia, it is common to grant amnesty to thousands of prisoners on the occasion of celebrating New Year and Ethiopian Christmas.

5.6. Pardon

A pardon is defined in general terms as an executive action that mitigates or sets aside punishment for a crime. It releases the offender from the entire punishment prescribed for the offence and from disabilities consequent on his convictions and reinstates his civil liberties (Black's Law, 1992). A pardon can be granted based on the recommendations submitted by the pardon boards usually for the public interest. The FDRE constitution Article 71(7) and 299 of the Criminal Code states that a sentence may be remitted in whole or in part or commuted into a penalty of lesser nature or gravity by an act of pardon by the president of the country. Moreover, the conditions of pardon shall be governed by the pardon procedure Proclamation No. 840/2014, which shall not cancel the entry sentence and shall remain in the judgment register of the criminal and continue to produce its other effects. For instance, on February 12, 2020, the Ethiopian pardon board office head said that for the last six months, they had received 2934 prisoner applications for pardon. The board then approved 1270 pardon applications and released them. He added that special situations such as seriously ill persons, aged, and foreign prisoners were the beneficiaries of this pardon. Similarly, on April 2, 2020, the Ethiopian government had released thousands of suspects and prisoners after the outbreak of the COVID-19 pandemic to reduce the number of casualties of coronavirus outbreaks in prisons. The criteria for giving pardon were persons sentenced to simple imprisonment and prisoners with only one year left before being released on parole.

5.7. Plea Bargaining

Plea bargaining can be defined as a form of negotiation between the state and the defendant whereby the latter agrees to plead guilty in return for charge or sentence concessions (Black's Law, 2004). It involves charge bargaining and sentence bargaining. The FDRE Criminal Justice Policy of Ethiopia (2011) article 4.5.4 states that the benefits of plea bargaining are to enhance the efficiency of the criminal justice system, promote remorse and rehabilitation of offenders, and help avoid the trauma of trial for defendants and victims. The Attorney General has the power to plea bargain and decide alternative actions to be taken, following the implementation based on Proclamation No. 691/2010 and Proclamation No. 943/2016 Article 6(3)(d). It is also recognized by the Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation No. 909/2015 Article 23, which states that:

“Any person who involves in the crimes of trafficking in persons or smuggling of migrants and who, before the case is taken to the court, provides substantial evidence as to the offence and other suspects, may be fully or partially set free from prosecution upon the decision given by the Minister. When the victim dies, his organ is removed or if he is exposed to incurable disease, the suspect shall not be set free from prosecution; provided however, that depending on his participation and the usefulness of the evidence provided, his punishment shall be reduced.”

The Anti-Terrorism Proclamation No. 652/2009 Article 33 entitled “Assisting Judicial Proceedings” states that:

“The court may mitigate the punishment, upon a request made by the public prosecutor where the defendant repents about his act of committing any of the crimes mentioned under this Proclamation and cooperates in elaborating in detail the manner of the commission of the crime or discloses the identities of the persons who participated in the commission of the crime.”

The Ethiopian anti-corruption Proclamation No. 881/2015 Article 8 provides that immunity is given to a co-offender who discloses substantial evidence concerning another co-offender by the anti-corruption commission or the appropriate organ. Based on this article and to promote national consensus, the Ethiopian government pardons corruption suspects and negotiates with the corrupter to return the people's property.

5.8. Community policing

Community policing is a philosophy, management style, and organizational design that promotes proactive problem-solving and police-community partnerships to address the causes of crime, fear, and other community issues (Morgan, 2011). The Ethiopian Federal Police Proclamation No. 207/2000 Article 22 (4) states that the activity of the police shall be based on the participation of the public. The police have established a community police partnership with different levels of community structures such as schools, religious, and social institutions to resolve problems together. In Ethiopian community policing has been practiced since 2010, specifically the community policing structure established from the federal government up to the family level, which has been used to resolve their problems. Informants also added that community policing officers support traditional conflict resolution mechanisms to resolve local conflicts. Moreover, the community policing officer sometimes also acts as a mediator and arbitrator for criminal cases (G. B. Abubakar, 2019; Ayalew, 2019). This means that community policing acts as a meeting point between formal and informal conflict resolution mechanisms.

5.9. Afarsata

This refers to the participation of the community in crime investigations. Whenever a person or a group of persons report to the local chief of the commission of certain crimes, the local chief would call on all male members of the community in that locality to assemble in a fixed place on a given date. A person who fails to attend such a gathering would be liable to a fine. In the assembly, the elders would call upon each person to reveal who he suspects. Each person would declare the identity of the person he suspects or what had been told to him by the “singing bird.” The person who would testify to the identity of the criminal under oath is kept secret and referred to as the “bird.” The person thus identified as the offender is responsible for compensating the victim. If the people failed to identify any person responsible for the alleged crime, the entire community would be liable to make the damage good. Later on, a circular letter is issued by the Ministry of Interior that requires the attendance of a policeman in all such meetings. This is similar to the family conference and sentence circle models of restorative justice.

5.10. Shuttle Diplomacy

An International Crisis Group report dated June 17, 2008, shows that in July 2007, the result of the 2005 national election had caused violence, and the government had arrested members of the opposition political party i.e. the Coalition for Unity and Democracy (CUD) in Ethiopia. Professor Ephrem Isaac, Haile Gebre Silassie, and Ambassador Bekele had attempted to mediate to get the CUD leaders released from jail. The mediators presented a document for signature by the CUD leaders, which reads: “We apologize to Ethiopians, the government, and the mediators for the acts, which were outside of the constitution, committed by some of our members and supporters following the elections in 2005.” The detainees were called from their respective cells whenever the mediators appeared and were asked to make decisions on the spot in the presence of the mediators. This put the arrested politicians in a weaker position, and they were pardoned after signing documents admitting responsibility for the violence.

5.11. Suspect Rehabilitation

Article 35 of the FDRE criminal code states that:

“Where two or more persons commit a crime in concert such as a conspiracy or a brawl that is committed by a group of persons, the person whose presence in the group is proven shall be exempt from punishment only if he proves that he has taken no part in the commission of the crime.”

This article states that in the case of a conspiracy or brawl, the burden of proof is on the suspected person to prove his innocence. If the crime was proven to have been committed, the participants are presumed to be guilty until proven innocent. For instance, in October 2015, the government declared a state of emergency based on the FDRE constitution Article 93 which suspends due process rights. But in November 2015, anti-government protests escalated and posed a threat to the government. The government conducted mass arrests, and the protestors were sent to military camps without due process of law. About 24,000 people had been trained for over a month and released. But the mastermind of this violence was sent to the formal criminal justice system. Similarly, on September 12-17, 2018, following the welcome program for opposition political parties to Ethiopia, their supporters disagreed on which flag was to be displayed on the main road of Addis Ababa, which subsequently created violence. To control it, the police arrested 1,100 youths who were sent away for a month-long training before being released.

5.12. Reconciliation

This refers to the values of forgiveness for the past, lasting love, solidarity, and mutual understanding by identifying the reasons for conflict, the animosity that occurred due to conflicts, misapprehensions, developed disagreements, and revenge pursuant to Ethiopian Proclamation number 1102 /2018 Article 2(3). After mass violence, reconciliation is seen as a political imperative, an obliged passage for the survival of society. In such a context, reconciliation does not necessarily lead to improved relationships; rather, it is about connecting with others. In other words, reconciliation is the outcome of the traditional conflict resolution mechanism (TCRM). Ethiopia has more than 80 different ethnic groups with their own form of TCRM, which has legal recognition to resolve personal and family cases. Moreover, the criminal justice system often relies on it to solve less serious cases like identity conflict, to bring criminals to courts, to ensure that verdicts are upheld and to achieve reconciliation after cases are concluded. Donovan and Getachew (2003) stated that the criminal system only governs the lives of the townspeople and the highlander farmers, but the nomadic pastoralist and rural society are governed by their TCRM. Moreover, in Ethiopia, there is ethnic and religion-based conflict, which results in damage to humans, their property, and internal displacement. To resolve it, the government uses the traditional conflict resolution mechanism.

6. Conclusion

The formal criminal justice system is unable to ensure public security and has created dissatisfaction with regard to its process and outcome. This led to the emergence of restorative justice, which focuses on the healing of the harm caused to the victim and restoring the personal and social relationships disrupted by criminal acts. The findings of this paper show that the House of Federation, Peace Minister, court, General Attorney, and Reconciliation Commission have legal recognition to apply restorative justice values and principles. Additionally, customary conflict resolution mechanisms have de facto recognition to resolve criminal cases, especially identity-based conflicts. The common models of restorative justice in Ethiopia are mediation, withdrawal of charge, probation, pardon, amnesty, plea bargaining, shuttle diplomacy, suspect rehabilitation, and reconciliation based on different laws. Therefore, the House of People's Representatives should enact a comprehensive law on restorative justice while the General Attorney should create awareness about restorative justice.

7. Implications of the study

The findings of this study on the integration of restorative justice into the criminal justice system of Ethiopia have several important implications for policy, practice, and future research. First, there is a clear need for the Ethiopian government to enact comprehensive laws that formally recognize and integrate restorative justice practices into the national legal framework. Such policies would ensure systematic application and provide clear guidelines for implementation within the criminal justice system. By incorporating restorative justice principles, Ethiopia can improve access to justice for victims, offenders, and the community, making the resolution process more inclusive and empathetic. This approach is particularly beneficial for marginalized groups who may find traditional legal processes inaccessible or intimidating.

Restorative justice encourages active community participation in conflict and crime resolution, leading to stronger community bonds, increased trust in the justice system, and a collective sense of responsibility for social harmony and public safety. The study suggests that practices like mediation, probation, and rehabilitation can effectively reduce recidivism rates by addressing the underlying causes of criminal behavior and facilitating the reintegration of offenders into society, thus enhancing long-term public safety.

Recognizing and incorporating traditional conflict resolution mechanisms into the formal justice system respects the cultural heritage and social norms of Ethiopia's diverse ethnic groups. This culturally sensitive approach can increase the acceptance and effectiveness of justice processes, ensuring they resonate with local values and practices. Additionally, restorative justice places a strong emphasis on victim involvement, acknowledgement of harm, and provision of restitution, leading to higher levels of victim satisfaction and emotional healing. Implementing restorative justice practices can also be more cost-effective than traditional punitive measures, reducing reliance on incarceration and promoting alternative resolutions.

Lastly, the study underscores the importance of ongoing research and evaluation to monitor the effectiveness of restorative justice practices. Future studies should explore long-term outcomes, identify best practices, and address any challenges or limitations encountered in their implementation. Overall, the adoption and institutionalization of restorative justice within Ethiopia's criminal justice system could significantly improve access to justice, empower communities, reduce recidivism, and enhance social harmony and public safety.

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