

The Challenges and Pathways for the Application of Restorative Justice in Drug Offences

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Abstract. Restorative justice originated within Western legal culture and has attracted widespread attention in recent years due to its innovative concepts. However, its governance concept differs fundamentally from traditional judicial principles. Compared to traditional judicial models, the restorative justice governance model has seen its applicability within the criminal legal systems of Western nations gradually expand and demonstrate significant value in the context of drug-related offences. Centred on the concept of 'restoration', it aims to redress harm, repair relationships and restore order through the joint participation of victims, offenders and the community, rather than merely punishing crime. It effectively places greater emphasis on social and psychological factors. This paper focuses primarily on exploring the scope of application of restorative justice in drug-related crimes and how to effectively establish corresponding laws and regulations. By examining countries that have already established restorative justice systems for drug-related crimes, it seeks to identify the most effective measures to tackle such crimes from a practical perspective. This study argues that, to enhance the efficacy of restorative justice in addressing drug-related offenses, the legal framework must be improved, public engagement promoted, and societal harmony cultivated.

Keywords: Restorative justice, drug-related crime, social relations, implementation pathways.

1. Introduction

The types, forms and distribution channels of drugs are constantly evolving, and the prevalence of drug-related crime continues to rise, with the issue of unregulated new psychoactive substances being particularly prominent [1]. The particular emphasis on applying restorative justice in drug-related crimes stems primarily from the fact that the nature of such offences is closely linked to addiction. This is especially true in cases involving young people and minors, small-scale drug possession, and first-time offenders who have not committed acts of violence; these situations cannot be resolved solely through traditional punitive measures. This is because the traditional criminal justice system has certain shortcomings: it has long been centred on a strict crackdown, the deterrence of heavy penalties, and a focus on quantity, thereby neglecting psychological and social factors. Restorative justice, however, can precisely address the critical shortcomings of traditional justice. Its core research significance lies in rectifying the weaknesses of traditional justice and

reconstructing criminal justice and social governance across five major dimensions: ideology, practice, society, human rights and efficiency.

From a theoretical perspective, whilst traditional justice focuses on 'punishing crime', restorative justice seeks to 'repair harm', thereby redefining 'harm to individuals and relationships'. Its innovative judicial philosophy enriches the dimensions of justice, filling the theoretical gaps in traditional justice where the victim's status as a central party is lacking and the restoration of social relationships is insufficient.

From a practical perspective, restorative justice is better equipped to enhance judicial effectiveness. Firstly, victim protection is upgraded: victims transition from bystanders to active participants, receiving material compensation and emotional support to minimise secondary harm. In previous criminal justice models, the state 'seized' the conflict between victims and offenders, leaving victims virtually forgotten; restorative justice, however, affords victims greater attention and compensation. From an implementation perspective, according to a US survey, 83% of victims considered mediation proceedings to be fair, whilst 79% expressed high satisfaction with this approach to handling crime [2]. Secondly, the rehabilitation of offenders is more effective. Through face-to-face understanding of the harm caused and the active assumption of responsibility, recidivism rates are lower. The world's first restorative justice case occurred in 1974 in Guelph, Ontario, Canada, where two young men committed a series of destructive crimes. Through the joint efforts of probation services and religious organisations, they came to understand the harm and inconvenience their actions had caused the victims, and realised that the compensation was not a punishment for their behaviour but a form of restitution to the victims, serving as a lesson to them. This process of reconciliation between victims and offenders is regarded as the origin of restorative justice. Inspired by this case, more than a dozen similar projects emerged in Canada and the United States between 1974 and the late 1970s. By the late 1990s, the application and development of restorative justice had reached over 1,000 cases worldwide [3]. Restorative justice has since demonstrated effective results across various types of crime, and in today's drug-related cases, it offers even more strategies for implementation compared to traditional criminal justice.

This paper focuses on the governance approaches of restorative justice in drug-related crimes, emphasising the construction of an effective judicial governance framework to provide reasonable and more humane sentencing, treatment and rehabilitation for a greater number of drug cases, thereby establishing stable and harmonious social relations. By examining European countries that have implemented restorative justice in drug-related offences, this study identifies the most effective governance policies through an analysis of both positive and negative case studies.

2. Practical models of restorative justice in drug offences

2.1. Legal basis

From a medical perspective, drug addiction is clearly classified as a chronic, relapsing brain disorder, medically termed 'Substance Use Disorder', which falls within the field of psychiatry [4]. This view is widely established among authoritative medical institutions and in the latest scientific consensus. Furthermore, following drug use, uncontrollable physiological reactions occur. Contrary to the persistent public perception that frames drug addiction as a moral failing or a sign of weak will, the medical community emphasizes that addiction fundamentally involves pathological alterations in brain structure and function. These changes render individuals unable to exercise voluntary control over their behavior, distinguishing their condition from that of healthy individuals. Even when faced with severe consequences, they find it difficult to abstain, reflecting the

involuntary and recurrent nature of the condition. In summary, when sentencing individuals involved in drug-related offences, one must not rely solely on traditional criminal law; subsequent measures should address the physiological and psychological challenges faced by these individuals in order to reduce recidivism and relapse rates [5].

2.2. Scope of application

Although restorative justice cannot entirely replace traditional criminal justice in addressing drug-related offences, it can serve as an effective, feasible and more humane supplementary or alternative approach. Restorative justice is not universally applicable in drug-related crimes: repeat offenders, drug lords, organised crime groups, and armed drug trafficking still require conviction and sentencing under traditional judicial systems. Its core scope is limited to minor offences, first-time offenders, occasional offenders, juveniles, and drug users, with an emphasis on restoring relationships, treating drug addiction, and reintegrating into society; it is not intended as leniency for serious drug traffickers.

2.3. Core implementation methods

In addressing drug-related offences, the approach is carried out through two procedural stages: plea bargaining and restorative negotiation. The first stage pursues criminal reconciliation, particularly where victims are involved by combining admission of guilt and acceptance of punishment, expressions of remorse, restitution, and community service. The most effective approach involves proactive follow-up on rehabilitation and correction: through the three pillars of family reconciliation, psychological rehabilitation and community service, offenders are made to assume social responsibility, whilst drug users are assisted in reintegrating into society, consolidating their recovery and preventing relapse. The treatment of drug addiction is not merely an individual endeavour; it requires the support of both family and society. Restorative justice aims to help those in recovery consolidate the outcomes of their rehabilitation, acquire livelihood skills, and adopt healthy lifestyles, thereby maximising their integration into family and society and reducing the likelihood of relapse and reoffending. Whereas traditional justice places emphasis on sentencing, and traditional litigation procedures are protracted and costly, restorative justice procedures are simpler and can swiftly handle minor drug offences, thereby alleviating pressure on the judicial system. From a societal perspective, the implementation of restorative justice policies is more in line with modern judicial civilisation and the trend towards humanisation, and better reflects the 'human touch' of the justice system [3].

2.4. Challenges and dilemmas in drug-related offences

Although restorative justice systems have shown a positive trend in their application across various cases, socio-cultural and attitudinal dilemmas persist when it comes to drug-related issues. Due to the extreme harm caused by drugs and the deep-seated subjective malice involved, there is a societal consensus that drug-related offences must be dealt with severely and are unforgivable. Consequently, it is difficult to accept reconciliation or leniency, and such approaches are prone to provoking strong scepticism that they encourage criminal behaviour. Moreover, the various systems for dealing with drug-related crimes are not yet fully developed, characterized by insufficient administrative competence and a shortage of professional resources. In some regions, drug rehabilitation centres face a mismatch between supply and demand, lacking professionals with

expertise in law, drug control and psychological counselling. The supporting systems for post-rehabilitation recovery and assistance are weak, making it difficult to sustain restorative objectives. Furthermore, factors such as the stigmatisation and labelling of drug users have led to strong social rejection of both drug users and traffickers. Community members are reluctant to participate in rehabilitation and acceptance programmes, making it difficult for offenders to receive effective corrective measures and truly reintegrate into society, leaving them marginalised. Coupled with the limited scope of application, the boundaries regarding whether an offender is suitable for restorative justice remain unclear, making it difficult to implement follow-up support measures [6].

3. Lessons learned and insights

At present, Portugal and the United States have established relatively mature judicial procedures for dealing with drug-related offences.

3.1. Restorative justice in Portugal

Portugal's Drug Deterrence Committee (CDT) operates an administrative adjudication system that prioritises health. Its core philosophy is decriminalisation combined with health interventions, which aligns closely with the principles of restorative justice. Furthermore, it represents a paradigm shift: moving from 'punishing offenders' to 'helping patients', replacing punitive measures with health-based governance, and supported by a comprehensive system including adequate drug rehabilitation treatment, harm reduction services and social support networks. However, the system stipulates that serious drug offences and repeat offenders remain subject to criminal prosecution; the CDT applies only to minor offences involving personal use. The key trigger for CDT intervention is as follows: where the police seize drugs amounting to 10 days' personal consumption, the case must be referred to the CDT within 72 hours; if the quantity exceeds this limit but is deemed to be for personal use, referral is also possible. Subsequently, an assessment and adjudication committee conducts psychosocial assessments and interviews with the individual, taking into account their drug-use history, family, employment and health status to determine addiction and treatment needs. Guided by a non-punitive, restorative approach, available measures include: deferred sentencing, community service and fines. Approximately 90% of cases are subsequently referred to addiction treatment and rehabilitation services; if there are no violations within six months, the case is dismissed. This series of measures has reduced Portugal's incarceration rate. The policy has also yielded significant positive outcomes: drug-related mortality and HIV infection rates have fallen sharply; a marked reduction in youth drug use, and a substantial decrease in the number of drug offenders in prison.

3.2. Restorative justice in the united states

Unlike Portugal, which lacks a traditional 'drug court', restorative justice in the context of drug offences in the United States has become mature, nationwide and statutory. In practice, this is reflected in the existence of dedicated drug treatment courts. A mature system has been established comprising state legislation, local implementation and diverse models, covering scenarios such as juveniles, adults, drug-related offences and schools, operating in parallel with the traditional justice system in regions such as the Burlington Community Justice Centre in Vermont and the Restorative Justice Project in Oakland, California.

The primary system in the US that integrates restorative justice with drug offences is the Drug Treatment Court. In such cases, individuals are referred prior to arrest; the police do not file charges

but instead refer them directly to treatment. If there is a victim, the parties are facilitated to meet, with mediation for restitution. Surveys in the US indicate that victim satisfaction with this measure is as high as approximately 79%. For those struggling with addiction, Community Restorative Circles or Neighbourhood Health Courts have been established. These involve all stakeholders—including the individual, their family, the victim, the police, social workers and community representatives—sitting together to jointly determine treatment and restitution. A prime example of this approach is the Kensington Neighbourhood Health Court in Philadelphia. When applied to drug-related offences, its effectiveness is significantly greater than that of traditional justice systems: recidivism rates range from 4% to 29%; compared to approximately 48% in the traditional criminal justice system. The prison population has seen a significant reduction in the incarceration of drug offenders, and this change has saved local judicial costs in the US.

Unlike the key mechanisms in Portugal, restorative diversion and supplementary procedures within the US criminal framework still operate within the judicial system; drug courts remain part of the judicial system, and serious offences still follow criminal proceedings. In Portugal, however, the system is based on administrative adjudication. The above data demonstrates that the use of restorative justice significantly reduces recidivism in drug-related offences; Portugal relies on decriminalisation and treatment, whilst the US relies on diversion within the judicial system, rehabilitation and treatment.

4. Challenges and pathways for development

Although evidence shows that, overall, restorative justice is more effective than traditional justice in the context of drug-related offences and yields better rehabilitation outcomes for offenders, there remain many areas for improvement:

Firstly, there is an 'insufficient understanding of the nature of addiction'. Drug addiction is closely linked to chronic relapsing brain disorders and is a medical condition. Consequently, the application of restorative justice in drug-related offences should enhance medical intervention, psychological treatment and social integration, whilst avoiding simplistic moralistic condemnation. It should emphasise a balance between 'accountability and treatment' and involve more relevant professionals in this policy framework.

Secondly, there is a tendency to overlook structural factors whilst focusing solely on individual rehabilitation. Restorative justice often attributes problems to personal choices, neglecting the consequences of societal factors such as poverty, racial discrimination (e.g., harsher drug enforcement against Black people in the US), traumatic life experiences, and a lack of access to healthcare and housing. In addressing these factors, government bodies and agencies focus solely on correcting individual behaviour rather than addressing the broader environment. This paper recommends introducing structural interventions: housing, employment and education.

Furthermore, there is a lack of long-term follow-up and rehabilitation support. Most programmes focus solely on short-term completion without monitoring subsequent well-being; addiction is a chronic condition, and a single restorative session is far from sufficient. Improvements are needed: government departments should allocate more resources to social service programmes, establishing a support system lasting 12 months or more, and integrating these closely with drug rehabilitation clinics, psychological services and mutual aid groups (such as NA).

5. Conclusion

Through an examination of restorative justice practices in existing jurisdictions, several conclusions can be drawn. Restorative justice serves as an effective complement to the management of minor drug offences, but is by no means a 'panacea'. It must be implemented on the premise of the principle of legality and a balanced approach of leniency and severity, whilst avoiding the trivialisation of drug-related crimes. Its research value lies in breaking away from the traditional, single-model approach of harsh sentencing for drug offences, offering new policies to reduce recidivism rates, repair social relationships and reduce judicial costs. This aligns with modern judicial philosophies: trends towards humanisation and rationalisation.

However, this paper has certain limitations. For instance, this study on the application of restorative justice in the management of minor drug offences focuses primarily on practical cases from a limited number of countries, such as the United States and Portugal. It does not cover the practical experiences of countries with different legal systems or levels of development (such as relevant countries in Asia and Africa), resulting in insufficient sample representativeness and making it difficult to fully reflect the adaptability and differences of restorative justice under varying national conditions. Future research could expand the scope of the sample to include restorative justice case studies from countries with different legal systems and levels of development (including relevant countries in Asia and Africa), conducting comparative analyses of application differences under varying national conditions to enhance the universality and representativeness of the research conclusions.

Looking ahead, the research could further explore a model based on legislative refinement, supported by professional capacity building and underpinned by community collaboration, gradually expanding the scope of application to ultimately establish a replicable, localised practice model. In summary, demonstrating greater humanistic care in the application of measures for minor drug offences contributes to social harmony. Drawing upon these experiences can inform the development of more favourable and people-oriented policies.

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