

Restorative Justice in Sexual Offences – A Critical Analysis

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Abstract: *This essay critically examines the notion of restorative justice and its controversial application in sexual offence cases. Restorative justice, which focuses on healing, accountability, and communication, offers a counterpoint to the conventional retributive justice system, which tends to marginalize victims and extend their trauma. For sexual violence, though, imposing restorative justice is morally and procedurally problematic, particularly with reference to power asymmetry, victim protection, and re-traumatisation. This research investigates the conceptual basis of restorative justice and its embracement in comparative jurisdictions like New Zealand, Canada, and South Africa, whereby restricted but regulated application has been documented in sexual offence cases. The Indian legal system, based on punitive justice under laws such as the IPC and POCSO Act, does not presently provide much room for restorative processes in such instances. However, recent debates and sporadic judicial mentions of victim-oriented justice reflect a slow change in attitude. Important judgments like *State of Punjab v. Gurmit Singh*¹ and *State of Madhya Pradesh v. Madanlal*² reflect judicial restraint against extrajudicial settlements in serious offenses. The article promotes a guarded, victim-consensual, and legally monitored application of restorative justice in specific instances, particularly where juveniles or family members are involved. The conclusions suggest pilot projects, guidelines, and institutional backing to facilitate justice, dignity, and protection of survivors. Restorative justice must not undermine accountability but augment it through genuine participation and reparation.*

Keywords: Restorative Justice³, Sexual Offences, Victim-Centric Approach, Re-traumatization, Indian Criminal Law⁴, Power Imbalance, Accountability, Comparative Jurisdictions, Judicial Safeguards

¹ *State of Punjab v. Gurmit Singh*, (1996) 2 SCC 384.

² *State of Madhya Pradesh v. Madanlal*, (2015) 7 SCC 681.

³ Daly, K. (2006). *Restorative Justice and Sexual Assault: An Archival Study*. University of Queensland.

⁴ Sharma, K. (2021). *Restorative Justice in Indian Criminal Law: Possibilities and Challenges*. *Journal of Indian Law and Society*.

