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UNVEILING THE OPERATIONAL MODEL AND MECHANISM OF RESTORATIVE JUSTICE IN BANGLADESH

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Abstract. The practice of restorative justice in Bangladesh represents a new dimension for addressing community-based disputes and injustices. The interventions employed by the restorative institution initiate various steps to resolve disputes and unlawful activities that harm social relationships and the sense of solidarity. This article aims to describe the functions of restorative justice in Bangladesh by including its practiced models and methods. Restorative justice practitioners (RJP) are trained to facilitate the justice process while maintaining a balance between the victim and the offender. The restorative justice agencies adhere to national guidelines for approaching community-based justice and interventions. National manuals guide the RJPs and flowcharts prepared for restorative functions. Relevant RJPs have been interviewed from selected areas where restorative services are available. Using a semi-structured interview schedule, the required interviews were conducted and organized. Ethical considerations and moral demands have been upheld while collecting field-level data. As a qualitative study, thematic analysis techniques were applied to present the collected data by synthesizing its different steps and templates. By showcasing the collected data and events, the article illustrates the functional strength and effectiveness in resolving community-based disputes, injustices, discrimination, violations of personal rights and reputation, and other community-related dysfunctions. As a new dimension of a global trend, restorative justice continues to gain acceptance and applicability among people, fostering trust and confidence by addressing all types of reconcilable disputes and criminal victimizations. By interpreting the presented data, policy-level interventions and initiatives can be developed by relevant personnel to implement restorative services with appropriate treatment and recognition.

Keywords: restorative justice, community-based disputes, restorative models, mitigation strategy.

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1.1 Background and Logical Framework

Restorative justice emphasizes community-based practices to address criminal victimization. It involves various stakeholders discussing the reasons these victimizations occur within specific communities and identifying the roles of community members in restitution. Pranis (2005) has been researching restorative interventions to resolve criminal victimization through a model of restoration and rebuilding relationships centered on happiness and conflict resolution. Pranis (2005) noted that offenders have recognized their guilt and expressed a desire to recover and remove the social stigma associated with being an offender. This indicates that community members have confidence in the community-based reconciliation process, and interest among residents has increased through various restorative methods and approaches. A community-driven preventive strategy has been implemented to manage the criminal incidents and offenses that community members regularly commit. Morris and Maxwell (2001) argued that offenders are guided by the principles of restorative interventions and ideology.

The practice of restorative justice depends on the social composition of the community. John (2002) noted that victimization and its treatments rely on the social structure and human behavior within the community. Considering the relationships involved, social structure and human behavior are correlated and influenced to establish a foundation for restorative practices. Sarker (2001) identified two aspects for addressing criminal matters and creating a preventive platform to protect community members from victimization: (a) community members behave according to the social structure of their community, which reflects social inclusion and exclusion mechanisms; and (b) interactions among people serve as a framework and are evaluated based on outcomes of human conduct permitted by society. Accepted behaviors are monitored by social values, ethics, customs, and community-based legal practices.

Restorative justice engages community members to address victimization and involve offenders in the processes of repair and healing. It addresses the victimization of women and children within the community by practicing local reconciliation trends. Restorative justice emphasizes indigenous methods that are regarded as a treatment framework. Islam, Jahan, and Hossain (2018) studied the context of women's victimization in Bangladesh and identified three factors contributing to victimization occurring within the community, practiced by the community members: (a) judging offenders at face value: A trend toward increased crime in the community occurs when offenders are evaluated purely based on their social status; (b) adherence to community-based regulations: Community members often find correction through community pressure and motivation, preparing themselves through community development and guidelines; (c) quality of treatment in the stage of post-victimization: Legal and community support for victims raises their courage to confront offenders and accused individuals. When protection measures are fragmented, victims become confused and less motivated to fight back and protest.

The community, as a stakeholder, has been involved in the restorative process to address victimization and encourage people not to violate community guidelines. Community members are building relationships based on various aspects such as familial ties, legal connections, and social bonds. Due to situational demands, relational expectations have shifted, leading to the destruction of experiences, relationships, and

existing solidarity. The country's approach to criminal victimization and its prevention differs significantly. Restorative justice emphasizes a community-based approach to combat offenses and encourages community members to adhere to community regulations and relational obligations, as noted by Braithwaite (1989).

Restorative justice has provided diverse social and recovery support to assist victims and affected individuals in overcoming injuries and suffering. The resolution of victimization issues has been addressed through services and support from the community. Sheikh and Karim (2013) studied the available services for victims and noted that the government of Bangladesh has launched various services and institutional protections for victims and their reintegration into the community. In their study, Sheikh and Karim (2013) identified necessary services for victims and their families, including psycho-social treatment, medical care, counseling, job training and entrepreneurship support, connections to referral agencies, communication with philanthropic individuals, legal assistance, and community motivation to protect victims and resist offenders. In rural communities, victim services have been determined by village courts and community stakeholders. The understanding between victims and offenders has been shaped by situational contexts and environmental factors. Sikder (2016) discussed the activation of village courts to address criminal victimization and their roles within the community. Sikder (2016) observed that, in some cases, village court judgments were not followed, resulting in victims experiencing re-victimization for complaining about offenders to the village court. The legislative implementation of village courts has not been properly enforced within the community, facing various challenges from offenders and individuals with malicious intent. Conversely, village courts have achieved significant success in reconciling criminal victimizations within the community, often resulting in positive outcomes. Sikder (2016) stated that the acceptance of community-based justice and its verdicts is established through a trial-and-error model and is maintained by adopting various strategies and approaches in Bangladesh. These aspects have been considered to conduct the present study.

Considering the above aspects of restorative justice in Bangladesh, the following **logical framework** has been used to conduct the study:

(a) *The individuals harmed by criminal victimizations within the community have been isolated from regular participation and engagement. By conducting this study, the people who experienced criminal victimization are being helped to address the injustice and harm by restoring lost relationships and strength.*

(b) *Restorative justice, as a community-based justice approach, deals with community-centric victimization with proper satisfaction. By doing this study, the post-recovery level has been examined and presented to understand the actual scenario.*

(c) *The restoration process of criminal activities committed by offenders has been turned into a community-based intervention to heal the made traumas and injustices for creating an environment where the victim and their families feel safe to live without fear and crime-prone anxiety.*

1.2 Objectives of the Study

The primary objective of this study is to evaluate and assess the effectiveness of restorative justice in Bangladesh. The specific objectives of the study are to:

- (a) specify the models and strategies of restorative justice practiced by practitioners in Bangladesh;
- (b) identify cases of criminal victimization resolved through restorative interventions;
- (c) understand the victim-offender mediation conducted by restorative practitioners;
- (d) investigate the effects of restorative justice on post-victimization reconciliation; and
- (e) note the recommendations provided by restorative practitioners for reviewing policy and planning.

1.3 Research Questions

This research effort has been designed to unearth the effectiveness of restorative justice by addressing the following questions:

- (a) What models and strategies have been utilized by the restorative justice practitioners in Bangladesh?
- (b) What types of cases have been resolved and mitigated through restorative interventions mostly?
- (c) Why does restorative justice get priority from the victim, offender, and the community?
- (d) What are the major impacts of the restoration process on the reconciliation of harms and damages caused by the offenders' unlawful activities?

1.4 Conceptual Clarification

The conducted study uses the following concepts to explore issues by considering research contexts and realities: (a) the idea of victims refers to a person who has been harmed in many ways. Dussich (2000) noted that a victim can be dislocated by various factors, including those hampered by political grounds, financial causes, and relational disputes. This situation varies from society to society and person to person. The study considers those individuals as victims who have suffered from community-based disputes and conflicts and seek a remedy from restorative justice agencies through a process. (b) community-based disputes and misunderstandings refer to situations that create unlawful environments by involving the victim and offender. Due to various causes, individuals are under stress in many ways to commit such acts. According to Roberts (2015), conflicts in community settings often arise from interpersonal demands and expectations. By adopting a community-based approach, most conflicts can be reduced and resolved, involving both the victim and the offender. The study has identified disputes that can be addressed within community settings. (c) the restorative justice indicates those community-based institutions that receive the responsibility to redress the committed conflicts and criminal events. Erbe (2010) and Johnstone (2001) mentioned a conceptual clarification about restorative interventions that prevent conflicts and chaotic situations by applying the restoration method and techniques. The study reviewed the functions of restorative justice agencies that work in community settings to resolve the committed criminal activities and suffering events, gathering victims and perpetrators.

within the community. The victim, offender, community stakeholders, and receivers of the impacts of post-victimization (family, friends, neighbors, colleagues, and relatives) from both (victim and offender) parties are allowed to join the restoration process finding an amicable solution. By reviewing this article, it is revealed that many countries are applying this concept to heal the traumas and pains that have been caused due to victimization. Community stakeholders need an understanding to redress minor victimization following a sustainable resolving policy (SRP). Akram (2017) argues that Bangladesh like many other countries faces the problem of overcrowding in the place of prison. Minimizing this problem, the community-based justice approach works like a justice conducted by the people for the people. The components of the formal justice system do not give the proper treatment and solution due to various reasons and grounds in the context of Bangladesh. This article regarding the culture of restoration welcomes victims and offenders to a place by which a solution will come out.

The benefits of restorative justice have been discussed within the community people and the government-level agencies for beginning its execution to resolve community-based disputes. The writer (Akram: 2017) noticed different strength components to explain why restorative justice is essential for a country like Bangladesh. The nature of the recorded cases to the police stations and their grounds indicate that the people with bad motives tried to violate community codes and rules for their interests and benefits. The article strongly argues that the minimization of committed victimization needs collaboration between victim and offender. In the restorative justice process, a professional mediator deals with the total works by which all post-issues that have been made due to victimization would be clarified and invent a win-win situation keeping all affairs. By practicing restorative justice, the community people are concerned about their responsibilities and functions which should be performed within the community frame. A very common as well as strong component of restorative justice is to restore lost or broken relationships and bonding. The verdict has been decided based on restorative dialogue inviting all and taking appropriate steps to execute the verdict to rectify the harm and damage that have been created due to victimization. By analyzing this article, the necessity of restorative justice has been explained, and the case log will be minimized maintaining the community harmony among the community people.

A study has been led by Talukdar (2019) to unearth the role of village courts in healing the rural disputes committed by rural people against rural people who are marginalized in terms of power, social status, and professional identity. The reviewed study has been conducted following a qualitative design and using the participatory method. The rural justice approach has been assessed by this study and focused on the functions and consequences of justice on the victims' reintegration and corrections for the defendants. The study revealed the resolution action operated by the Village Court and Arbitration Council functionalized in rural and urban areas. Through theoretical as well as operational dimensions, the study has been conducted and comprehensive points of view have been covered and disclosed based on the research outlook.

A study has been published by Sikder (2016) in the title of '*Village Court: A Dilemma Within*' in order to explain the village court (VC) with potentialities for repairing the community disputes involving all parties of criminal victimizations. The culture of VC is rural-centric and the happened injustice and criminal victimizations

within the community have been resolved locally in front of the community people. Another strength of the reviewed writing is to search the scopes of VC which promotes more active VC within the community settings for minimizing the criminal victimizations and any types of local disputes which has been resolved by the VC approach gathering the community as a stakeholder. The reviewed study noted that village court as an agency of restorative justice has to operate the justice for solving the occurred criminal victimizations. The authority and the level of involvement of VC is determined by law. In the practical situations, the organizing committees of VC is not followed the mentioned rules and obligations in some cases. As a result, the confidence and trust among the community people about VC is not achieved a good position and not be capable to present itself as an unbiased institution.

The reviewed study clarified that the court system of Bangladesh is mostly urban-centric. The urban people will seek the legal supports from the legal personalities and get easily the legal prosecution using network and capacity. On the other hand, the rural people don't get the legal support and services easily. The reviewed study mentioned that the government has passed two legal tools providing the para-legal assistance within the community settings namely The Village Court Act-2006 and The Local Government (Union Parishad) Act-2009. By using two legal tools, the justice system in rural community has been re-formed for providing the legal support minimizing injustice and conflicts among the people within the community.

The village Court in Bangladesh has performed the following activities such: reporting of a case, summoning, witness examining, getting commitment from the offender not to commit crime in further, make judgments, and determining compensation and facilities, follow-up by offender, and support for friendly relationships. The revised study mentioned that:

Controlling the injustice and anti-social behavior in rural community, the system of restorative justice shows a new dimension regarding repairing the disputes. Through the restorative justice, the stakeholders of a criminal victimization come in a place to make dialogue how to repair taking the responsibilities by offender(s), and assessing the needs of victim(s) by community. And this process has been done through village court system. The village court has decided the solution frame and given supports for re-integration within the community.

The reviewed study (Sikder: 2016) referred that the constitution of Bangladesh has declared, every accused person have the right to get a speedy and public trial by an independent and impartial court. The poor and disadvantaged people of rural community don't have the scope to get the legal assistances from the government procedure very quickly. Considering the situation, the rural people are suffering a lot for getting the judgment. By the process of restorative justice, the compoundable case(s) may be repaired within the community settings involving the victim, offender, and community as guardian. According to the revised study, the practice of restorative justice in Bangladesh has granted by community people in formal way and para-legal procedure focusing on the community solidarity. Restorative justice in Bangladesh has been continued with maturity for repairing the community injustice and conflicts as well as disputes.

A Study has been conducted by Hassan and Ali (2008) following the title of '**A Study of MLLA Intervention: Promoting Village Court and Arbitration Council**' for

inventing the interventions of MLAA for promoting the functions of village court and arbitration council. The reviewed study mentioned that village court and arbitration council have been operated by the authorized body to repair the local disputes and family matters which are considered as injustice and harms. The required data of reviewed study have been collected through mixed method intervention and techniques to explore the MLAA approaches solving the community-based criminal victimization involving village court and arbitration council. Another objective of the reviewed study is to assess the functions of village court and arbitration council for improving the community situation and maintaining the community order. The reviewed study has been focused on the interventions conducted by MLAA for resolving the community disputes and sufferings and to know the involvement of local legal approach and strategy. MLAA has been established a recognized approach to deal the matter of injustices which have been happened within the community by the community people and identified the resolution within the community.

Madaripur Legal Aid Association (MLAA) is such a local justice agency that promotes community justice services within the community level recovering the gap of relationship. The maximum criminal victimizations within the local community have been occurred due to conflict, chaos, and misunderstanding, and interest for conflict between two parties and/or group. MLAA has been practiced a sustainable method and model to repair the disputes with satisfaction and to heal the trauma from the mind and brain. MLAA also arranges some awareness programs within the community level to build up the capacity of mass people for accessing justice with solidarity and reconciliation mentality. The reviewed study has been emphasized on the performance of village court (VC) and arbitration council (AC) in the rural community and highlighted how to reconcile the disputes of relationships. It has been described in the reviewed study that victimization is an output of disputed relationship.

The reviewed study has been selected number of 4,709 respondents from village court (VC) and 3,694 respondents from arbitration council (AC) for quantitative queries. On the contrast, in-depth interviews (IDI) have been conducted to know the inherent story of criminal victimizations from the different stakeholders who were involved and taken stake of reconciliation and recovery. The reviewed study mentioned that types of conflict have been reported in VC and AC by defendants and plaintiffs for justice locally. Village court has been repaired such criminal victimizations: money related cases (42.5%), physical assault (23.2%), and crop/tree/livestock related cases (14.1%). At the same time, a number of 8.4% land related dispute, and 3.4% theft cases, 3.2% verbal abuses cases, and 5.0% others cases have been reconciled through the VC process within the local community. On the other hand, the AC has been resolved the following criminal victimization: 19.3% divorce cases, 78.6% maintenance cases from husband to wife and children, and 2.1% polygyny cases.

A study has been conducted by Hoque and Zarif (2019) to assess the stakeholder's responsibilities in applying restorative justice. The stakeholders who have been taken the responsibilities for recovery, mentioned different aspects why the criminal victimizations are happening within the community settings. The community composition and social structure of any community make influenced on the people behavior and tendency to obey the community order as well as legal obligations. Why people are being insisted to commit any criminal behavior which has been invented by

the conducted study. The reviewed study mentioned that community people are influenced by the different situations in the daily life and relationship as well. By maintaining the situational demand and forced by the opposite site, the community people are being displaced to control the order and discipline. As a result, the people of community are committing different criminal activities within the community and the relational frame. The reviewed study identified some significant statements from the respondents of qualitative section to develop the functions of VC and AC as ways:

The manpower of village court and arbitration council is not enough in terms of quality, professional training and performance. Only based on the traditional idea and experiences, the assigned persons are doing the job of justice repairing the community conflicts and injustice within the community.

The legitimacy condition of VC and AC is not working in proper way and it is not treated as a dispenser of justice. Most of the cases, the verdicts of VC and AC have not been accepted by the offender.

The culture of community justice system is not achieved a well-known position within the community settings. In some cases, the audacity, illegal power exercise, and impact of money are controlled the situation instead of culture for justice.

The budget for maintaining the VC and AC is not sufficient and the government authority is not pro-active on the community justice system as like formal justice process. It is globally recognized that the community justice system is practiced very positively to make the community harmony and unity by minimizing the conflicts and injustice.

By reviewing the study, some observations have been identified which supported the strength and capacity for developing the restorative justice in Bangladesh by facing existing challenges and practical threats. Criminal victimization in Bangladesh at the community level is positively possible to heal through restorative justice system. The compoundable cases within the community settings are solved in many countries by locally and making the community peace and togetherness. The mentioning challenges for VC and AC are also threats for restorative justice. According to the reviewed study, the approach of restorative justice will use more within the community for repairing the criminal victimizations through solving the challenges and threats of VC and AC. As a community-based justice model, restorative justice promotes the people interest and highlights the community framework for better relationship as well as understanding.

An operational manual has been published by **GIZ Bangladesh** (2013) in the titled of **“Training Manual on Restorative Justice”** which introduced the restorative justice approach in the community level reducing the overcrowding in prisons of Bangladesh. In 2008, the Home Ministry of the Government of the People’s Republic of Bangladesh and GIZ have been jointly implemented a project namely **“Improvement of the Real Situation of Overcrowding in prisons”** to strengthen the justice process providing the legal assistance and support and to reduce the overcrowding in prisons applying the restorative approach and repaired the case(s) within the community level which are compoundable. Through the mentioned project, prison authority has been transferred the compoundable cases towards community-based justice agencies for community-based repairing and effective recovery. The methods of restorative justice

(which is practiced in different name and frame) in Bangladesh has been practiced for regulating the negotiable disputes within the community and gathered the community people in the justice process for promoting the 'stakeholdership' and distributed the responsibilities with participatory tendency.

Experience from Bangladesh showed that majority cases of criminal justice system may resolve within the community level applying the fair process of participation. The reviewed study mentioned that different countries has initiated to practice the RJ approach within the community level to minimize the community victimizations involving the victim, offender, and community as stakeholders. The revised writing noted that restorative justice promotes the progress and dignity at the duration of justice and aftermath situations. The reviewed study mentioned that restorative justice is a philosophy to deal the community victimizations by inspiring the people morality and togetherness within the local territory. The concept of restorative justice disseminates the values and principles which inspires the victim and offender to be mutualized and ahead for a strong relationship forgetting the previous experiences. *GIZ Bangladesh* (2013) noted that restorative justice in Bangladesh has got the popularity in various name and frame with reasonable composition. Mentioned by the *GIZ Bangladesh* that community people are interested to accept the local justice if it is operated by logical frame and reasonable ground with both parties participation and decision which is tolerated.

The reviewed study mentioned that restorative justice resolves the community-based disputes with professional mechanisms. There is no conflict between formal justice system and restorative justice system. The compoundable cases have been repaired through restorative justice approach in Bangladesh. The community people have been agreed to accept the system for repairing the community disputes with maintaining both party interest and safety. The reviewed study mentioned:

An arbitration system has existed in Bangladesh for many years. At present, some compoundable cases are being solved through this system. This system has some positive aspects but also has some areas that could be improved. If this system was made more effective and participatory, as well as complying with human rights, many more criminal offences could be solved at the community level. It decreases crime and increases integration, unity and peace within the community, as well as reduce the number of detainees in the prison system.

The reviewed study argued that restorative justice is *a fair process* for repairing the harms and injustice exercising three elements such as (a) *engagement*, (b) *explanation*, and (c) *expectation*. The criminal victimizations within the community have been committed for different reasons and restorative justice would be the most accepted recovery approach which conducted within the community in front of the people. The community people are living within the community inspiring by the comprehensive interest and integration. Restorative justice desires to uphold the community status and dignity for the community people and to establish the community as a place where the safety and crime controlled policy is worked and maintained. The revised study mentioned an idea about the concept of restorative justice as follows (2013:51):

"a fair process will determine a fair outcome, even though the outcome may not be what people

expect. Because the process is fair, people will be more accepting of the outcome."

Restorative justice is a fair process which deals the criminal victimizations fairly by following an instruction and guideline that protect the rights and safety of victim and offender. The community people come forward to repair the disputes by a negotiable decision. Three elements are needed for a fair justice approach such *engagement, explanation and expectation*. Three elements are maintained properly in the approach of restorative justice which as follows:

(a) Engagement: By engagement, the concerning party is engaged to the justice process for observing and countering. As an element, engagement involves related parties to discuss and makes a decision for resolving the disputes. The victim and the offender have been participated in the restorative process for controlling victimizations and to express the opinions for recovery and to control the re-offending. By the inspiration of engagement, victim, offender, and community are gathered in a place to resolve the case through an acceptable solution and to inspire the offender to take the responsibility for losses and damaged. **(b) Explanation:** Explanation is such an element that ensures the opportunity to speak or be heard what has been done in the duration of incident or the duration of victimization. By practicing this element, victim, offender, and community are shared the recovery process and responsibility mutually. Explanation in RJ system is considered as an eternal tool that makes an environment where concerning party of victimization are shared their offence and decide the responsive actions for recovery. **(c) Expectation:** Expectation in RJ process is an element that makes to scope to participate in decision making process or anticipation for getting a particular result. Through active participation, the authorization for taking decision for saving victim and to fulfill the need of victim is made. It would be opened a window that more significant to all for making a respectful society. Expectation is divided into three propositions according to reviewed study such: (a) victim as a party of restorative justice demands to be free from harms and injustice which has been happened; (b) offender desires to get relief from the accusation by doing the responsibilities and that has been occurred by the logical pressure of restorative agency; and (c) the community stands with both victim and offender for controlling re-offending and revenge attitude.

The reviewed study noted that restorative justice is a movement in Bangladesh though it has been practiced since beginning of the community as local justice (called *Salish*). Right now, restorative justice is practiced in a legal frame under the cover of Village Court Act-2006 and by the local acceptance for social reconciliation approach. Restorative justice invites victim, offender, and community to discuss the offence as a matter of the community and to search how to recover it through mutual collaboration. The revised study noted that restorative justice is a process to involve those who wants to take stake for a specific offence and work to identify collectively the behind causes and think how to address harms, needs, and obligations in a broad context. The reviewed study mentioned that restorative justice includes four dimensions in the justice process such as (a) crime prevention, (b) referral, (c) re-integration, (d) restitution.

Restorative justice considers the crime as a violation of relationships and rights. The reviewed study argued that restorative justice repairs the broken relationships

which happened due to anti-social behavior involving the stakeholders of the offence promoting restoration and re-integration. Restorative justice always highlights the take care of the following issues as a matter of justice: (a) focuses on harms and needs, (b) address the obligations, (c) uses inclusive, collaborative and fair process, and (d) involves victims, offender, and community. By the process, the mutual respect is developed and practiced.

The reviewed manual mentioned that compoundable cases in Bangladesh are identified as divorce, maintenance, polygamy, second marriage, dowry, minor torture, minor theft, quarrel, harming crops, damage to private properties, contract violation, assault, trespassing, cheating, social dispute, financial dispute, land dispute, drug addiction, and gambling. The reviewed manual also referred that early marriage, child and women trafficking, acid terrorism, drug sales and production, rape, sexual harassment, killing, robbery, and hijacking are the non-compoundable cases in Bangladesh. The compoundable criminal cases which can be dealt through restorative justice within the community settings in order to stable the community solidarity and people integration. There is a notification according to the reviewed study that by taking the permission of court and/or ordered by the court, restorative agency in Bangladesh repairs the community disputes and injustice in favor of community and interest for people collaboration and mutuality.

The reviewed literature explored the executed functions of restorative justice conducted by the restorative justice agencies in Bangladesh. In many aspects and grounds, restorative justice is considered a community-based justice model to address community-based disputes and criminal activities. The operational frame and strategies of restorative justice assist the victim and the offenders in making decisions about the committed criminal action. The study has been designed to understand and unveil the operational models and strategies of restorative justice that are executed by the restorative agencies in Bangladesh to redress the unlawful situations and events.

1.7 Findings: Display and Interpretations

Based on the objectives, the following findings and interpretations are presented to understand the operational model and mechanism used in the restorative functions in Bangladesh.

1.7.1 Causal Factors Contributing to Crime Exposure

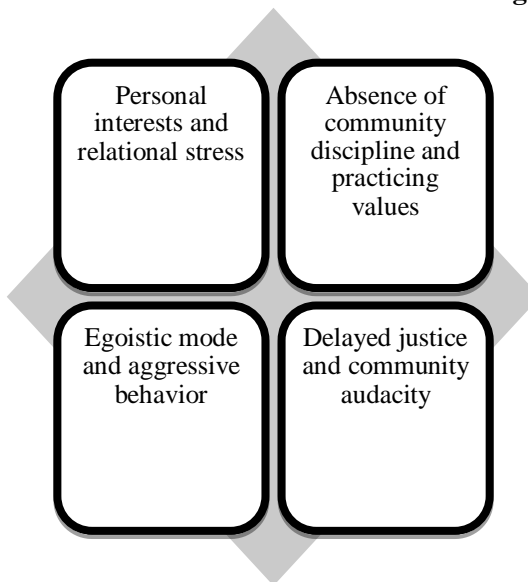
In Bangladesh, criminal victimization are occurring due to many reasons. The community people of Bangladesh are committing crimes and being victimized which hampers the individual life, community life as well as discipline and order of community settings. Causal factors that contribute to criminal victimizations in Bangladesh have been identified as follows: personal interests, delay of doing justice in proper time, lack of community affiliation and involvement, less priority to human position, respect, and dignity, relational hampering, aggressive mode of behavior, property related disputes, powerful folk of people at the community settings, community aristocracy, and political domination as well as power exercise. All respondents of the selected two agencies assessed that:

In the community life, the people are committing crimes influenced by some forceful factors. By experiences of doing restorative justice, the community people have committed crimes due to

minor causes in maximum cases that we have noticed. But some factors are opened in the community life that influence people for committing crimes such as anti-social tendency, egoistic arguments and excitement, tendency of authority in the local community. Most of the cases, the offender(s) has not clarified properly the causes of committed crimes.

By analyzing the responses of RJ practitioners as respondents, the causal factors of victimizations in Bangladesh presented in a diagram as follows:

Diagram 1: Causal Factors of Criminal Victimizations in Bangladesh



Source: Developed by Researcher

1.7.2 Reasons for Generating the Causal Factors of Criminal Victimizations

The causal factors of committed crimes and victimizations have been produced in different reasons. That reasons are invented and spread out within the community settings and sphere. Considering the situation of Bangladesh, some reasons are playing significant role to produce the causes for doing crimes and victimizations. Following the *cause-effect dimensions* (CED) of victimizations, the potential reasons may be mentioned as ways:

Table 2: Reasons for Generating Causal Factors of Criminal Victimizations

<i>Questions regarding rule of law</i>	<i>Political audacity and power abuse</i>
<i>Capitalistic attitude and corporate values and ethics</i>	<i>Humanitarian distress and absence of social justice</i>
<i>Social unrest and anti-social tendency</i>	<i>Social media and enjoying different cultural components</i>
<i>Property oriented attitude and pressuring through authorization and power exercise</i>	<i>Avoidance human connectivity, humanship and public trust</i>
<i>Unequal and bias outlook for distributing resources and facilities</i>	<i>Heroism and community aristocracy</i>
	<i>Lack of human rhythm in community life and community affiliation</i>

Source: Developed by Researcher

The causal factors for committing criminal victimizations within the community have been germinated in different causes and grounds. The community people are gathering for different interests and guided by different purposes within the community settings. People within the community are involving for different purposes of actions and insisting by any unfair means. As a result, scope of victimizations have been happened. RJ practitioner 'A' mentioned that:

"The criminal victimizations in Bangladesh in the community level have formed due to many factors and these factors influenced for making causes to violate the rules and forced to commit criminal victimizations. As my view, in the community settings some reasons are identified that assist to produce causal factors such as nature of social structure, mode of behavior, module of social relationship, community involvement and responsibility, culture of practicing the ideas of neighborhood, and consistent implementation of social legislations."

The people of the community are habited in different lifestyle approaches. People move within the community for different reasons and for making relationship influenced by various interests. The lifestyle of community people insisted to go near to the crime zones and forced to violate the community codes and legal instructions. The routine activity of community people has been seen in the conducted study which influenced people for getting unjustified benefits from the atmosphere which has been made by unfair interventions. The potential crime environment of the community welcomes the potential victims and the offenders. RJ practitioner 'C' noted that:

"In the community aspects, people involved themselves in many functions that fulfill their demands and aspirations. At the age of post-modernization, people of community have been understood about their lifestyle, demand, aspiration and community authority. As my observations, following grounds are responsible for committing crimes: post-modernization attitude and cultural socialization, capitalistic thinking and human isolation in terms of property and resources, emotional stress towards power and supremacy, and forced people by unfair interests to commit crimes and victimizations."

1.7.3 Grounds of Victimizations according to Restorative Lens

The committed criminal cases have been resolved of selected two agencies through restorative justice and restorative interventions. That cases have been referred from the different institutions such police stations, victim prayer, intervention by community leaders, knocking by the family and relatives. But in the reality of community perspectives, the restorative cases have been informed to restorative agencies by the community members, police stations, victims and offender's prayer and willingness. Community stakeholder 'B' mentioned that:

"The petitioner has been influenced oneself to get relief from the victimizations through restorative approach considering its merits and strengthening position. The restorative cases are come from the police stations, community sources, family and relative connection, and victim-offender willingness. One thing that has been remembered by me that only compoundable cases are referred to restorative agencies for minimizing. The victims, police stations, and referred institutions expected a quick responses by restorative agencies and desired to satisfy the victims by taking necessary actions and interventions."

The RJ practitioners of selected two restorative agencies mentioned some grounds why people have been committed criminal victimizations as follows:

Victims, offenders, and the community have been influenced by surroundings and violate the continued manners.

Community people have been made chaos for justification of any disputes and decision-making process which produced fuel of criminalization.

Victims have been faced different pains, sorrows, and traumatization due to unfair incidents within the community.

Offenders have been insisted by power and situational energy to violate community rules and legal customs.

Injured people have been committed for revenge and damaged the goods and honor as well.

Community feelings for community affection and involvement for good works have not been attracted for all and some have been displaced and aimed at committing crimes.

Contributions by community people have not continued for all people who need support and services.

Source: Developed by Researcher

1.7.4 Convincing Ways of Victims, Offenders and Community Stakeholders

The RJ practitioners used different ways to convince the victims, offenders and community stakeholders repairing the harms and traumatic situations. But the convincing way is different from party to party because of the nature of involvement and level of victimization. The victim has to show eagerness in terms of repairing and to expect damaged demands that has been made due to victimizations and painful disorder through crimes.

On the other hand, offender has to show less eagerness to repair the victimizations. The offenders have been pressurized by the restorative agencies for involvement to pay compensations and supported by responsibility and accountability. At the same time, the community as stakeholder of restorative justice eagerly shows the interest to solve the case of victimizations through responsive actions from all parties. The RJ practitioners of all mentioned that:

The victims, offenders, and the community have been evaluated from different sides according to merits and positional demand within the community. We have to invite offenders and the community for discussing how to resolve the harms, pains, and traumatization. We have to use different approaches friendly towards offenders for resolving the victimizations through empathetic and humanitarian views and taking actions to control the post-consequences of victimizations. The victim has to open themselves to share the level of victimization, sufferings, and traumatization in front of offenders and the community as well as related persons who can pressure the offenders for taking the recovering actions. The community felt interest to serve the demand of victims, unconfined the offenders through responsibilities and re-integration.

The RJ practitioners followed some ways to convince the victims, offenders, and the community stakeholders as follows:

Table 3. Convincing Ways of Victims, Offenders and Community Stakeholders

<i>Convincing ways of Victims</i>	<i>Convincing ways of Offenders</i>	<i>Ways of managing community stakeholders</i>
<p>(a) Listen the story of victimizations from the victim(s)</p> <p>(b) Ensure the recovery of damaged goods of victims through restorative approach and ideology</p> <p>(c) Understood the victimizations by solving within the community with praise and dignity</p> <p>(d) Express towards victims that community solution is better than court process and it has legal ground.</p> <p>(e) Tell the background of re-integration and progress of victims enacted within the community. So that the community people can take actions in favor of victims for safety and smooth living with full range of happiness.</p> <p>(f) The victims have been motivated by the RJ practitioners to remain their social honor by resolving the conflicts.</p>	<p>(a) Tell the pains, sufferings, and traumatization of victims towards offenders</p> <p>(b) Discuss with offenders that due to misconduct and illogical actions by you, victimization has been made and the victims are suffering a lot</p> <p>(c) Ascertained the offender's responsibilities to recover the sufferings of victims</p> <p>(d) Through the friendly interventions of RJ practitioners, the offender(s) had to agree to take the responsibilities for recovery and make sure the role for re-integration.</p>	<p>(a) Conjectured the community role and affection in terms of recovering the victimizations</p> <p>(b) Express the community members to be understood that community treats as comprehensive approach for re-integration and without community interventions nothing be happened for re-build the broken relationships</p> <p>(c) Victims and offenders both are the members of community. So that community as a guardian in broad sense having responsibility to ensure the collaboration between victims and offenders.</p>

Source: Developed by Researcher

1.7.5 Significant Factors of Restorative Justice

Restorative justice depends on some significant factors that make favorable situations for doing justice with friendly approach. Before doing justice, the RJ practitioners have to do some important works such as pre-meeting with victims and offenders, pre-meeting with community stakeholders, analysis the law relating to case of victimizations, identify the threats of justice, ways of tentative solution, and way out how to apply the verdict of restorative justice.

Restorative justice is a community-based approach that welcomes all parties (victim, offender and the community) for repairing the victimizations and traumatization within the community. The power and authorization capacity of restorative body does not work as like legal body so that the community people particularly the offender(s) does not agree to obey the verdict of restorative decision in some cases. Before doing justice, all threats of restorative approach have been identified by RJ practitioners and selected the best ways for retribute approach. About

the significant factors of restorative justice, the RJ practitioners of both agencies mentioned as follows:

A pre-meeting has been arranged with offenders to listen the story of victimizations and to hear the causes of committed crimes. In the pre-meeting with offenders, the clues have been identified and selected a suitable approach how to deal the case. And level of responsibilities by offenders have been discussed and listed how to be practiced by offenders for healthy recovery.

Following the same approach, the RJ practitioners have arranged a pre-meeting with victims for listening to how he/she has been victimized and destroyed the resources as well as honor and dignity. In the pre-meeting with victims, the RJ practitioners have been told how to recover the loss and find out a solution in the name of re-integration. At the same time, the faulty behavior of victims has been discussed and selected a way how it would be regained.

The community stakeholders have been invited by RJ practitioners to resolve the matter of victimizations. The community people can play a significant role for repairing the victimizations through vigilance network, make alert towards offenders, show the empathetic attitude towards victims, and community observations involving mass people. The RJ practitioners try to get these benefits from the community people for better solution.

Before doing justice, the RJ practitioners analyzed the related laws and regulations that followed to conduct the justice. The RJ practitioners determined the potential threats to implement the restorative decision and identified the ways for solving of assumed threats and finally, way out a suitable approach for re-integration and re-gaining the lost relationship.

Source: Developed by Researcher

1.7.6 Trends to Practice Restorative Verdict by Victims and Offenders

The trend for practicing restorative verdict by victims and offenders is an important matter in the restorative approach. The socio-cultural context of Bangladesh is continuing followed a mixed orientation and the human life and life related conflicts are becoming more complex due to unrest socialization and unplanned industrialization. In the community life, the mass people are making unrest behavior among themselves and foster the relationship towards catastrophe. The victim is agreed with full interest to maintain the verdict of restorative decision. But in some cases, the offender as a strong party of restorative justice shows relaxed attitude to maintain the restorative decision.

The offender with power and authority in the community settings has been influenced oneself not to maintain the restorative decision. The offender, in some cases, does not provide the compensation to victims and victim's families. The offender shows power and arrogance instead of compensation and sympathetic attitude. RJ practitioner 'E' mentioned that:

"I have seen that victim as a person or a group who is highly interested to maintain the verdict of restorative decision that is taken in the restorative process by restorative body. By following the verdict, the victim has been benefited and re-integrated within the community settings. I as RJ practitioner have made environment for victim's re-integration and made community in favor of victim or for victim's family. On the other hand, the offender, in some cases, has been shown the arrogance and power not to maintain the restorative decision. But I have tried to convince both party for assisting community for a peaceful solution and proper re-integration with confidence and dignified respect for both within the community settings"

There are some significant factors that influenced the decision of restorative justice. At the community settings, the offender or offender community has get special or extra benefit and supports that assist to show the arrogance and power. In some

aspects, the offender has been avoided the restorative decision and made continuous pressure towards victims withdrawing the case/complaint from the police station/restorative agency/village court/local committee for justice. The respondents of RJ practitioners noted some important assumptions as follows:

Diagram 2. Crime Governance within the Community Settings

The powerful population of community settings have been shown their supports towards offenders due to keep the interest of power and authority as well as continue their devil works.

A significant statement has been identified regarding the behavior aspect of offenders that some offenders and their community are facing psychological imbalance in behavior. For that, an audacity is shown by them and their movement in the community settings are not regarded as pro-active dimensions in the name of transformation of victimizations and for peaceful progress.

The mass people in the community settings have been devoted themselves with the situation of victims. But the positional atmosphere is not supported them to raise their voice and togetherness for conducting a social forwardness in favor of victims or victims community.

Source: Developed by Researcher

1.7.7 Role of Community Stakeholders for Minimizing the Case of Victimization

The community as stakeholder to minimize the victimizations within the community settings contributed a significant role to repair the harms, sufferings, and recover the lost properties. In the process of restorative justice, community is valued as elected leaders, non-elected influential leaders, relatives, peer groups and friend circle, and neighbors. Community as a third party begins some important steps to overcome the victimizations with collaboration of restorative agencies.

The victims and offenders are the members of a particular community and who have to maintain the values, ethics, and principles of the community. Victim has to come back into the community for shelter, affiliation, and continue life. On the other side, offenders have to move within the community. Not to solve and repair the victimizations, the community people stigmatize the offenders as an anti-social personality. The community as a broad arena of relational reconciliation plays some role and responsibilities for repairing the victimizations through the process of contribution by offenders and response for rights and needs of victims.

The micro-communities of victims and offenders involved for relational repairing and connected to the process for repairing and meaningful understanding. The respondent of RJ 'F' mentioned that:

"The community is considered as one of the influential factors in the process of restorative justice. The role community people under the view of micro-communities inspire the victims for recovering the lost resources including property, honor and prestige, physical, and emotional damage. I have seen that offenders have been pushed to take the role for repairing that decided

in the decision of restorative justice. In the justice process, I observed that restorative justice conducted the minor cases of victimizations (compoundable case) that also valued not more than 75,000/= (seventy five thousand only) tk. and one of the important matters is that community as unit of restorative care would be agreed to solve within the community. Sometimes, the near and dear of victims and offenders have made ambiguous attitudes at the duration of repairing and restorative agreement. In my experiences, I select the role of community as an important factor which influences both victims and offenders to be gathered for minimization and further reconciliation for the interest of community benefit as a whole.”

The ‘*community care*’ is important in restorative justice. The community people overlooked the post-attitudes of victims and offenders. In the practice of restorative justice, the community is valued for feeding the affection of affected people and pressuring the offenders to take responsibility for recovering the level of victimization. The respondents of all defined and expected some role from community for *community care* and better recovering process that will more influential both victims and offenders as follows:

Table 4. Role for Community Care from Community for Recovering Victimization

<ul style="list-style-type: none"> ● <i>Need community vigilance after post-victimizations.</i> ● <i>Community care for victims should be developed and a shelter under the purview of community would be launched for the safety of victims.</i> ● <i>The role of community for defining the responsibilities performed by offenders must have settled and observed the performance towards victims.</i> ● <i>The community should arrange rehabilitation related functional activities for preparing the community people especially who already convicted caused by crimes.</i> ● <i>The community leaders both elected and non-elected should express the importance of community care towards youth population, women folk, and adult segments and need to share the community ethics, collaboration, togetherness for community-based affiliation.</i> 	<ul style="list-style-type: none"> ● <i>The community people should incorporate the victims and their family in the process of re-integration.</i> ● <i>At the duration of re-integration, the victim needs community supports and friendly cooperation for re-integrating within the system and community manner.</i> ● <i>At the cases of misunderstanding, the community should pressure the offenders and make sure the victim's needs and rights.</i> ● <i>The community should make some programs to prevent the tendency of victimization stopping the rate of potential crimes.</i> ● <i>The community leaders should pressure the institutions socially to practice the values, emotions by functions and regular activities to aware the members for getting a law abiding personality should be continued.</i>
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Source: Developed by Researcher

1.7.8 Steps for Overcoming the Existing Challenges of Restorative Verdict

Restorative justice is such an approach of justice that is community-based and guided through systematic process by the RJ professionals who can ensure the justice as well as decide the decision through the process of discussion and community-based dialogue. The authorization to practice the power of restorative justice is limited within the community. In Bangladesh, there is no legislative dignity which can pressure to

maintain the verdict of restorative justice. The conducted study searched that maintaining the decision of restorative justice is depending on the wish of offenders and victims. Considering the situational factors, the victim agrees to obey the restorative decision most times. In a few cases, the victim avoided the decision of restorative justice and tried to show the revenge attitude towards offenders.

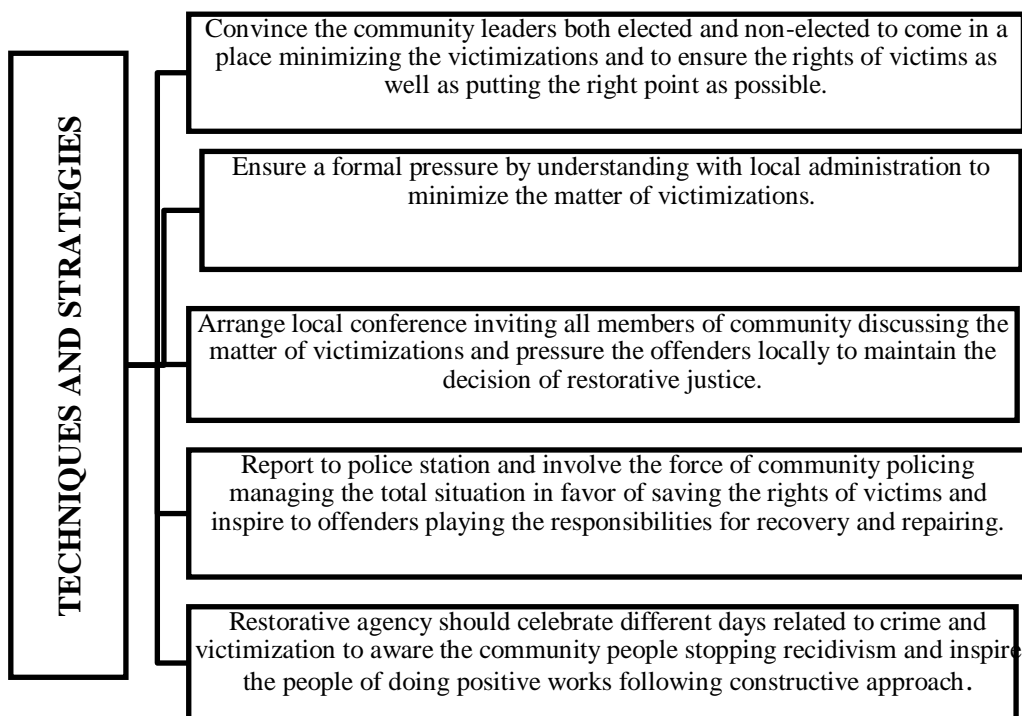
The offenders tried to avoid the decision of restorative justice. The victimizations happened in Bangladesh society reveal that offenders forwarded for committing crimes cause of power, available of crime assistance, local aristocracy, and managing capacity of local administration and commanding authority. The professional persons of restorative justice called all parties to ensure the rights and needs of victims and try to manage the offenders by following professional strategies for maintaining the decision of restorative justice in order to community smoothness and mutual understanding between victims and offenders.

The respondents opined their comments on the victims and offenders manner regarding maintaining the restorative decision as follows:

<i>RJ 'E' mentioned that:</i>	<i>RJ 'O' noted that:</i>
<p><i>“In my practicing experiences, I observed that victims eagerly agreed to get rights and needs from the offenders and concerned institutions. The victim is now a victim because of having no equal capacity as an offender. It is experienced in most cases. In rare cases, the victim is more powerful than the offender. I try to convince all parties with the community taking the assistance to ensure the peaceful situation. In my observations, it is mentioned that ensuring the victim rights and needs is a challenging matter for restorative justice. Without the support of community people, it is not possible to establish the rights of victims. To stop the recidivism within the community is very challenging without direct assistance of community people.”</i></p>	<p><i>“Offender or offender community is more powerful than the victim. Conducting the justice process, I noted that offenders showed arrogance and a monopoly attitude towards victims and their family in most cases. But some offenders have willingly agreed to meet up the needs and rights of victims. But the restorative body felt hopeless if it didn't get support from the community leaders and local administration and management. So, convincing the offenders to sit with all and make sure of justice is a challenging task. I assume that it is not possible to minimize at a glance with short meetings and interventions. Certain preparations have been invested to convince offenders and their community who supported and inspired them to commit crimes.”</i></p>

The respondents of all noted some techniques and strategies overcoming the challenges for maintaining the restorative decision as follows:

Diagram 3. Implementing Techniques and Strategies for Restorative Decisions



Source: Developed by Researcher

1.8 Recommendations and Policy Framework

The study has been conducted to unveil the practicing models and strategies of restorative justice in Bangladesh. Apparently, it can seem that restorative justice is a new dimension in Bangladesh. However, it has a long history of addressing community-based disputes and non-serious criminal victimizations. Right now, restorative justice is practiced in different forms influenced by the interventions of government and INGOs' initiatives. Based on the findings and insights of restorative justice, the following recommendations can be suggested to uphold the practicing tendency with professional competency:

(a) **Prolonging Restorative Campaign:** The professional practice of restorative justice in Bangladesh is a new approach to addressing community-based criminal victimization. During research, it was found that most people at the community level have little or no knowledge about restorative justice and its applications. Additionally, restorative justice has the power and effectiveness to resolve victimization quickly by involving both the victim and the offender.

(b) **Introducing Restorative Law:** Restorative justice may be a sustainable measure and source for minimizing the community-based criminal conflicts and disputes. Though the Village Court Act-2006 works to provide essential support to redress the disputes and criminal actions to heal the victims' traumas and sufferings. Considering the global growth of restorative justice, a restorative law is needed to address the community-based compoundable unlawful activities within the restorative frame.

(c) **Tailoring Restorative Structure for Functional Operation:** The restorative structure is necessary to provide restorative services and support for victims and their families, enabling them to rebuild their lost social position and livelihood sources. According to interviewed respondents, the community people have a desire and interest to receive the restorative interventions to reduce the harm and pain of victims who have been harmed due to committed criminal activities. On the other hand, the offenders can be obliged to serve the victims as per the restorative justice decision. By introducing the restorative culture, community-based criminal incidents can be reduced by creating a win-win situation and acceptance.

1.9 Concluding Remarks

The study has unearthed the performance of restorative models that are applied by the RJ practitioners to resolve the community-based disputes and conflicts. Through the conducted study, the applied mechanism has been assessed with its strength to resolve the community-based misunderstandings among or between individuals. Through doing study, the community insights have been explored that influence people to commit crimes and unlawful involvement. RJ practitioners and community stakeholders have been interviewed using a semi-structured interview schedule to customize the inner situations. The respondents from both sides have explained their opinions and responses regarding restorative interventions. The community people expect the restorative actions, in most cases, should be applied to address the criminal activities ensuring the punishment through responsibilities of offenders. Restorative justice ensures the activation of offenders to healing. The selected sample under the study has been interviewed based on research areas to cover the research topic knowing the objectives. However, all recognized RJ agencies were selected through a systematic sampling to collect the required data and insights. All RJ practitioners and community stakeholders were not interviewed and asked what models and mechanisms have been used to deal the restorative matters and issues for a fruitful result. The findings of the conducted study have revealed that restorative interventions are growing with a sustainable position that attracts community people to resolve their community disputes and conflicts under the community frame using restorative strategies. Based on the opinions of the respondents, it is mentioned that case-log can be reduced by applying restorative justice. The community stakeholders are interested to play a significant role in resolving the conflicts using restorative power and consensus. Meanwhile, the Village Court Act-2006 is enacted to address the community-based insignificant criminal activities involving victims and offenders. The conducted study has discovered an idea to know the current performance of restorative justice. Through the following approach, another study can be conducted to reveal another dimensions with credible responses. The recommendations that are mentioned by the respondent can be executed to extend the restorative culture and to practice this approach as a community-based professional intervention which will be accepted by all through its credibility and way of execution.

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РОЗКРИТТЯ ОПЕРАЦІЙНОЇ МОДЕЛІ ТА МЕХАНІЗМУ ВІДНОВНОГО ПРАВОСУДДЯ В БАНГЛАДЕШ

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Анотація. Практика відновного правосуддя в Бангладеш являє собою новий вимір у вирішенні суперечок та несправедливості в громаді. Втручання, що застосовуються відновною установою, ініціюють різні кроки для вирішення суперечок та незаконної діяльності, що шкодить соціальним відносинам та почуттю солідарності. Ця стаття має на меті описати функції відновного правосуддя в Бангладеш, включивши його практикувані моделі та методи. Практики відновного правосуддя (ПВП) проходять навчання для сприяння процесу правосуддя, зберігаючи при цьому баланс між жертвою та правопорушником. Агентства відновного правосуддя дотримуються національних рекомендацій щодо підходу до правосуддя та втручань на рівні громади. У національних посібниках описано процес ПВП, а блок-схеми підготовлено для реалізації функцій відновного правосуддя. У статті подано ПВП, які були опитані з окремих вибраних районів, де доступні відновні функції. Для збору якісних даних були організовані та проведені напівструктуровані інтерв'ю. Під час збору даних на місцях були дотримані етичні міркування та моральні вимоги. Як якісне дослідження, для представлення зібраних даних шляхом синтезу різних кроків та шаблонів були застосовані методи тематичного аналізу. Демонструючи зібрані дані та події, стаття ілюструє функціональну силу та ефективність відновного правосуддя у вирішенні суперечок, несправедливості, дискримінації, порушень особистих прав та репутації, а також інших дисфункцій, пов'язаних з громадою. Як новий вимір глобальної тенденції, відновне правосуддя продовжує набувати визнання та застосування серед людей, сприяючи довірі та впевненості шляхом вирішення всіх типів спорів, що підлягають примиренню, та кримінальної віктимізації. Інтерпретуючи представлені дані, відповідний персонал може розробити втручання та ініціативи на рівні політики для впровадження відновного правосуддя з відповідним ставленням та визнанням.

Ключові слова: відновне правосуддя, суперечки, що виникають у громаді, відновні моделі, стратегія пом'якшення наслідків.

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