

Assessment of Restorative Justice Programs on Criminal Justice Process in Kitale Law Courts, Trans-Nzoia County, Kenya

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Abstract- The proposed study seeks to investigate a hidden problem within the criminal justice system where focus has been directed more towards the welfare of the offenders and accused persons and to some extent neglect has been demonstrated towards the victims of crime. The victims suffer financially, physically, socially, and emotionally from crime and families, communities and society as a whole are similarly affected. This study therefore, assessed the restorative justice programs on criminal justice process in Kitale law court, Trans-Nzoia County, Kenya. This research was pinned on Peacemaking, Restorative and Social Justice Theories. The investigation utilized descriptive survey research design. Target population comprised 153 restorative process participants in Kitale law court. The study used census techniques to select 153 participants as sample size. Data were descriptively analyzed using means and standard deviations, and inferentially by Pearson's correlation and regression analysis to measure strength and direction. Regression results proved that restorative justice programs produced significant effect on criminal justice process. The Coefficient of Determination or Rsquare stood at ($p < 0.05$; $R^2 = 0.678$) which inferred that 67.8% of the variation in the criminal justice process was explained by variability in the variables under restorative justice programs. The study recommends more pursuit of restorative justice programs involvement into role of peace making agencies, restitution programs, community service programs and family groups.

Index Terms- Restorative, justice, programs, criminal, process.

I. INTRODUCTION

Restorative justice refers to a process for resolving crime by focusing on redressing the harm done to the victims, holding offenders accountable for their actions and, often engaging the community in the resolution of that conflict. Participation of the parties is an essential part of the process that emphasizes relationship building, reconciliation and the development of agreements around a desired outcome between victims and offender. Restorative justice is a way of responding to criminal behaviour by balancing the needs of the community, the victims and the offenders. It is an evolving concept that has given rise to different interpretation in different countries, one around which there is not always a perfect consensus (Beirne, & South, 2007).

The formal process of adversarial justice in most states is based on responding to the offender as suspect, accused, defendant, convicted, sentenced and sometimes as prisoner. The central concern of the system is justice and fairness under the rules of adversarial justice to ensure the guilty are convicted and the innocent acquitted while the convicted being given a deserved penalty. It has been shown consistently that throughout the Anglo-American system of adversarial criminal justice in England, Scotland, the United States of America and Canada, victims who are bewildered, angry or fearful, turn to the police and other criminal justice officials for comfort and guidance only to find them operating according to different priorities which place concern for victims low on the list (Shapland et al., 2015).

The criminal justice systems found in the majority of African states today are those inherited from their former colonial powers. They are, mostly, Western-European oriented. Their primary preoccupation is maintaining governmental authority. They pay little attention to and do very little, if anything, for the victim of crime; the person whose rights have been so grievously violated. There are virtually no services for victims in the African countries (Tibamanya, 2004). The victim's role in the justice system is marginal, and victim rights and welfare are never guaranteed by the criminal justice system. The victims often feel victimized in the justice system hence they suffer a perceived injustice. Few institutions have been established to adequately protect individuals from crime or from the

consequences of crime once they have become victims but they are only limited to a category of crimes and victims. Religious and other organizations do sometimes provide some material assistance to victims. However, this usually comes too late and often too meager and sporadic. Crime injures and the adversarial justice system, such as the one in Kenya, does little to restore victims and communities injured by crime.

This kind of system does not seek to hold offenders accountable in ways that allow them to make things right with those they have harmed. There is a perceived injustice on the victims of crime and inability of the justice system to positively affect crime rates. The lack of concern for crime victims has also fueled dissatisfaction and disillusionment among the public paving way for criminals to continue committing crimes while they remain undetected and unprosecuted as their victims suffer in the fear of crime and in the hands of criminal justice professionals.

Many observers argue that, in the conventional criminal justice system, offenders are not required to confront the full consequences of their decisions and their actions. In many systems, an offender can be processed through the entire justice system, from arrest, detention, trial, sentencing, and perhaps incarceration, without speaking more than a few sentences. The Basic Principles (2018) recommends that restorative processes should only be used where there is sufficient evidence to charge the offender and with the free and voluntary consent of the offender, who should be able to withdraw such consent at any time during the process. Offenders also require access to legal advice and/or information.

The criminal justice encompasses several institutions and actors within the executive, legislative and judicial arms of government as well as private legal practitioners. The police, courts and prisons are the core institutions of criminal justice administration in modern states Alemika and Alemika (2005). An additional department in Kenya is the probation department, which works closely with other CJ agencies. Different countries have very different ways of investigating and prosecuting criminal cases based on different principles and rules. Varying procedures and regulations govern the investigation of crime, the arrest and interrogation of suspects' prosecution decisions, bail procedures, trial procedures rules of evidence and the role of the judges and magistrates in criminal cases.

Implicit in restorative justice is a reevaluation of the responsibilities of government, communities and individuals for responding to victimization and the harms of crime. Whereas traditional notions of justice treated the public as recipient of an expert, service provided by criminal justice professionals, restorative justice call upon public participation and active citizenry. Individuals and groups become reconfigured as partners in the process and co-producers of the outcome (Crawford & Clear, 2003).

Its association with meeting the needs of victims of crimes has also meant that restorative justice has proved to be an attractive term for policy makers and politicians. What is less clear, however, is the impact that restorative justice has had on influencing policy and practice in the country's justice system. With regard to adult offenders, restorative justice appears to have had a minimal effect on policy (Stout et al, 2008). Justice is an abstract concept. It is used to measure what is naturally right and what is not. It is an elusive concept in most democracies. It varies in meaning according to time and place, and according to the persons concerned. For example, to the Greek and Romans, slavery was deemed to be just at a point in time.

To appreciate the notion of restorative justice, one has to understand the concept of justice in African Customary Law. In traditional Africa, Customary Law revolved around the socio-economic set-up of the African way of life. In the African system, society's interests were the common denominators of all acts performed either by an individual or by section of the community. Individualism and self-seeking characteristics were ruled out. The spirit of collectivism was so much ingrained in the minds of the people that most social functions were done collectively (Tibamanya, 2004).

Restoration justice methods can however allow parties themselves to take more control of the process, imposed solutions. Court decisions impose a solution on the parties, which does not involve their consent and may be enforced. If possible, parties should first negotiate a settlement between them to which they both agree publicity. Majority of court hearings are public and pauses substantial injustice where undesirably, parties in a dispute do not prefer to make public details of their situation. To complement the above challenges Tibamanya (2004) explains that other impediments to restorative justice impliedly include where; the role of the victims in the justice system is not appreciated, where courts do not seek opinion of the victim on the mode of disposal or in the case of a conviction, of the type of sentence imposed on the accused. Courts exhibit a lack of sensitivity to the needs of the victim in certain types of cases, such as in sexual offences.

II. RESEARCH METHOD

This study adopted a descriptive survey research design in identifying the sample size of 153 respondents. Glass and Hopkins, (2006) argue that, descriptive research takes into account assembling data which describes procedures of actions, organizes, tabulates, depicts and describes the collected data. Questionnaire and interview schedules were employed in data collection. Both descriptive and inferential statistics were used to analyze data and presented in form of frequency distribution tables. This study is important because it comes at a time when the criminal justice system has focused so much on the offenders' welfare but neglected victims of crime. Victims have continued to suffer for fear of crime and from the consequences of a criminal act against them either physically or emotionally. This study therefore aims to highlight the importance of restorative justice in the administration of justice to crime victims, a field that has been widely ignored or under-researched in existing literature. The results that were obtained from the conduct of this study are hoped to be used by policy makers to make or amend policies with due regard to victims of crime. The victims of crime are also hoped to benefit most from the study, as it would enlighten them on their rights- which most of them have remained ignorant of - in the criminal justice process.

III. DISCUSSIONS

The research sought to know the response rate of the respondents. The study sampled one hundred and fifty three (153) respondents from the Kitale law court, Trans-Nzoia County. However, out of the 153 questionnaires distributed, one hundred and thirty six (136) respondents were completely filled and returned hence giving a response rate of 88.89% of the respondents. This response is reliable for data analysis. Mugenda and Mugenda (2003) explained that a response rate of 60% is good and a response rate of 70% and over is excellent. Before proceeding with the inferential analysis of the data, it was well analyzing the common descriptive statistics of the study sample data. The main research purpose of the study was to evaluate the influence of restorative justice programs on criminal justice process in Kitale law court, Trans-Nzoia County, Kenya.

Role of Peace Making Agencies and Criminal Justice Process

	N	Mean	Std. Dev.
The victim-offender mediation process can be used successfully during the offender's incarceration and can become part of his or her rehabilitation process	136	3.929	.9197
Victim-offender reconciliation has been used successfully in cases of serious and violent crime	136	3.841	.9204
Sometimes the family and other members of the community are brought together to participate in a professionally facilitated process to identify desirable outcomes for the parties	136	3.629	.9329
That there is support resurgence of community policies especially during criminal justice system	136	3.427	.9823
That there is reduced domestic incidences especially during criminal justice system	136	3.526	.9488
That restoration of rule of law is kept during criminal justice system	136	3.641	.9724

The statement that the victim-offender mediation process can be used successfully during the offender's incarceration and can become part of his or her rehabilitation process reported the highest mean score of 3.929 with standard deviations of .9197. The statements that victim-offender reconciliation has been used successfully in cases of serious and violent crime with the mean score of 3.804 with standard deviations of .9204 closely followed this. The statements that restoration of rule of law is kept during criminal justice system and that sometimes the family and other members of the community are brought together to participate in a professionally facilitated process to identify desirable outcomes for the parties with the mean score of 3.641 and 3.629 with standard deviations of .9724 and .9329 respectively closely followed each other. The statements that there is reduced domestic incidences especially during criminal justice system and that there is support resurgence of community policies especially during criminal justice system reported the lowest mean score of 3.526 and 3.427 respectively. It is important to notice that despite the above named statements reporting the lowest mean score, the mean score is still high and according to the key, tie score is within the agreed scale.

Restitution Programs and Criminal Justice Process

Statements	N	Mean	Std. Dev.
That victim have the right to request financial compensation from the offender in the form of "restitution."	136	3.934	.8925
Corrections agencies, including probation departments, and paroling authorities, are responsible for victim inquiries and contact regarding restitution.	136	3.984	.9126
Victims are informed as early as possible in the justice process of their right to receive restitution from the offender.	136	3.612	.9327
That offender rehabilitation is supported during criminal justice process	136	3.936	.9225

According to the findings, the respondents indicated that victim have the right to request financial compensation from the offender in the form of "restitution." (M = 3.934; SD = 0.8925) and that corrections agencies, including probation departments, and paroling authorities, are responsible for victim inquiries and contact regarding restitution (M = 3.984; SD = 0.9126). That victims are informed

as early as possible in the justice process of their right to receive restitution from the offender. (M = 3.612; SD = 0.9327) and that offender rehabilitation is supported during criminal justice process (M = 3.936; SD = 0.9225).

Community Service Programs and Criminal Justice Process

	N	Mean	Std. Dev.
That court usually orders offenders to perform specific number of hours of free work.	136	4.174	.6544
Community service through restitution can help to change an offender's values	136	3.937	.7638
The voluntary sector has played a leading role in designing and delivering vital services that develop and maintain social relationships, in the criminal justice system.	136	3.993	.7337
That community service addresses the needs of a specific victim	136	3.946	.9846

The findings show that court usually orders offenders to perform specific number of hours of free work. (M = 4.174; SD = 0.6544) and that community service through restitution can help to change an offender's values (M = 3.937; SD = 0.7638). That the voluntary sector has played a leading role in designing and delivering vital services that develop and maintain social relationships, in the criminal justice system. (M = 3.993; SD = 0.7337) and that community service addresses the needs of a specific victim (M = 3.946; SD = 0.9846).

Family Groups and Criminal Justice Process

Statements	N	Mean	Std. Dev.
Family groups are the main source of emotion during the criminal justice process	136	3.723	.9406
Family groups and financial support are inseparable during the criminal justice process	136	3.885	.9581
That family groups contribute to reduced reoffending during the criminal justice process	136	3.851	.9881
Family relationships are often the main source of practical support for people in the criminal justice system	136	3.872	.9806

The findings showed that family groups are the main source of emotion during the criminal justice process (M = 3.723; SD = 0.9406) and that family groups and financial support are inseparable during the criminal justice process (M = 3.885; SD = 0.9581). They further showed that family groups contribute to reduced reoffending during the criminal justice process (M = 3.851; SD = 0.9881) and that family relationships are often the main source of practical support for people in the criminal justice system (M = 3.972; SD = 0.9806). The study sought to establish the relationship between the dependent variable (criminal justice process) and the independent variables (role of peace making agencies, restitution programs, community service programs and family groups). The researcher conducted a Pearson moment correlation in order to determine the correlation of the study variables.

Correlation Analysis

Correlations					
	Criminal Justice Process	Role of Peace Making Agencies	Restitution Programs	Community Service Programs	Family Groups

Criminal Justice Process	Pearson	1				
	Correlation					
	Sig. (2-tailed)					
Role of Peace Making Agencies	N	136				
	Pearson	.342**	1			
	Correlation					
Restitution Programs	Sig. (2-tailed)	.000				
	N	136	136			
	Pearson	.226**	.035	1		
Community Service Programs	Correlation					
	Sig. (2-tailed)	.008	.686			
	N	136	136	136		
Family Groups	Pearson	.206*	.156	-.057	1	
	Correlation					
	Sig. (2-tailed)	.016	.070	.511		
Family Groups	N	136	136	136	136	
	Pearson	.437**	.071	.095	.064	1
	Correlation					
Family Groups	Sig. (2-tailed)	.000	.413	.274	.460	
	N	136	136	136	136	136

** . Correlation is significant at the 0.01 level (2-tailed).

* . Correlation is significant at the 0.05 level (2-tailed).

From the results; role of peace making agencies ($r = 0.342$; $p < 0.01$), restitution programs ($r = 0.226$, $p\text{-value} = 0.008$), community service programs ($r = 0.206$; $p\text{-value} = 0.016$). and family groups ($r = 0.437$; $p < 0.01$), describes significant weak relationships with the dependent variable; criminal justice process and the independent variables (role of peace making agencies, restitution programs, community service programs and family groups) Though each valuation depicts a $p\text{-value}$ not exceeding 0.05.

Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.824 ^a	.678	.634	.72473

a. Predictors: (Constant). Family Groups, Community Service Programs, Restitution Programs and Role of Peace Making Agencies.

From the model summary, the R square (coefficient of determination) is a frequently applied statistics to appraise model fit. The results of the regression analysis in table 13 indicate that R^2 was .678 or 67.8 %. This shows that the four independent variables (role of peace making agencies, restitution programs, community service programs and family groups) of the study explain only 67.8 % of the changes in the dependent variable (criminal justice process). Other variables not in the study contribute to the remaining 32.2% of the changes in restorative justice programs. The statistical model shows that when the independent variables (role of peace making agencies, restitution programs, community service programs and family groups) and dependent variables (criminal justice process) interact, then the model has a correlation coefficient (R) of 0.824 and co-efficient of determination (R-square) of 0.678 signifying a positive association between two variables.

ANOVA^a

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	6.007	4	1.502	10.359	.002 ^b
	Residual	19.044	131	.145		

Total 25.051 135

a. Dependent Variable: Criminal Justice Process

b. Predictors: (Constant), Family Groups, Community Service Programs, Restitution Programs and Role of Peace Making Agencies.

The analysis of variance (ANOVA) test was used to test the implication of the regression model embraced in the study. The result of the ANOVA test showed an F-statistic of 10.359 which was statistically significant at 0.002 ($p < 0.05$) indicating that the regression relationship was highly significant predicting how role of peace making agencies, restitution programs, community service programs and family groups influenced criminal justice process. The F critical at 5% level of significance was 10.359, this shows that the overall model was significant and that, the variable tested fitted well in the model.

Coefficients^a

	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
(Constant)	.266	.380		.699	.486
Role of Peace Making Agencies	.272	.069	.285	3.951	.000
Restitution Programs,	.137	.052	.188	2.929	.010
Community Service Programs	.149	.073	.147	2.039	.043
Family Groups	.323	.059	.390	5.448	.000

a. Dependent Variable: Criminal Justice Process

The examination coefficients outcomes exposed a statistically significant positive influence of role of peace making agencies, restitution programs, community service programs and family groups on criminal justice process. Their relative importance to criminal justice process is indicated as role of peace making agencies ($\beta=0.272$), restitution programs ($\beta=0.137$), community service programs ($\beta=0.149$) and family groups ($\beta=0.323$). It is evident from the results that family groups had the greatest influence on criminal justice process while restitution programs and community service programs had the least effect on criminal justice process in Kitale law court, Trans-Nzoia County, Kenya.

IV. CONCLUSIONS AND RECOMMENDATIONS

Conclusion

The regression results indicated that restorative justice programs (role of peace making agencies, restitution programs, community service programs and family groups) had explanatory power over the criminal justice process where it accounted for 67.8 percent of variation in criminal justice process ($R^2 = .678$). Basing on the study finding, the study therefore concluded that restorative justice programs (role of peace making agencies, restitution programs, community service programs and family groups) had significant influence on criminal justice process in Kitale law court, Trans-Nzoia County, Kenya.

Suggestions

It was generally discovered that restorative justice programs affects criminal justice process in Kitale law court, Trans-Nzoia County, Kenya though with varied individual effect of each of the restorative justice programs criteria (role of peace making agencies, restitution programs, community service programs and family groups) The study therefore recommends the restorative justice programs involvement in criminal justice process.

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