



RESTORATIVE JUSTICE FOR ECONOMIC OFFENDERS: REHABILITATING WHITE-COLLAR CRIMINALS IN INDIA'S CORPORATE SECTOR

By Mangalleibi Ongnam

From Law College Dehradun, Uttarakhand
University

Abstract

The study stresses the importance of applying restorative justice to white-collar crimes within the corporate sector in India, marking the much-needed rehabilitative approach that must supersede the traditional punitive ones. It looks at how the principles of restorative justice, emphasizing offender responsibility, victim restitution, and social participation, may stand as a viable alternative to the newly growing legalistic environment in India, comprising the Bharatiya Nagarik Suraksha Sanhita (BNSS), Companies Act, SEBI regulations, and provisions of the Prevention of Money Laundering Act (PMLA). The compatibility of restorative justice with the current legal regimes and its correspondence to Indian socio-cultural values, for instance, Ahimsa and Satyagraha, were analyzed through doctrinal analysis and case law survey. The key findings reveal that processes stemming from restorative justice, such as mediation, compensation, and community service activities, would better address economic harm than imprisonment, which results in trust erosion among the public, reforms in ethical standards, and deterrence at a systemic level. However, there are still hurdles in this reply to financial offenses, amongst which are very few offenses allowing compounding and the general perception of alleviation by the public. There is a clear impetus at the judicial level for restitution and non-contentious mode of settlements which,

however, to be institutionalized would still require change in legislation, training and awareness among the concerned stakeholders. As such, the incorporation of restorative justice mechanisms into the corpus of Indian corporate law thus has the potential to transform the treatment of financial misconduct into a form of justifiable healing, both for the perpetrators and victims, restoring them to an economic and social world order.

Keywords: Restorative Justice, White-Collar Crime, Corporate Accountability, Victim Compensation, BNSS, Economic Offenses, Legal Reform, India's Corporate Sector

Introduction

Restorative justice essentially places criminal justice on a different plane toward healing rather than punishment, providing a setting in which victims, offenders, and communities work together to face the consequences of crimes.

Restorative justice focuses on healing trauma resulting from crime, unlike a retributive justice system where the emphasis rests on punishment of the offender. Usually, it involves a joint meeting with victims, who describe their injury, and offenders, who acknowledge responsibility, culminating in the formulation of a corrective measure, such as restitution or community service. Zehr's three guiding principles for the process include an orientation toward harms and needs, acknowledging an obligation to make amends, and drawing all stakeholders into the process. In the case of *R. v. Gladue*¹, Canadian courts embraced restorative principles with their view toward enhancing offender accountability as well as victim healing, which is something India could build upon.² Restorative justice worldwide has come into being as a system, evolving from native practices. New Zealand's Family Group Conferences come under the

¹ [1999] 1 S.C.R. 688.

² R. Thilagaraj, Jianhong Liu, et.al., *Restorative Justice in India: Traditional Practice and Contemporary Applications* 211 (Springer, Singapore, 1st edn., 2017).



mandate of the Children, Young Persons, and Their Families Act 1989 to inculcate the presence of victims and communities in the realm of juvenile justice. It gave wide acclaim and adoption to restorative justice. In India, aspects of restoration are available in village systems such as Panchayats. However, such elements are seldom integrated into formal systems. *Maneka Gandhi v. Union of India*³, may be viewed as an indirect endorsement of special procedures for restorative justice that assert that justice be truly fair and humane. By focusing on the empowerment of victims and the rehabilitation of offenders, restorative justice offers a genuine transformational alternative to punishment that views both emotional and material nature of the harms they address.

Restorative justice then can address white-collar crime, having been committed for financial purposes: restoration of economic loss, and rehabilitation of the offenders into the corporate system in India.⁴

These crimes, such as fraud or insider trading, do not involve physical threats and hence, are perfect for restorative measures. Financial restitution benefits victims directly; systemic changes through corporate reforms act at the second level. Canada follows the principle that restitution orders can be given to redress economic loss; the same can apply in India. (See *U.S. v. BCCF*). Restorative justice offers mediation between offenders and victims to work out customized solutions, such as setting up a victim compensation fund. This concept aligns well with the Indian goal of striking a balance between corporate liability and economic concerns, thereby lowering the societal effects of protracted litigation and incarceration while ensuring a more holistic redress for the victim.

The cultural ethos of India being built on Ahimsa (non-violence) and Satyagraha (truth and resistance)

becomes highly supportive of reconciliation under the umbrella of restorative justice. These values, so magnificently upheld by Mahatma Gandhi, speak about transforming offenders through their accountability rather than their punishment. Restorative justice principles, at least indirectly, received an endorsement by the Supreme Court when it focused on justice upholding societal harmony in *Ramji Lal Modi v. State of U.P.*⁶. Restorative justice, by way of an ethical program for corporations and rehabilitation of offenders, could offer a two-pronged solution in India to deter misconduct in the future and restore trust in the corporate sector.

These white-collar crimes, that involve financial deceit, adversely affect the economic and social fabric of India and require the development of new approaches for justice.

White-collar crimes are sophisticated, non-violent offenses committed by professionals for financial gains, as defined in *State of Gujarat vs. Mohanlal Jitmalji Porwal and Anr*⁷. These crimes average embezzlement, money laundering, and securities fraud, all meticulously planned.⁸

A divide between white-collar criminals and their families in India is their inability to instill public confidence and support the financial markets, much being an economic injury. One example is the Harshad Mehta Scam (1992), which culminated in a stock market crash, thereby affecting millions of investors; the purchase was much larger than the private gains. Such crimes increase income disparities, undermine corporate governance, and discourage foreign investments. Socially, such crimes engender distrust towards institutions, for instance, in the Nirav Modi PNB Fraud Case (2018), being investigated under the PMLA. Justice should not only punish but also heal,

³ (1978) 1 SCC 248.

⁴ Moin Aftab, Irshad Ali, et.al., "Understanding the Underbelly: The Evolution and Impact of White Collar Crime in India", 29 *IOSR-JHSS* 117 (2024).

⁵ 92 Crim. 1126 (D.D.C. 1992).

⁶ AIR 1957 SC 620.

⁷ (1987) 2 SCC 364.

⁸ Frank Grimsey Jones, Lucy Jaffé, et.al., "An Economic Evaluation of Restorative Justice Post-Sentence in England and Wales", 12 *FIP* 143 (2023).



cover victim compensation, and address systemic reform to prevent this from happening in the future.

Legal Framework for Restorative Justice in India

Thereby serving as a substitute for the Code of Criminal Procedure in India, the Bharatiya Nagarik Suraksha Sanhita aspires at the integration of mechanisms such as plea bargaining that conform to the principles of restorative justice and provide avenues for offender accountability and victim interest in the current criminal justice atmosphere in India.⁹

Plea Bargaining (Sections 289–303)

Plea bargaining was introduced within Section 300-A of CrPC, 1898, in 2005, and was further amended in the BNSS, wherein Sections 289 to 303 provide for: the act of allowing an accused person to plead guilty to a particular charge to receive a reduced sentence, thereby promoting judicial efficiency. In *State of U.P. V. Chandrika*¹⁰, the Supreme Court accepted plea bargaining for expediting justice, noting it as a potential means of removing backlog of cases. Victims can be party to the negotiation, so that it lends a restorative influence by ensuring that the needs of the victim are realized in the outcome. However, it excludes offenses under socioeconomic offenses and serious crimes, limiting their use for white-collar criminals. Critics say that it might lessen deterrence, but it is constructive for holding the offender accountable and restorative justice focuses on reconciliation.¹¹

Procedural Safeguards and Limitations

The BNSS fine-tunes plea bargaining: ensuring that pleas are truly voluntary and that some sort of judicial officer oversees the process so that coercion does not take place. In *Murlidhar Meghraj Loya v. State of Maharashtra*¹², the Supreme Court had laid down that accused persons must be protected during plea negotiation or bargaining, and this principle remains under BNSS. Excluding from it socioeconomic offences, such as money laundering, limits its restorative application in corporate scenarios. Further, crimes aimed at women, children, or the state are considered not agreeable to public interest. While such limitations safeguard the process's fairness, they stand in the way of mass acceptance of the philosophy of restorative justice and thus require legislative reforms to bring certain economic offenses into this scheme under strict guidelines for equitable outcomes.

Compounding of Offenses (Section 359)

The BNSS fine-tunes plea bargaining: ensuring that pleas are truly voluntary and that some sort of judicial officer oversees the process so that coercion does not take place. In *Murlidhar Meghraj Loya v. State of Maharashtra*¹³, the Supreme Court had laid down that accused persons must be protected during plea negotiation or bargaining, and this principle remains under BNSS. Excluding from it socioeconomic offences, such as money laundering, limits its restorative application in corporate scenarios. Further, crimes aimed at women, children, or the state are considered not agreeable to public interest. While such limitations safeguard the process's fairness, they stand in the way of mass acceptance of the philosophy of restorative justice and thus require legislative reforms to bring certain economic offenses into this scheme under strict guidelines for equitable outcomes.

⁹ Grimsey Jones F, Jaffé L, Harris L, Franklin J, Allam L, Shapland J. An economic evaluation of restorative justice post-sentence in England and Wales. *Front Psychol*. 2023 Nov 16;14:1162286. doi: 10.3389/fpsyg.2023.1162286. PMID: 38046128; PMCID: PMC10693425.

¹⁰ (1999) 8 SCC 638.

¹¹ Lipika Sharma, "Restorative Justice System: A Comparative Analysis", 3 *IJL* 163 (2017).

¹² (1976) 3 SCC 684.

¹³ (1976) 3 SCC 684.



Compensation to Victims (Sections 396, 397, 398, 399)

Sections 396–399 of the BNSS enable courts to order victim compensation, placing recovery above punishment. Section 397 directs states to maintain schemes while Section 398 even provides compensation without trials. In *Ankush Shivaji Gaikwad v. State of Maharashtra*¹⁴, the Supreme Court emphasized timely compensation to support victim rights. Section 399 further strengthens support by ensuring obligatory medical aid and police assistance. Despite these measures, inconsistencies in enforcement, judicial delays, and low awareness among the masses defeat the purpose of such remedies. Greater focus on implementation, through provision of special funds and public awareness campaigns, would ensure maximum effect for the law as enshrined in restorative justice approach focusing holistically on addressing victim harm.¹⁵

Prevention of Money-Laundering Act, 2002

Money laundering was criminalized under the PMLA, 2002, which incorporates strong provisions to provide for deterrence of financial misconduct and to protect the economic integrity of India from laundering activities.¹⁶

Money laundering is under the purview of Section 3, while Section 4 imposes heavy penalties with an upper limit of a seven-year term of imprisonment. *Vijay Madanlal Choudhary v. Union of India*¹⁷, saw the apex court upholding the PMLA for harshness of enforcement and asserting its constitutional validity. Legal issues of jurisdiction were settled in *Rana Ayyub v. Enforcement Directorate*¹⁸, : Trial occurs where the scheduled offence is committed. While

PMLA tries to prevent crime, intra alia, it could find restorative justice for victims in conjunction with deterrence, thereby alleviating the direct financial impact and instilling some responsibility in the offenders.¹⁹

Companies Act, 2013

Corporate governance is made stronger through the Companies Act, 2013 by addressing fraud and giving an opportunity for involving restorative justice for the rehabilitation of the offenders and restoration of the stakeholder's trust.

Sections 447 and 448 impose the severest possible penalties upon corporate fraud, including that of imprisonment and fines. The SFIO, being the Greater Investigating Agency, tackles complex cases. Restoration processes may actually complement punishment by way of requiring offenders under corporate restitution programs to pay for victim compensation or the funding of ethical training programs-something that aligns with restorative justice principles of harm repair and prevention of recurrence.

Securities and Exchange Board of India Act, 1992

Securities markets are regulated by functionaries under the SEBI Act, 1992, with a view to prohibiting and punishing financial misconduct, while sometimes allowing for the provision of restorative justice to maximize recovery for the victim.

Section 15HA provides for disgorgement of illegal gains, with offenders being made to forfeit unlawfully earned profits. The Satyam scandal case, under the guise of *SEBI on Satyam Computer Services Ltd*,

¹⁴ (2013) 6 SCC 770.

¹⁵ Priyadarshi Atmanand, "White Collar Crimes in Corporate Sector with Respect to Banking Laws in India", 12 *IJCRT* 224 (2024).

¹⁶ Manu S R, "Adoption of the Restorative Criminal Justice System in India", 5 *IJFMR* 188 (2023).

¹⁷ 2022 SCC OnLine SC 929.

¹⁸ (2023) 4 SCC 357.

¹⁹ Moin Aftab, Irshad Ali, et.al., "The Evolution and Impact of White Collar Crime in India", 29 *IOSR-JHSS* 142 (2024).



established the principle of the imposition of penalties upon accounting fraud by SEBI for the protection of investors. With restitutive justice, mechanisms could be put in place in which funds disgorged could be diverted to compensate shareholders adversely affected, as seen in cases across the world such as *SEC v. Enron Corp.*²⁰. This would place the restoration of victims at the forefront, restoration of confidence in the market, and would provide better alignment with SEBI's objectives laid down for regulation.

Traditional Systems of Restorative Justice in India

India's rich tradition of community-based dispute resolution through Panchayats, Lok Adalats, and arbitration embodies the principles of restorative justice and thus provides the Indian systems for economic offenses to be dealt with through reconciliation and consensus.²¹

Panchayat System

The Panchayat system-the prime example in the Indian history of dispute resolution-provides a community-agency initiative that can stand errands of minor economic disputes.

Historically, Panchayats relied on consensus to resolve problems, imposing sanctions such as fines or social service. They are presently treated as for minor civil and criminal matters under the Gram Nyayalayas Act, 2008. In *State of Uttar Pradesh v. Pradhan Sangh Kshettra Samiti*²², the Supreme Court of India recognized the role of Panchayats in local justice, stressing the recovery aspect of this role. For minor economic disputes locally, such as petty financial

fraud, the Panchayats are in a position to negotiate victim-offender settlements for restitution and harmony in the community. Being accessible, they can work for grassroots-level restorative justice.²³

Lok Adalats

According to the Legal Services Authorities Act, 1987, Lok Adalats provide an inexpensive avenue for dispute resolution, including financial disputes, with greater emphasis on restoring harmony between the parties through mutual settlement.²⁴

Arbitration and Conciliation

Arbitration and conciliation, insofar as they are governed by the Arbitration and Conciliation Act, 1996, provide flexible and restoring methods of resolving corporate disputes, with an emphasis on realizing the will and wishes of the parties involved. Mediation within arbitration allows parties to pursue mutually beneficial arrangements in keeping with the collaborative emphasis of restorative justice. In *Salem Advocate Bar Association v. Union of India*²⁵, the Apex Court laid down that mediation can be conducted with a view to reducing judicial backlog, thus recognizing its restorative nature. Mediation in a business dispute can serve to bring about either restitution or governance changes in a shareholder dispute. Because mediation in white-collar cases is confidential and flexible, mediators seeking widespread acceptance should be trained in restorative concepts.²⁶

²⁰ 529 F. Supp. 2d 644 (S.D. Tex. 2006).

²¹ Vardan Mittal, Tushar Singh Chauhan, et.al., "Corporate Fraud and White-Collar Crime: Legal Responses and Enforcement", 6 *IJFMR* 231 (2024).
²² (1995) 2 SCC 305.

²³ Gunnika Bhatia, "Restorative Justice Practices: Implication and Application in India", 4 *IJIRL* 133 (2023).

²⁴ Akanksha Marwah, "Restorative Justice and Reformation of Offenders", 1 *ILIR* 157 (2020).

²⁵ (2005) 6 SCC 344.

²⁶ Ethical Considerations in Addressing White-Collar Crimes, available at: <https://corridalegal.com/ethical-considerations-in-addressing-white-collar-crimes/> (Visited on March 22, 2025).



Application of Restorative Justice to White-Collar Crimes

Restorative justice has the potential to transform the white-collar crimes by concentrating on rehabilitation and restoration of society, rather than punishment. This prospect could very well take on the challenge of addressing numerous difficulties posed by economic offenses in the corporate sector in India.²⁷

Benefits

Multiple benefits are brought about by restorative justice for white-collar crimes: somewhere between offender rehabilitation, compensation of victims, and societal trust-their tailor-fit interventions.

Restorative justice in the reduction of recidivism seeks to address internal motives, including greed, through counseling and ethics training, something a punitive method might fail to accomplish. In *United States v. Blankenship*²⁸, corporate offenders were subjected to rehabilitation programs that lowered their propensity to reoffend. Restitution to one's victims is financial, while corporate reforms ensure that future breaches will be prevented, e.g., improved governance. Community service, from a different perspective, benefits society by way of public projects. Such outcomes nurture ethical corporate behavior, restore confidence among stakeholders, and fill the gap left by restorative justice in its broader conception of the scope of harm-induced repair.²⁹

Societal and Victim-Centric Outcomes

According to Justice, is Provided to Victims-White collar crimes can degrade huge sums of money. Disgorgement order in SEBI was novel in that it

ensured that victims indirectly received aid in Satyam Computer Services Ltd, and a restorative justice method could perhaps give a more formalized way for victim-offender mediation. Corporate reforms instigated by restoration programs bring about long-term ethical compliance of society against systemic scrupulousness. Restorative justice provides a framework where communities may construct outcomes such as funding community projects, restoration that restores public confidence that has been eroded by corporate scandals. This victim-oriented and society-focused approach fortifies the Indian corporate ecosystem in the building of accountability and sustainable economic growth.

Challenges and Criticisms

The application of restorative justice against white-collar crimes is full of possibilities; nevertheless, there remain serious hurdles, such as public perception about leniency and stringent prescription, which weigh against its effectiveness in the company of justice in India.

Perception of Leniency

The notion of restorative justice tends to place greater emphasis on rehabilitation as opposed to punishment and is therefore often indexed as lenient for the so-called jewel-in-the-crown offenders in large corporations; thus, restoring faith in the system proves an impossible task. In the matter of *Vijay Mallya*, the then-public furor of perceived leniency of economic offenders drew the ire of stakeholders to push for stiffer punishments. Critics say that the imposition of restitution or community service in lieu of imprisonment downplays the deterrent effect of such punishments when enormous damages in terms of dollar value weigh on fraud, and other white-collar crimes are concerned. To offset the present situation,

²⁷ Jillian M. Furman, *An Economic Analysis of Restorative Justice* 172 (University of Massachusetts Boston, Boston, 1st edn., 2012).

²⁸ 382 F. Supp. 3d 673 (S.D.W. Va. 2019).

²⁹ The Role of Restorative Justice in Modern Criminal Justice Administration, available at: <https://www.park.edu/blog/the-role-of-restorative-justice-in-modern-criminal-justice-administration/> (Visited on March 15, 2025).



restorative programs must emphasize measures for accountability to maintain the public confidence, such as disclosure to the extent possible of the agreements for restitution.³⁰

Legal Barriers

The restrictions imposed on compounding by Section 359 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), akin to Section 320 of the CrPC, relate to petty offenses and exclude socioeconomic crimes like money laundering or corporate fraud. The Supreme Court, however, emphasized the public interest in maintaining economic offenses noncompoundable in *State of Maharashtra v. Vikram Anantrao Doshi*³¹. It serves to keep such offenses out of restorative justice since the complainant cannot get into a settlor's agreement for such cases. Amendments in the BNSS to make compounding permissible for select economic offenses, subject to stringent judicial control, may work to fill this lacuna permitting restorative interventions.³²

Recent Developments and Case Laws

The 2002 Prevention of Money-Laundering Act, the prime legislation in India for the prosecution of white-collar crimes, is further illuminated procedurally and substantively by the 2023 decisions, which provide insight into its application, while also underscoring the absence of much restorative justice integration.

Jurisdictional and Procedural Clarifications

The Supreme Court in *Rana Ayyub v. Enforcement Directorate*³³, clarified that PMLA trials follow the jurisdiction of the scheduled offense, thereby ensuring smooth prosecution instead of the stay obstructing the

prosecution. Concurrently, by reason of *K.A. Rauf Sherif v. Enforcement Directorate*³⁴, the courts held that lack of jurisdiction cannot result in the transfer of cases, thus preserving procedural stability. These decisions strengthen the framework of enforcement under the PMLA with respect to Section 3 defining offenses and Section 4 outlining penalties. Now, although the emphasis is toward penalties, the option to pursue victim compensation under Section 396 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) would further enhance victim redressal in tune with principles of restorative justice.³⁵

Bail and Arrest Procedures

This time, the application of the sanction of imposing bail and the procedures for arrest stood held with a high degree of rigour under the PMLA. *Enforcement Directorate v. Aditya Tripathi*³⁶, held that Section 45 imposes graver conditions of bail even during investigation and held that the bail must not be granted liberally. In *Pankaj Bansal v. Union of India*³⁷, the Supreme Court ordered that arrests under Section 19 must be accompanied by written grounds, thus promoting transparency. *Ram Kishor Arora v. Enforcement Directorate*³⁸, upheld the prospective effect of that rule. While some may see the rulings as punitive, there could also be a restorative aspect to them if the bail conditions are tied to restitution and therefore feed into victim compensation schemes under BNSS Section 397.

Substantive Offense and Legislative Scope

In *Y. Balaji v. Karthik Desari*³⁹, the apex court held that receiving bribes amounts to money laundering,

³⁰ Angira Singhvi, "Corporate Crime and Sentencing in India: Required Amendments in Law", 1 *IJCJS* 211 (2006).

³¹ (2014) 15 SCC 29.

³² Evidence Supporting the Use of Restorative Justice, available at: <https://restorativejustice.org.uk/resources/evidence-supporting-use-restorative-justice> (Visited on March 6, 2025).

³³ (2023) 4 SCC 357.

³⁴ (2023) 6 SCC 92.

³⁵ Frank Grimsey Jones, Lucy Jaffé, et.al., "An Economic Evaluation of Restorative Justice Post-Sentence in England and Wales", 14 *FIP* 207 (2023).

³⁶ 2023 SCC OnLine SC 619.

³⁷ 2023 SCC OnLine SC 1244.

³⁸ 2023 SCC OnLine SC 1682.

³⁹ 2023 SCC OnLine SC 645.



thus expanding the prosecutorial horizon of the offence under PMLA. In *Anoop Bartaria v. Enforcement Directorate*⁴⁰, it was ruled that one does not have to possess knowledge about criminal proceeds for a PMLA complaint to be filed against them, thus making enforcement easier. *Jaya Thakur v. Union of India*⁴¹, affirmed the liege power to invalidate judgments, giving PMLA that degree of adaptability. These cases focus on deterrence but should weigh an opportunity for a restorative approach under BNSS Section 359 to provide an avenue for victim-offender reconciliation.

Recent Developments and Case Laws

Although white-collar crimes in India do not have a formally instituted system of restorative justice laws, the practice of judicial mediation and restitution is gradually giving rise to concepts of restorative justice, thereby creating practical supports to the integration of victim-oriented and rehabilitative themes within the framework of corporate justice.⁴²

Mediation as a Restorative Tool

In *Anupam Sharma v. NCT of Delhi*⁴³, the Delhi High Court described restorative justice as a form of mediation, stressing the victim-offender dialogue to resolve their dispute amicably. In line with Section 359 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), wherein compounding of a criminal offense permits victims to have a say in the settlement, this process favors reconciliation. By having mediation parties come to an agreement where the offender agrees to pay money or give an apology, it lessens adversarial litigation thereby empowering the victims. The inclusion of selected economic offenses might thereby increase its restorative advantages, filling

lacunae and generating some level of trust in the Indian justice system.

Judicial Trends Toward Restitution and Community Service

In *Anupam Sharma v. NCT of Delhi*⁴⁴, the Delhi High Court described restorative justice as a form of mediation, stressing the victim-offender dialogue to resolve their dispute amicably. In line with Section 359 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), wherein compounding of a criminal offense permits victims to have a say in the settlement, this process favors reconciliation. By having mediation parties come to an agreement where the offender agrees to pay money or give an apology, it lessens adversarial litigation thereby empowering the victims. The inclusion of selected economic offenses might thereby increase its restorative advantages, filling lacunae and generating some level of trust in the Indian justice system.

Conclusion

The article establishes the framework for a comprehensive study of restorative justice in the area of white-collar crimes in the corporate sector of India, thus illustrating the transformatory potential of changing the legal system from a punitive approach to that of a reparative approach. Incorporating native traditions-inter national community models, the article builds a thesis that restoration justice offers tailor-made responses to economic offenses, providing offender accountability, reparations to the victims in some manner, and the reform of the system. white-collar crime, although non-violent in nature, poses far-reaching financial and social consequences-would need something more than mere

⁴⁰ 2023 SCC OnLine SC 477.

⁴¹ (2023) 10 SCC 276.

⁴² Lucy Harris, "The Economic Case for Restorative Justice", available at: <https://why-me.org/2022/the-economic-case-for-restorative-justice/> (Visited on March 2, 2025).

⁴³ 146 (2008) DLT 497.

⁴⁴ 146 (2008) DLT 497.



incarceration as response. Hence, restorative justice provides a process in which the stakeholders engage in a structured dialogue aimed at healing, rebuilding trust, and ensuring long-term deterrence. India's constitutional commitment to a spirit of humaneness vis-a-vis justice, together with the values of Ahimsa and Satyagraha, form a cultural base for the transformation; this idea is endorsed by the rapidly changing legal provisions, such as the BNSS, which are increasingly favoring restitution and mediation. Nevertheless, institutionalizing restorative justice for economic offenses is still laden with obstacles. Legal hurdles include the non-compoundable nature of white-collar crimes, while public opinion is mainly skeptical about leniency for high-profile offenders. Judicial precedents point to a growing inclination toward restorative interposition, yet the systemic implementation needs to undergo legislative reform, capacity-building, and public consciousness. When restored justice mechanisms are institutionalized into corporate law, issues of transparency, deterrence, and victim-preference outcomes have to be balanced. Restorative justice mechanisms with regulatory agencies like Companies Act and SEBI may altogether transform corporate governance and justice in India, providing an equitable and socially unifying measure against financial misconduct.

Suggestions

Furthering the discussion on ideas of restorative justice for economic offenders vis-a-vis India's corporate world, the following ten targeted measures are suggested to strengthen its implementation:

- Amend BNSS Section 359 to Include Select Economic Offenses: Introduce judicially-monitored provisions allowing compounding for non-severe financial crimes. This will broaden the scope for restorative settlements without compromising public interest.
- Create a Statutory Framework for Corporate Restorative Justice Programs: Mandate ethical training, restitution, and public disclosures for convicted white-collar offenders. These programs should be integrated into sentencing guidelines under

the Companies Act.

- Enhance Lok Adalats with Specialized Corporate Panels: Create expert-led benches to mediate complex economic offenses involving corporate entities. These panels can offer settlements that include compensation and governance reforms.
- Establish Victim Compensation Funds through Disgorged Assets: Redirect proceeds from SEBI penalties or PMLA seizures into dedicated funds for investor restitution. Transparent administration of these funds will enhance public confidence.
- Incorporate Restorative Conditions in Bail Orders under PMLA: Link bail eligibility to partial restitution or community service commitments. This strategy aligns with judicial efforts to balance liberty with accountability.
- Integrate Restorative Modules in SFIO and SEBI Investigations: Allow these agencies to recommend restorative outcomes in appropriate cases before prosecution. This dual-track approach can reduce litigation burden and support victim redressal.
- Launch Public Awareness Campaigns on Restorative Justice: Educate corporate stakeholders and the public on the benefits and safeguards of restorative justice in economic offenses. This will reduce resistance and foster a culture of ethical accountability.
- Mandate Restorative Disclosure in Annual Corporate Filings: Require listed companies involved in settlements to disclose restorative measures taken post-offense. This will enforce transparency and deter recurrence.
- Pilot Community Reparation Initiatives for White-Collar Offenders: Encourage courts to assign community-benefit projects, such as funding education or healthcare, as part of sentencing. These initiatives humanize justice and contribute to public welfare.
- Train Mediators and Judicial Officers in Restorative Practices: Introduce certification courses focused on financial crimes and corporate mediation. This will ensure consistent, informed application of restorative mechanisms across jurisdictions.
