

RESTORATIVE JUSTICE IN UGANDA: A CASE STUDY

By: Isabella Liu



Photograph of a Prison in the United States. Derived from: <https://hir.harvard.edu/us-uk-prison-privatization/>

INTRODUCTION

The [United Nations Office on Drugs and Crime \(UNODC\) defines](#) the operations of the criminal justice system in countries like the United States as largely focused on “applying the law, assessing guilt, and administering punishment.” They then state that the punishment meted to offenders is the primary method in which the state corroborates that a crime has taken place and that the punishment, if it is adequately proportionate to the crime, will thus “rectify the moral imbalance created by the offense.” In other words, the criminal justice system in countries like the U.S. is centered around the notion of retributive justice in that it is focused on punishment rather than viewing offenders as human and capable of being reintegrated back into society.

Rather than being preoccupied with attempting to alter the existing system into one that is more just, an abolitionist approach would be more effective. More specifically, restorative justice provides an alternative to retribution as a system of criminal justice and it has been implemented across the world successfully.

Restorative justice is a theory of punishment and responsibility developed largely as a response to the three main theories of punishment at the time: retributivism, deterrence, and rehabilitation. It seeks to redefine crime as a harm to the community, justice as a way to restore community relations, and responsibility as one that is actively accepted by the offender with its primary focus being bypassing the criminal justice system through hosting restorative conferences between offenders and relevant stakeholders.

There exists a common rhetoric in the United States that African countries are primitive or underdeveloped when in reality, [colonial powers in Africa](#) have tremendously damaged the infrastructure of African countries. In spite of this, many African nations have successfully implemented restorative justice as a humane alternative to incarceration.

Foundations of Restorative Justice



Respect



Accountability



Healing



Empathy

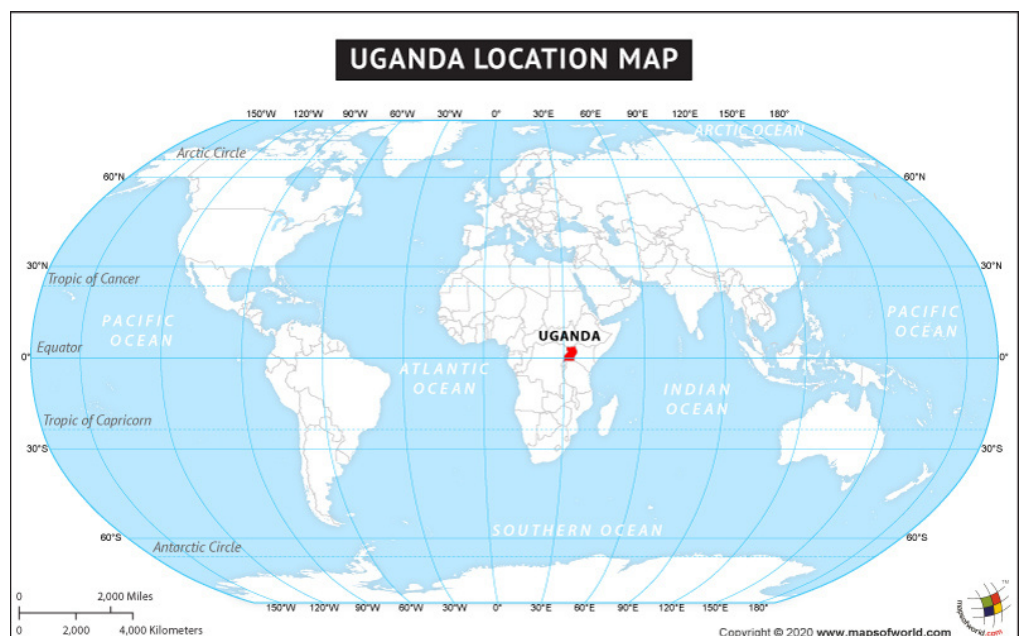
The Foundations of Restorative Justice.
Derived from:
michiganvirtual.org

WHAT DOES RESTORATIVE JUSTICE LOOK LIKE IN AFRICA?

Restorative justice in Africa takes on a different form from restorative justice in western countries in that it is heavily influenced by local traditions and indigenous systems of law. [Modern debates](#) surrounding criminal justice in Uganda centered on the “importance of incorporating local-level mechanisms into a national transitional justice strategy.” In other words, local and indigenous practices are closely interwoven into aspects of criminal justice within the country of Uganda.

The most well-known case of restorative justice in Africa was the South African Truth and Reconciliation Commission (TRC). The TRC [sought to](#) “provide another kind of justice... with healing, harmony, and reconciliation.” It was created by the Government of National Unity to address the issues that arose during the apartheid and investigate the human rights violations that were perpetrated. Rather than simply incarcerating all those who engaged in human rights violations, the TRC gave everyone in the public [an opportunity to express](#) “their regret at failing to prevent human rights violations and to demonstrate their commitment to reconciliation.”

Location of Uganda in the World. Derived from: mapsofworld.com



WHAT DOES RESTORATIVE JUSTICE LOOK LIKE IN UGANDA?

Uganda is a country located in East-Central Africa that gained [formal independence](#) from its British colonizers on October 9, 1962. Breaking free from these colonial powers also meant breaking free from the



A Traditional Ceremony of the Karamojong Indigenous Peoples. Derived from: <https://www.kideponationalpark.com/information/the-karamojong/>

retributive notions of punishment and incarceration that the colonial powers brought to Africa.

As a result of the colonial influence, the restorative justice systems in Uganda take on two different models, one that is based on Western notions of justice and the other based on local and indigenous models of justice.

In Uganda, there are federal courts as well as local councils. The local councils exist on three levels: the village level (LCI), the parish level (LCII), and the sub-county level (LCIII) and all three of these levels have connections to the high court. [These courts](#) operate in the language of the region and use “indigenous approaches of conciliation and compromise” rather than through a mere punitive approach. These local councils were popular in the early 2000s but have recently been subject to criticism regarding corruption.

Since then, a new method has become more popular in Uganda and neighboring African countries: Alternative Dispute Resolution (ADR). ADR provides a different approach: “a structured negotiation process where a settlement is reached with the aid of a trained mediator.” This is akin to the restorative conference mentioned in the introduction. Since its conception, ADR has been met with tremendous success, not only serving as a reliable tool for the rapid resolution of disputes, it has also been economically beneficial for litigants and lawyers alike.

WHAT IS THE ROLE OF CULTURE AND TRADITION?

Restorative practices in Uganda have, for centuries, centered around the notion of forgiveness and reconciliation. In addition to traditional criminal justice practices, local communities in Uganda also use traditional practices in conducting ceremonies centered around addressing murder. These ceremonies are designed to reinstate the offenders as part of the community, recognizing that they themselves have also been victims in certain regards.

Many of these communities would also perform [indigenous restorative practices](#) that use “the hierarchy of traditional structures and public ceremonies at a clan level to legitimise a process of acceptance back into the community.”



Ugandan Cultural Dance. Derived from: <https://www.crossinternational.org/the-sights-and-sounds-of-ugandas-culture/>

WHAT IS THE ROLE OF COMMUNITY SERVICE?

The Deputy Chief Justice of Uganda on November 06, 2001, formally announced that community service would play an integral role in the criminal justice system. The justice department recognized that by incorporating community service into penal reform, it would result in the decongestion of prisons and also decrease the cost of administering justice in Uganda. The Deputy Chief Justice recognized that [the congestion of prisons](#) resulted in an overall lack of space which subsequently resulted in prisoners being held in “inhumane conditions.”

Prior to incorporating community service as part of penal reform in Uganda, the justice department looked to other African countries such as Zimbabwe and the way that community service has positively impacted the criminal justice system. While it is true that community service is far less costly than prison (\$20 per person for community service compared to \$120 per person for incarceration per month), it is especially notable that community service has [significantly decreased](#) the prison population in Zimbabwe by around four thousand in only six years.

There are a myriad of benefits of community service, including but not limited to community participation, reintegration into society, and the reconciliation between offenders and their victims. These objectives are combined during community service and provides a more holistic reintegration of offenders through the use of restorative justice.

There does exist the concern that these goals might not be achieved or insufficiently observed. In order to combat these concerns, Uganda has launched a nation-wide campaign to educate local communities about

community service in order to combat the traditional view that punitive punishment is the only viable option. These awareness campaigns have also sought to explain the benefits of community service, not only to the offender but also the community at large.

Community service as penal reform is regulated through stages and can only be issued when certain criteria are met. For example, if the victim is angry and hostile toward the offender when they admit guilt and are unwilling to accept offers of compensation or restitution, the offender might not be eligible for community service. By adopting a very victim-centered approach to criminal justice, Uganda has managed to put their people above the offenders and respect their wishes.

FINAL NOTES

Uganda has navigated out of the clutches of the traditional criminal justice system imposed upon them by their colonizers by incorporating indigenous practices with traditional modes of restorative justice to create a system that prioritizes the victims. Through the efforts to involve the locals and the implementation of community service in penal reform, Uganda has dedicated itself to the humane treatment of offenders and the notion that they are human, rather than animals.

The system in Uganda, while imperfect, serves as an excellent basis upon which restorative justice practices can be implemented worldwide in order to minimize expenses related to incarceration, decrease the prison population, and successfully integrate offenders back into society.

WORKS CITED

- Chapman, C. and Kagaha, A. (2009). Resolving Conflicts Using Traditional Mechanisms in the Karamoja and Teso Regions of Uganda. *Minority Rights Group International*.
- Colonial Exploration and Conquest in Africa (n.d.). *Exploring Africa*. Retrieved from: <http://exploringafrica.matrix.msu.edu/colonial-exploration-and-conquest-in-africa-explore/>
- Community Service in Uganda (n.d.). *Justice Reparatrice en Ligne*. Retrieved from: http://www.justicereparatrice.org/www.restorativejustice.org/editions/2002/April02/community_service_in_uganda
- Fiechter, J.R.W. (2010). The Role of Traditional Justice in Uganda, Given Rwanda's Experience of Gacaca. *Justice Reparatrice en Ligne*. Retrieved from: <http://www.justicereparatrice.org/www.restorativejustice.org/articlesdb/articles/9795>
- Kkienerg. (n.d.). Crime Prevention & Criminal Justice Module 8 Key Issues: 1. Concept, Values and Origin of Restorative Justice. Retrieved from <https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-8/key-issues/1--concept--values-and-origin-of-restorative-justice.html>
- Robins, S. (n.d.). Restorative Approaches to Criminal Justices in Africa: The Case of Uganda. *Monograph 161*.
- Uganda. (2021, March 10). Retrieved from <https://www.britannica.com/place/Uganda>
- Uganda. (n.d.). *Justice Reparatrice en Ligne*. Retrieved from <http://www.justicereparatrice.org/www.restorativejustice.org/university-classroom/02world/africa3/africa/uganda>