



**Corporate Restorative Justice: Corporate Responsibility for the Environment and
Animal Welfare**

Executive Report

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Contextualisation

The corporate world plays a crucial role in society by building relationships with the community and providing products and services to its consumers. However, it is important to recognise that the corporate sector can also pose a serious threat to the natural environment. The business sector, through its activities, is among the main contributors to environmental degradation. Businesses, especially those emitting large amounts of CO₂, the main gas responsible for global warming, contribute daily to climate change and thus to the destruction of the integrity of ecosystems and the loss of biodiversity.

However, the way in which criminal law or the legal system has dealt with cases involving serious environmental damage caused by large companies leaves much to be desired and demonstrates the need for significant improvements that, at the same time, counteract society's perception of impunity for this type of crime. In many cases, the penalties imposed do not seem to adequately reflect the magnitude of the environmental damage caused, nor do they provide sufficient deterrence to prevent future transgressions.

From 1995 to 2024, the Penal Code in Spain has been amended more than thirty times, most of the reforms being aimed at toughening penalties or extending offences. But these reforms often lack adequate scientific backing, as amendments to criminal legislation do not always take into account opinions and ideas from other disciplinary fields, and such expansive or criminalising policy decisions end up impacting on society and normalising what seems to be the only or main response to crime, with custodial sentences or high fines being seen as effective tools for crime prevention and response. Despite worsening criminal sanctions, a survey on Spaniards' trust in the legal system published in 2023 shows that 47% of respondents have very little trust in the judicial system, while 24% have no trust at all. Therefore, the punitive trend is neither the solution to restore confidence in the legal system, nor does it effectively address the damage caused to the natural environment due to business activity.

Faced with this situation, new ways of using criminal law are emerging, starting by reducing the frequency of imprisonment and promoting alternatives that focus on responsibility for the harm caused and its reparation. Within this approach, restorative justice emerges as a transformative perspective, a participatory process in which the

parties affected by a conflict actively collaborate in the resolution of the consequences derived from the crime, mediated by an impartial and qualified third party.

Project Objectives and Methodology

In order to highlight restorative practices as an effective alternative focused on repairing damages caused by business activities and to provide a space for reflection and learning, this study investigates the potential of corporate restorative justice in the resolution of damages caused to ecosystems and living beings.

Through a structured survey addressed to two different groups, one composed of companies and the other of environmental and animal rights organisations, seven scenarios for the application of restorative justice in business are explored. The aim of this survey is to gather the opinion of the companies on the concepts addressed in the study and to determine whether the entities are willing to incorporate this type of practices for the prevention and resolution of conflicts. Although the main objective of this study is to explore the opinion of business entities, it also aims to obtain the opinion of environmental and animal rights groups in order to obtain a comprehensive and contrasted view that will improve the analysis and conclusions of the research.

As this is a very new topic from a criminological perspective, the level of knowledge and the opinion of the participants on corporate restorative justice is explored, focusing on its application to environmental care. In addition to assessing knowledge on the issue, the perspective of including corporate restorative justice in different areas of business activity is explored, in order to prevent risks or solve damages caused in the company's area of operation. One solution proposed by the study is the use of restorative circles. This tool is oriented towards conflict resolution involving the affected parties (the victim, the offender and other affected persons or communities) and is carried out with the help of a mediator.

A compliance programme with a restorative approach enables companies to ensure compliance while respecting the environment in which they operate. To ensure the role of compliance in fostering corporate culture, it is necessary that the compliance programme reflects the values and principles of the company, which should be addressed to stakeholders, the community and the environment in which the company operates. In this context, it highlights the importance of the participation of those individuals who have direct contact with the company and/or are affected by its activities in the design and development of compliance programmes, allowing them to present their views to the bodies in charge of prioritising and managing risks within the

entity. The restorative approach aims to move away from the traditional penalty system, giving preference to cooperative strategies based on repairing the risk or damage generated by companies, since resolving a conflict can be more effective than imposing a penalty or paying a fine. Conducting internal investigations to understand the extent of the risk that a company's activities pose to the environment or making public the shortcomings of the compliance programme, as well as the decisions and strategies that contributed to the harm, are restorative practices that companies can adopt to ensure honest and committed environmental compliance. Due to the relevance of the role of restorative justice in compliance, the study explores the possibilities for companies to include such mechanisms in their compliance plans.

Working and production conditions are one of the central themes of a Corporate Social Responsibility (CSR) strategy. The principles of CSR include transparency, ethical behaviour, respect for the interests of stakeholders, respect for international standards of behaviour and respect for human rights. Ethical behaviour implies taking responsibility for a company's impacts on the environment. Therefore, in business, the integration of cultural, moral, economic and environmental values is fundamental to ensure regulatory and ethical compliance, as well as to foster respect for the communities and the environment in which companies operate. Given the importance of the association between CSR and commitment to the well-being of the natural environment, this research explores the views of the companies and the environmental and animal rights organisations participating in the study on the integration of restorative justice as an element of CSR.

The dimension of moral learning needs to be added to CSR. While the law can provide formal procedures, "moral learning" can be developed and adapted in a much more powerful way from a common, "reflective morality" perspective. The study therefore explores the assessment of corporate and activist associations on the role of restorative justice in fostering appropriate moral and ethical development in individuals and the community, including the business world.

Results of the Study

Throughout this work, the main objective of exploring the possibilities of restorative justice in the resolution of damages caused to ecosystems and living beings due to business activity is emphasised. After observing the results of the survey, by means of a thematic content analysis, it can be concluded that the idea of including restorative justice has been of interest among the companies participating in the study. In the first instance, companies expressed their willingness to incorporate restorative measures in their operations, both for conflict prevention and conflict redress.

Moreover, the study assumed that activist associations preferred harsher sanctions, a measure that is not in line with the principles of restorative justice. However, the data collected does not support this assertion, although only three associations were interviewed for exploratory purposes. Activist associations have also supported the initiative for companies to consider restorative justice as an option for resolving conflicts, not only with society, but also conflicts affecting the natural environment.

Although restorative justice represents a new field of study for Criminology, especially in the environmental sector, the companies and activist associations that responded to the questionnaire showed a remarkable level of familiarity with it. Eighty-six percent indicated prior knowledge of the subject, although it is possible that there is a bias among the companies and associations that agreed to respond to the questionnaire.

It is undeniable that even those companies that have never experienced conflicts related to the environment or animal rights have recognised the potential risk or harm inherent in their activities, and have shown a strong commitment to preventing and finding solutions to avoid such situations. Indeed, it is surprising to find that the vast majority of participants, with a few exceptions, now have measures derived from restorative justice that take into account the perspectives of different stakeholders.

While it is true that companies responsible for environmental damage sometimes seem to evade their responsibility and show little interest in repairing the damage caused, the responses obtained show another reality, at least in the survey. Thus, the survey emphasises the importance of the entities responsible for risks or damage,

especially those that have the greatest impact on pollution, considering the scope of the consequences of their activities and committing themselves to prevent or mitigate possible risks or damage already caused, as well as those that may arise in the future. Opting for resources such as restorative dialogues to address the damage caused by a company or participating in processes such as restorative circles to resolve conflicts and avoid resorting to criminal proceedings, not only offers an alternative to traditional criminal proceedings, but also promotes a collaborative relationship between the affected parties in order to reach a peaceful and mutually satisfactory agreement.

In relation to compliance programmes, respect for the *ultima ratio* principle is emphasised. Compliance based on restorative justice principles includes preventive measures that can help to resolve conflicts more effectively. This means that the tendency to constantly resort to criminal proceedings decreases and, consequently, new methods of dealing with conflicts emerge, from a preventive and restorative rather than a punitive perspective, without prejudice to the fact that this perspective should cover all types of crimes and not only business crimes. Incorporating this type of measures makes it possible to convert a relationship of conflict into a relationship of alignment of interests with the community and the affected environment, as long as the damage is not trivialised or privatised and international standards of restorative justice are respected.

However, in implementing these proposals, it appears that the business environment is not fully prepared to adopt new practices that are, in practice, unfamiliar and may alter the established way of operating. Not all companies express the same emphasis on effectively incorporating restorative principles into their business regime in a transformative way. Moreover, according to the findings, there are companies that reject or ignore the inclusion of these measures, opting for the intimidatory/defensive approach, which consists of companies intensifying internal monitoring and sanctions within the entity. While not all companies recognise the value and effectiveness of restorative justice, activist associations fully understand the potential of this tool as a method to foster moral and ethical learning, within their activist principles for human rights, the rights of nature and other living beings, and social justice in general.

With regard to the participants' perception of restorative justice as an element of CSR, there was no unanimity of responses, an unexpected result in the context of this study. While the climate change crisis calls for the implementation of new corporate

responsibility measures, the corporate sector already assumes a wide range of responsibilities today. Integrating restorative justice implies taking on a new responsibility for which not all organisations are prepared. On the other hand, activist associations see restorative justice as an added value that companies can benefit from to reinforce their commitment to the environment. This commitment can help to attract new customers, as companies that show their commitment to environmental preservation are perceived as more attractive and closer to the consumer.

Exploring the option of conducting restorative circles with businesses involved in conflicts affecting the environment or animals, as a more extensive group-based form of restorative justice, has shown that, in the opinion of some interviewees, it may not be the most appropriate approach to address these issues. A restorative circle with business actors contains complexities in that, due to the need for a limited number of participants, when conducted in business contexts, the number involved tends to increase, which makes the process an informal setting that hinders its progress, although it can also ensure that the outcomes are transformative. Therefore, despite the fact that the suitability of extensive restorative circles is questioned, as it is considered a very complex mechanism that can be affected by an excess of participants, an important part of the people interviewed consider that participation should not be limited only to the companies responsible for the risk or harm, but should involve a wide range of actors. In this sense, and without denying organisational or corporate responsibilities, there is the possibility that the person directly responsible for the risk or damage caused could participate as a representative of the company, something that would increase the effectiveness of this type of process by also having the necessary number of participants.

Another of the results that has become evident refers to companies' commitment to the environment and greenwashing. This concept refers to the strategy of "marketing a company or organisation to appear more environmentally friendly or greener (more natural, healthier, chemical-free, recyclable, less wasteful of natural resources...) when in practice its activities pollute the environment" (Garrett, 2023, p. 2). In this context, the responses indicate that many companies adopt social and environmental responsibility policies to pretend that they really care about the impact of their activities on the natural environment. To ensure the effectiveness of any restorative process, it will be essential that companies participate on a completely voluntary basis and show an

interest in repairing the damage caused, rather than taking advantage of the process to "clean up their image", pass a check-list, obtain a certification or comply with legislation. However, this strategy can be a first motivation to participate in a more honest and committed way. The voluntary willingness of companies to engage in such processes, as well as the inclusion of restorative principles in their self-regulation, is not only beneficial for building relationships with environmental and animal welfare organisations, but also has a direct impact on the company's reputation: a company that offers environmentally friendly services and products attracts more consumers, while gaining the trust and respect of the wider community.

Conclusions

The research points out that the implementation of restorative measures should consider a wide range of aspects within the business environment, ranging from the assessment of risks associated with business activities to the integration of restorative measures as part of companies' compliance or CSR.

One of the conclusions of the study is that restorative sanctions, which include measures such as restorative dialogues or restorative circles, could be more effective than retributive sanctions if the aim is to repair the harm caused and ensure that it will not happen again. However, the implementation of these practices depends on the voluntariness of business entities. If companies do not express their willingness to include restorative measures in their internal policies, the implementation of restorative sanctions could face significant obstacles. Therefore, it is essential to promote awareness and understanding of the benefits of these practices among business organizations. This could be achieved through awareness raising campaigns, trainings and the promotion of success stories where restorative sanctions have proven to be effective, in addition to highlighting the latest European standards.

On the other hand, in the business context, the integration of restorative measures plays a fundamental role by fulfilling a dual function: preventive and restorative. A company that incorporates restorative practices as part of its regulatory compliance or as part of its CSR not only demonstrates a commitment to care for the environment and the well-being of the living beings that inhabit it, but also recognises its responsibility to repair the damage caused. This enables a joint learning perspective to be adopted to ensure non-repetition and prevention, rather than resorting to strategic concealment or litigation to avoid reputational, financial or legal liabilities.

The adoption of restorative measures at the corporate level can have a significant impact on the reputation and image of companies. By committing to restorative justice, companies not only reflect responsible ethics, but also strengthen relationships with local communities, stakeholders and consumers. Only future assessments of their implementation will be able to determine whether such a commitment is sincere or, in some cases, may fall into greenwashing.