

# RESTORATIVE JUSTICE IN TRADITIONAL PRE-COLONIAL "CRIMINAL JUSTICE SYSTEMS" IN KENYA

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Excerpt

## INTRODUCTION

Restorative justice practices are increasingly being incorporated within contemporary criminal justice systems. It is argued that restorative justice values underpinned traditional criminal justice systems. Braithwaite, for example, asserts that "restorative justice has been the dominant model of criminal justice throughout most of human history for perhaps the entire world's peoples."<sup>1</sup> Traditional African communities are cited as having embraced restorative justice.<sup>2</sup> This article tells the story of restorative justice practices within the Kamba, Kikuyu and Meru traditional communities. The article illustrates how these restorative justice practices resonated with the cultural and economic values. It thus illustrates the conditions that rendered restorative justice acceptable in those communities.

As opposed to simply a historical account, the story told is a genealogy of restorative justice in the Foucauldian sense. The crux in Foucault's genealogies is that they analyze how practices have been objectified.<sup>3</sup> Thus genealogies engage in an analysis of the processes that have led to the "objectification" of certain things. As Voruz notes, a genealogy in Foucault's terms is an exercise that shows "how interpretations have come to be seen as true . . . a genealogy is not a description of things as they actually are, it is a 'history' of how things have come to be seen as objective."<sup>4</sup> Therefore, this genealogy of restorative justice practices analyzes how restorative justice was objectified and rendered acceptable in the Kenyan communities examined.