

Geographical Spread and the Assessment of Critical Issues in Restorative and Transformative Justice in Nigeria: A Review.

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Abstract

This paper examines the issues confronting restorative and transformative justice (RJ/TJ) in Nigeria. It described RJ/TJ as approaches in the justice system that focus on healing harm done, restoring the victim to their previous condition, restoring broken relationships as a result of harm, rehabilitating offenders, involving community members in justice delivery and the reconciliation process. The approach considers the society as a whole, and identifies problems inherent in its structure, such as inequality, poverty, broken homes and other defects that allow crime to thrive, and it seeks ways of resolving these problems to prevent the crime from occurring in the future. The paper explored the legal and policy framework of restorative and transformative justice in Nigeria. The paper also identified excessive discretion, punitive culture and institutional resistance, lack of cultural and historical context and poor implementation as some of the core issues that confront RJ/TJ in Nigeria. The Transformative Justice Theory and Braithwaite's Reintegrative Shaming Theory were used as the theoretical framework to demonstrate the practical application of the RJ/TJ in society. The paper concludes that if properly, fully, and effectively adopted and applied to justice delivery, RJ/TJ would significantly improve the justice system in Nigeria, and have a positive ripple effect by reducing the crime rate in society and increasing general development in Nigeria. The paper recommends, among others, that all states in the country should fully implement RJ/TJ, and the law should be modified to reduce or remove the discretionary power granted to justice officials in the application of RJ/TJ

Keywords: Restorative and Transformative Justice, offenders, rehabilitation, Reintegrative Shaming, Discretionary power, Juvenile Justice, Criminal Justice System

INTRODUCTION

Order is an essential part of all organized human societies. It is achieved through compliance with rules and regulations that mostly originate from shared norms and values. Safety and security are components of order and are essential for the operation and survival of man. When human safety is compromised, leading to diverse forms of harm, every society has a system of justice to manage and possibly control such harm by compensating the victim

and treating the offender. The criminal justice system is an institution that is present and operational in most modern human societies. This institution embodies agencies that ultimately bring about order by ensuring that laws are complied with, detecting the occurrence of crime, determining innocence or guilt of a suspect, providing justice to victims of crime, punishing convicts, and in most cases, rehabilitating such convicts to correct their

criminal tendencies and make them fit to become productive members of society again.

Globally, the concept of restorative and transformative justice has emerged as a critical response to the limitations of retributive justice systems that focus primarily on punishment rather than healing. Restorative justice emphasizes repairing harm through dialogue and reconciliation among victims, offenders, and communities, while transformative justice goes further to address the structural conditions that produce harm in the first place (Zehr, 2002; Morrison, 2010). Countries such as Canada, New Zealand, and Norway have incorporated restorative justice into their criminal justice system, which has helped to improve victim satisfaction, reduce habitual criminality, and enhance community stability (Braithwaite, 2002; Daly, 2016). The growing interest in restorative and transformative justice reflects a global shift toward more humane, participatory, and community-centered approaches to justice.

Across Africa, restorative and transformative justice practices have deep roots in traditional conflict-resolution mechanisms that long predate colonial legal systems, such as the Gacaca courts in Rwanda, Ubuntu philosophy in South Africa, and the palaver systems in West and Central Africa. These have emphasized reconciliation, compensation, and the restoration of social harmony rather than mere punishment (Murithi, 2009; Tutu, 1999). The post-apartheid Truth and Reconciliation Commission in South Africa is a notable example of how restorative principles can be applied at a national level to promote healing and societal transformation (Sarkin, 2004). However, despite this rich heritage, many African countries struggle to integrate these models formally into modern legal frameworks due to colonial legacies, weak institutions, and the dominance of punishing criminal justice ideologies (Nthoi, 2020).

Furthermore, African countries face unique historical and social challenges that impact their justice systems. The legacies of colonialism,

authoritarian governance, and socio-economic inequalities have contributed to widespread distrust in formal judicial processes (Dzimiri & Runhare, 2012). Many African societies have long relied on traditional conflict resolution mechanisms that prioritize community engagement and the restoration of relationships (Nwolise, 2004). These indigenous practices have begun to intersect with contemporary justice movements, leading to various restorative justice initiatives aiming to promote social healing and transformation (Okafor & Orji, 2019; Nnamdi, 2024).

In Nigeria, the justice system remains largely shaped by colonial retributive structures that prioritize punishment over reconciliation. The British introduced an adversarial legal system that replaced indigenous mechanisms of dispute resolution, which traditionally focused on mediation, restitution, and communal restoration (Onyema, 2021). This has produced a justice system characterized by delayed trials, prison overcrowding, and limited access to justice for the poor and vulnerable populations (Alemika, 2019). Although Nigeria's Administration of Criminal Justice Act (ACJA) of 2015 introduced some reforms, such as plea bargaining and victim compensation but it still operates mainly within a punitive framework, offering little room for restorative or transformative processes (Obarisiagbon & Akinola, 2020). And also, despite the existence of both the Child's Rights Act 2003 (CRA) and the Administration of Criminal Justice Act 2015 (ACJA), in Nigeria, which recognises restorative and transformative justice as options, their use remains very minimal. The Child Rights Act's (CRA) 2003 diversion provisions (sections 217 (6) and (8) allow police, prosecutors, and courts, unsupervised discretionary power to decide if a young offender's case is diverted, and to determine which restorative justice mechanism should be utilized and at what stage of the justice system. This permission has led to the arbitrary use of the discretionary power and heavy bias in the application of the law. More often than not,

(80%) young offenders are subjected to the formal proceedings of the justice system, characterized by punitive methods. In Nigeria, transformative justice is hindered by officials who are not properly trained in the principles of transformative and restorative justice, which demand structural changes like community-driven accountability to address the original causes of crime, like poverty and dysfunctional family settings.

Concept of restorative and transformative justice

Restorative justice is grounded in repairing relationships between individuals and the community at large. It uses strategies like mediation, family group conferencing, and practices that have to do with peacekeeping circles, which essentially allow perpetrators, victims and members of a community to fully participate in addressing the harm, as opposed to the offender only being punished. There is room for accountability, reconciliation and reintegration. (Omowon & Kunlere, 2024). According to Zehr, (2002), transformative justice takes a different view of crime, by not seeing it as an infraction against the state and individual but instead interprets it as the process of ruining people, and the cordial relationship that existed, or could exist, between them. Restorative and transformative justice are two approaches in the administration of justice that propose alternative ways of addressing offenders, victims, and managing society. It deviates from the punitive system that advocates corporal punishment, without adequately considering the root causes of crime, a holistic justice process for the victim, and a comprehensive rehabilitative approach for the offender. Transformative and restorative justice seek to prevent harm and promote healing using different approaches.

Okoh, (2021) opined that restorative justice dwells on the harm inflicted by the offender, and not the offender. It is an approach that is characterized by reconciliation, reintegration, rehabilitation and restoration, all

taking place in the same community where the crime occurred.

Restorative justice is a type of justice which focuses on treating harm caused by a specific offence. It engages the victim, offender and community members to deliberate on the impact of the crime. The aim here is to restore the victim to their original condition before the harm was done. The process of restorative justice involves dialogue, where the offender acknowledges their harm and agrees to make amends. This method can work alongside the formal Criminal Justice System; it can also be part of diversion programs or alternatives to sentencing. Restorative justice takes special interest in the harm and how to remedy it through the use of open discussions, community collaboration, accountability and reintegration. Transformative justice goes beyond this to repair the institutional anomalies that caused the harm, reduce inequality and address issues like poverty and hunger. (Olayode, 2016; Centre for the Eradication of Structural Inequality and Racism, 2024; Nnamdi, 2024).

Transformative justice goes beyond simply addressing the immediate harm done; it criticizes and seeks to change the underlying social, economic and political setting that contributed to the harm. This approach does not always engage with the formal Criminal Justice System. Instead, it often operates entirely outside of it. In transformative justice, the roles of victims and offenders can be fluid. The focus here is on collective healing and systemic change, rather than just restoring a previous state. Participants define what justice means for themselves, without a pre-determined notion of resolution. This approach may include various responses, such as separating parties if needed, tracing the root causes of crime such as social inequality and oppression. Transformative justice is preoccupied with the goal of finding ways to prevent future harm by transforming relationships and communication conditions.

Transformative justice aligns with prison abolition movements, advocating for alternatives

in policing and incarceration altogether. Within the context of prison reform, restorative justice can reduce the incarceration rate by focusing on accountability and healing. It offers programs that involve victims and offenders in dialogue, potentially reducing recidivism.

Transformative justice in its conceptualisation, attempts to make up for the shortcomings of restorative justice by insisting that justice must go beyond just mending relationships and restoring the victim to their previous state, but must also consider the structure that allowed such a crime to occur in the first place, such as poverty, limited access to resources and institutionalised marginalisation. (Gready & Robins, 2014). If this is done, crime and the potential for it would be largely reduced.

Internationally, the United Nations Convention on the Rights of the Child (UNCRC, 1989, Art. 40), the Beijing Rules (1985), and the Tokyo Rules (1990) emphasize diversion from punitive systems toward rehabilitation and restorative outcomes (Ononye, 2023). These global frameworks provide normative backing for justice models that prioritize restoration, reintegration, and proportionality rather than retribution. Within this context, RJ and TJ offer complementary paradigms aligned with international human-rights obligations, but differ in scope: RJ focuses on repairing harm, whereas TJ seeks to transform systems (Hansen, 2021).

Both concepts of restorative and transformative justice have roots in indigenous and precolonial Nigeria. If legal pluralism thrives, the justice system in Nigeria is likely to be more productive. As the approach encompasses the customary law, which advocates in practice, for transformative and restorative justice. Olayode, (2016) noted that justice was at the core of the values and restorative customs of communities. Examples include Ubuntu, communal palavers, and elder mediation which insisted on reintegration, consensus and dialogue. It is safe to argue that these cultural practices are very similar to the principles of restorative and transformative

justice. Dispensation of justice is understood to be not just institutional punishment, but a common moral process. Implementation of colonial criminal codes popularized a legal system that is retributive in nature that favours punishment above restoration. (Da, 2023).

THEORETICAL FRAMEWORK

The theoretical foundation of this study is anchored on Transformative Justice Theory and Braithwaite's Reintegrative Shaming Theory. These theories offer distinct yet complementary perspectives that explain how justice systems can move beyond punishment models toward approaches centered on accountability, reconciliation, and structural change. Both frameworks are essential for understanding the complexities of justice reform in Nigeria, where colonial legacies, socio-political inequalities, and cultural values intersect to shape justice outcomes.

i. Transformative Justice Theory

Transformative Justice Theory emerged from critical criminology, feminist movements, and community-based justice discourses that challenge traditional, state-centered notions of punishment. The theory posits that crime and harm are not isolated events but manifestations of deeper social, political, and economic inequalities (Gready & Robins, 2014). Rather than focusing solely on resolving specific incidents of harm as in restorative justice, transformative justice seeks to change the underlying systems and relationships that give rise to violence, oppression, and injustice (Moghadam, 2019). This perspective views justice as a collective process of transformation that involves individuals, communities, and institutions.

According to Kaba (2021), transformative justice rejects reliance on punishment systems that perpetuate harm through surveillance, incarceration, and state violence. Instead, it promotes community accountability, mutual care, and social education as mechanisms for addressing harm without

reproducing cycles of violence. In this framework, justice becomes a tool for reimagining social relations and dismantling structures that sustain inequality such as patriarchy, corruption, and systemic poverty. Thus, transformative justice aligns with broader goals of social transformation, gender equality, and participatory democracy.

Applying Transformative Justice Theory to Nigeria provides critical insights into the country's justice challenges. Nigeria's criminal justice system often deepens social exclusion, increases poverty, and fails to address the root causes of crime, such as unemployment, corruption, and social dislocation (Alemika, 2019). Transformative justice, therefore, calls for a reorientation of justice policy toward community empowerment, institutional reform, and cultural transformation. This approach suggests that true justice in Nigeria must extend beyond punishment to include rebuilding relationships, addressing inequalities, and fostering collective healing at societal and structural levels.

ii. ***Braithwaite's Reintegrative Shaming Theory***

Braithwaite's Reintegrative Shaming Theory, developed by John Braithwaite (1989), and provides a social-psychological framework for understanding how communities can effectively respond to wrongdoing without stigmatizing offenders. The theory distinguishes between Reintegrative shaming which condemns the wrongful act but not the person and disintegrative shaming (or stigmatization), which labels offenders as inherently bad and excludes them from society. Reintegrative shaming operates on the principle that social disapproval, when expressed within a context of respect and acceptance, can lead offenders to genuine remorse, reintegration, and moral reform (Ahmed et al., 2001).

The central proposition of Braithwaite's theory is that crime is best controlled through social bonds rather than coercion. Societies that practice reintegrative shaming often those with

strong community ties achieve lower crime rates because they restore offenders' sense of belonging and accountability (Braithwaite, 2002). In contrast, stigmatization leads to alienation, resentment, and further deviance. This perspective aligns closely with many African traditional justice practices, including those in Nigeria, where communal reconciliation and public acknowledgment of wrongdoing have historically served as mechanisms for restoring social harmony (Onyema, 2021).

Within the Nigerian context, Braithwaite's theory underscores the potential of community-based justice systems to promote rehabilitation rather than punishment. Practices such as family mediation, community restitution, and traditional reconciliation ceremonies reflect the essence of reintegrative shaming. However, Nigeria's current justice system, dominated by punitive and exclusionary practices, often stigmatizes offenders, making reintegration difficult (Obarisiagbon & Akinola, 2020). Adopting reintegrative shaming principles could help rehumanize justice in Nigeria by encouraging offenders to make amends, fostering forgiveness, and strengthening community cohesion.

Transformative Justice Theory and Reintegrative Shaming Theory provide a holistic framework for reimagining justice in Nigeria. While transformative justice focuses on changing the structural and cultural conditions that enable harm, reintegrative shaming emphasizes the interpersonal and communal processes that facilitate accountability and healing. Both reject punitive isolation in favour of restoration, reintegration, and systemic change. Together, they suggest that Nigeria's path toward a fair and effective justice system lies in building community trust, empowering local actors, and addressing the socio-economic roots of crime. These theories encourage a paradigm shift from punishment to participation, from exclusion to inclusion, and from blame to transformation. They advocate for a justice model that is both restorative in method and

transformative in vision, providing a theoretical foundation for examining the critical issues and reform pathways discussed in subsequent sections of this paper.

Nigeria's Legal and Policy Framework on Restorative and Transformative Justice

The justice system in Nigeria provides a bit of room for the legal operation of restorative and transformative justice. This is seen in legal reforms that prescribe community-based corrections, diversion programs, and non-custodial sentencing, like community service and fines. It is important to note that due to structural constraints, there has been poor implementation, arbitrary use of discretionary powers as it relates to the full operation of restorative and transformative justice in Nigeria.

1. Child Rights Act (CRA) 2003

The Child Rights Act (CRA) 2003, especially Sections 204–219, is Nigeria's first national law to integrate explicit restorative justice principles into juvenile justice. The Act mandates diversion, allowing police, prosecutors, and courts to refer child offenders to restorative processes such as community mediation, victim-offender dialogue, or counseling instead of prosecution (Federal Republic of Nigeria, 2003). This framework aligns with international restorative standards under the UN Convention on the Rights of the Child (Article 40) and the Beijing Rules, which emphasize rehabilitation and reintegration over punishment (Ononye, 2023).

The CRA's restorative orientation reflects the transformative justice logic of protecting young offenders from structural violence within the penal system. It seeks not merely to repair interpersonal harm but also to transform the conditions, such as poverty, family breakdown, and exclusion, that produce juvenile offending (Centre for the Eradication of Structural Inequality and Racism [CERSIR], 2024). However, the Act's implementation remains uneven: fewer than two-thirds of Nigeria's 36 states have domesticated the CRA,

and enforcement often depends on the discretion of police officers or child welfare officials (Okoh, 2024). In northern states governed by Sharia-based systems, reluctance to domesticate the CRA has created a fragmented legal landscape that limits access to restorative mechanisms and perpetuates structural disparities in juvenile justice (CERSIR, 2024).

2. Administration of Criminal Justice Act (ACJA) 2015

For adults, the Administration of Criminal Justice Act (ACJA) 2015 extends restorative and transformative ideals to the broader criminal justice system. Sections 457–460 authorize non-custodial sentences, including community service, restitution, parole, and mediation. These measures operationalize restorative justice by promoting accountability, reintegration, and social repair rather than punitive incarceration (Rule of Law and Anti-Corruption Programme [ROLAC], 2023). The Act's non-custodial philosophy echoes restorative values of repairing harm and restoring social balance, and its community service provisions allow offenders to contribute positively to their communities, reflecting Ubuntu-based justice traditions that prioritize social healing over exclusion (Olayode, 2016).

3. State-Level Developments

Several states, such as Delta, Lagos, Anambra, and Kaduna, have enacted Administration of Criminal Justice Laws (ACJLs) that replicate federal RJ/TJ provisions. For instance, the Delta State ACJL 2022 institutionalizes restorative approaches by embedding community service, compensation, and restitution as sentencing options. The law aligns with TJ's emphasis on localized, community-led justice, empowering magistrates to divert offenders to restorative forums (Delta State Ministry of Justice, 2023). However, disparities in enforcement persist, as the operationalization of these laws depends on state capacity, judicial discretion, and political will.

4. Discretionary Diversion and Institutional Gaps

A prominent attribute of Nigeria's restorative framework is its discretionary diversion system no offence is automatically diverted; decisions rest with justice actors (Okoh, 2024). While discretion allows flexibility, it also reproduces structural inequalities: socio-economic status, region, or gender often influence who benefits from diversion. Transformative justice critiques this model as institutionally biased, since state actors often lack RJ training or operate within retributive cultures (CERSIR, 2024; ROLAC, 2023; Nnamdi, 2024). Additionally, agencies such as the police, family courts, Borstal institutions, and correctional centres lack standardized restorative justice protocols or national guidelines (British Council, 2020). The absence of these institutional mechanisms prevents restorative practices from scaling into transformative systems that dismantle structural violence and marginalization.

Critical issues involved in restorative and transformative justice in Nigeria

1. Excessive Discretion

A central challenge to restorative and transformative justice in Nigeria is the excessive discretionary power vested in justice actors under the Child Rights Act (CRA) 2003 and the Administration of Criminal Justice Act (ACJA) 2015. Both laws grant police officers, prosecutors, and magistrates wide latitude to determine whether to divert a case or pursue prosecution. This discretion, while designed to provide flexibility, has become a mechanism for arbitrary gatekeeping that undermines equitable access to restorative justice (Okoh, 2024; Isiaka, 2025).

According to Okoh (2024; Isiaka, 2025) diversion rates remain below 15% in urban centers, with most cases involving minor offences proceeding to trial. Police officers often charge offenders, particularly poor or minority

youth, instead of referring them to restorative processes.

Odoh (2025) found that in Delta State, diversion lacks procedural safeguards no statutory timelines, no victim consultation mandates, and no appeal mechanisms exist for reviewing diversion decisions. Consequently, discretion becomes a tool of exclusion rather than empowerment, subverting restorative justice's emphasis on equality, inclusion, and dialogue. From a transformative justice perspective, such discretionary bias reproduces structural inequities by privileging those with social capital and excluding marginalized populations from participatory justice (Gready & Robins, 2014).

This unchecked discretion undermines trust in justice institutions, stigmatizes vulnerable youth, and reinforces cycles of poverty and exclusion outcomes directly antithetical to restorative justice's participatory inclusivity and transformative justice's anti-oppressive ethos (CERSIR, 2024; Okoh, 2024). Without procedural clarity, RJ remains dependent on the goodwill of justice actors rather than the rights of citizens.

2. Punitive Culture and Institutional Resistance

Nigeria's justice system retains a deeply entrenched retributive culture, reflecting its colonial and authoritarian lineage. Crime is legally constructed as an offense against the state, not against individuals or communities, erasing the relational and reparative dimensions that underpin RJ (Da, 2023). Despite the progressive intent of the ACJA, detention remains the default response: an estimated 70% of Nigeria's remand population is pre-trial, including juveniles held without conviction (International Journal of Criminal Justice Sciences [IJCS], 2023). Conditions within custodial institutions such as Borstal centers remain punitive, overcrowded, and devoid of rehabilitation. Studies indicate that these facilities operate at overcapacity, with recidivism rates exceeding 45% (Olayode, 2016; Da, 2023). Such conditions betray RJ's commitment to

healing and reintegration, replacing them with cycles of punishment and social dislocation. Institutional resistance compounds this punitive culture. Law enforcement personnel receive minimal RJ training, prosecutors are rewarded for conviction rates, and judges often dismiss mediation as “soft justice” (Rule of Law and Anti-Corruption Programme (ROLAC), 2023; Odoh, 2025). Ononye (2023) critiques this as a conceptual failure RJ is codified in law but remains culturally alien to justice practitioners shaped by adversarial legal traditions. Transformative justice, which would address the root causes such as poverty, trauma, and systemic exclusion, is absent from institutional discourse.

3. Lack of cultural and Historical context

Another fundamental constraint is the cultural disconnect between imported restorative models and Nigeria’s indigenous justice traditions. Western RJ frameworks, particularly the New Zealand Family Group Conferencing (FGC) model, have been adopted with minimal adaptation to local contexts (Omowon & Kunlere, 2024). This has led to procedural alienation: processes that should reflect communal healing instead operate in bureaucratic isolation, detached from community participation.

As Bada (2025) and Omowon and Kunlere (2024) observe, Nigeria’s precolonial justice systems, grounded in ubuntu, palaver councils, and elder mediation, were inherently restorative and transformative, emphasizing collective responsibility and social reintegration. Yet formal RJ programs often exclude these community structures. In rural areas, over 60% of disputes are still resolved through traditional councils, but police interventions frequently override these outcomes. This cultural and spatial alienation delegitimizes restorative justice in the eyes of communities, reduces participation rates, and sustains state-centric justice models. Without localization and integration of indigenous mechanisms, RJ remains an imported procedural tool rather than

a transformative cultural practice capable of decolonizing justice in Nigeria (Bada, 2022/2025; Olayode, 2016).

4. Poor implementation

A major hindrance to restorative and transformative justice in Nigeria is the implementation deficit, a pervasive gap between policy formulation and practical execution. While RJ is embedded in the CRA, ACJA, and numerous state laws, institutional infrastructure, funding, and training remain largely absent (ROLAC, 2023).

The Rule of Law and Anti-Corruption Programme (ROLAC) outlines a comprehensive implementation roadmap covering policy standardization, training, and monitoring but reports that no national restorative justice unit exists to coordinate these functions (ROLAC, 2023). Pilot programs, such as those in Lagos (2020), have collapsed following the withdrawal of donor funding, illustrating the fragility of RJ implementation (CERSIR, 2024). This policy–practice chasm renders RJ/TJ aspirational rather than operational. Without reliable data, progress cannot be measured; without resources, initiatives cannot scale. The justice system, therefore, continues to deliver punishment in practice despite restoration in policy.

CONCLUSION

Despite the legal provision and existence of restorative and transformative justice (RJ/TJ) in Nigeria, its use and application remain scanty. This points to one of the critical issues in RJ/TJ in the country. Embedded in the provision of RJ/TJ is also the flexibility granted to officials of the justice system; the discretionary power to apply this approach as they deem necessary and at what point. This flexibility gives room for flaws, bias and uneven dispensation of justice. In addition to this, such officials may not be properly trained in the principles of RJ/TJ to be able to effectively and efficiently administer and coordinate it. The punitive roots of the criminal justice system in Nigeria, as inherited from the

colonial era is firm, and present a systemic challenge of introducing alternatives that more or less challenge its very philosophical origins.

Restorative and transformative justice are approaches that expand the enterprise of justice delivery, and in principle provides a comprehensive and progressive remedy that is holistic in nature by restoring the victim to their previous state, heal the relationship between victim and offender, incorporate the general community in the process, considers the crime committed by studying the structural conditions such as economic, social, political and religious that made the commission of such a crime possible, and seeks to correct the flaws in the system with the goal of preventing such crimes from occurring in the future. It also seeks to reintegrate offenders back into society as functional members. If RJ/TJ is fully and properly incorporated and adopted, it would significantly improve the justice system in Nigeria with wide spread impact on individuals (victims and offenders) and the community as a whole. (Nnadozie, 2026).

RECOMMENDATIONS

1. All states in the country should be encouraged to fully adopt Restorative and Transformative justice
2. Justice officials should be properly trained in Restorative and Transformative justice to enable them to operate effectively in the delivery of justice
3. The public should be educated about the existence of Restorative and Transformative justice, promote widespread acceptance and advocacy of the approaches
4. The law on the use RJ/TJ should be modified to reduce or remove the discretionary power of justice officials to have a more specific and less ambiguous provision for the use and application of RJ/TJ.

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