



RESTORATIVE SOLUTIONS

"Africans have a thing called Ubuntu: it is about the essence of being human, it is part of the gift that Africa is going to give the world. It embraces hospitality, caring about others, being willing to go that extra mile for the sake of another. We believe that a person is a person through other persons; that my humanity is caught up and bound up in yours. When I dehumanize you, I inexorably dehumanize myself. The solitary human being is a contradiction in terms, and, therefore, you seek to work for the common good because your humanity comes into its own in community, in belonging."

Desmond Tutu (The right to Hope: global problems, global vision, 1995)

Origins of Restorative Justice and Restorative Practices

As a principle and values-based practice, Restorative Justice and Restorative Practices originate from indigenous cultures. These cultures include, but are not limited to, First Nations, African, Aboriginal, and African-American culture. Talking Circles or Circle Talks are foundational to First Nations' way of being as it encourages dialogue, respect, the co-creation of learning content, and social discourse. Kay Pranis, a leader in the Restorative Justice Movement, incorporates elements of First Nations' practice in her circle processes.

"Navajo traditional justice relies on a "talking out" principle so there is group discussion of a given problem and it can be "talked out" by way of getting to the nature of a given problem, identifying who got hurt and how, and how the injury affects people. If you can talk out the nature of the hurt, then solutions should present themselves."

Hon. Robert Yazzie, Dine, Chief Justice Emeritus of the Navajo Nation.

The Zulu principle of Ubuntu, meaning, "I am because you are" harkens back to the central premise of Restorative Justice, that of interconnection and interdependence. It also builds upon the common saying "it takes a village...". Similarly, and, in general, Aboriginal cosmology speaks of all things in the universe as part of a single whole, interconnected through relationships. Thus, this view of life manifests in its 'implementation' of justice.

"Justice involves far more than what you do after things have gone wrong ... instead it involves creating the social conditions that minimize such wrongdoing." These teachings serve as proactive means of promoting harmony in a community. Western models of justice begin with the premise that there will be conflicts, whereas aboriginal notions of justice "[start] on the presumption that people in communities wish to live nicely together."

Returning to the Teachings. Exploring Aboriginal Justice, Rupert Ross



In the African-American culture, perhaps Toni Morrison captures it best when she depicts a gathering of enslaved men, women, and children who meet in secret and in circle to celebrate themselves:

In this here place, we flesh; flesh that weeps, laughs; flesh that dances on bare feet in grass. Love it. Love it hard. Yonder they do not love your flesh. They despise it. They don't love your eyes; they'd just as soon pick em out. No more do they love the skin on your back. Yonder they flay it. And O my people they do not love your hands. Those they only use, tie, bind, chop off and leave empty. Love your hands! Love them. Raise them up and kiss them. Touch others with them, pat them together, stroke them on your face 'cause they don't love that either. You got to love it, you!

Beloved, Toni Morrison

A Brief History of Restorative Justice

When and where restorative justice began is a debatable point; however, the commonly accepted purview pinpoints a 1974 mediation and reconciliation initiated by a probation officer. Two teenage respondents and a complainant successfully resolved a conflict related to vandalism. The success of this mediation led to the first 'victim-offender' (cringe) reconciliation program in Ontario, Canada with the support of the Mennonite community and in collaboration with the local probation department.

In 1989, the Family Group Conference (FGC) started in New Zealand. This was spurred by the Maori people's concern about the number of children being removed from their homes by the New Zealand courts. Out of this gathering, a family empowerment process was created, and it was quickly adopted in North America under the name of Family Group Decision Making. This adaptation, morphed and spread, and is currently what we refer to as Conferencing (also called Community Conferencing, Restorative Conferencing, Victim-Offender Conference etc.). The practices and processes continue to evolve and expand in our current day.

In general, Restorative Justice in North America is commonly connected to four main sources: aboriginal justice/teachings, faith communities, the prison abolition movement, and the alternative dispute resolution movement.

What is Restorative Justice

Restorative Justice is an alternative way to think about and address conflict and crime. It is defined as a process whereby parties (including supporters) directly involved and affected by an incident or conflict come together to hear what



happened, hear how everyone was affected and decide collectively how to repair/resolve the conflict or crime. They also come up with agreements regarding what their “community” will look in the future. This process allows participants to see each other as human beings and not just the behavior.

Restorative justice processes focus on the following principles: accountability, transparency, neutral facilitation, inclusiveness, healing, restoration and reintegration (The United Nations Working Group on Restorative Justice).

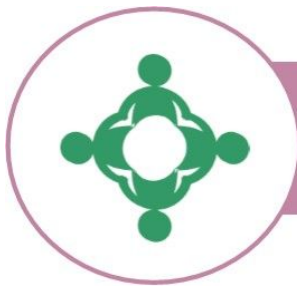
Key Rationale of Restorative Justice

Restorative Justice focuses on healing, accountability, and ultimately transformation. In relation to conflict and crime the following mindset underlies its theory and practice:

1. Conflict & Crime causes harm and restorative justice focuses on repairing that harm and restoring the community that was affected.
2. Those directly involved and those affected by the conflict or crime are able to have a say in what they feel and/or need to repair the harm.
3. In conflict or crime, both the ‘complainant’ and ‘respondent’ are affected. Restorative Justice allows all to have a voice in attempts to restore their community.
4. Restorative Justice allows participants the opportunity to share their story, see the other as human (not just the behavior) and work collectively to repair any harm, to build and/or restore community.

Within modern legal discourse, a crime is defined as a wrong against the state. Accordingly, a representative of the state prosecutes an individual accused of having committed a crime. The critical point of contention is the failure of this definition to recognise the victim. It is the victim that experiences the actual harm caused by a crime. Restorative justice advances a more victim-centred definition of criminal behaviour wherein the harm or wrong is against the individual rather than the state. Once the problem is redefined, current solutions become inadequate. The victim, who has a critical stake in the process, requires input and meaningful participation as well as reparation.

The Effects of Restorative Justice Programming: A Review of the Empirical, justice.gc.ca



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