

Effectiveness of restorative justice interventions



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Restorative justice is a holistic philosophy and a concept as it encompasses the offender, the victim and the society in which the offence was committed. It aims to bring a conclusive end to the offence committed by making some type of reparations for the malice inflicted, the hurt caused and the deepening of the urge to re-offend. Restorative justice, although a part of the criminal justice process, is not a part of the criminal justice system as one of its goals is to alleviate the damage caused by the criminal justice system on the offender and the victim.

There are many explanations of the concept of restorative justice (Zehr, 1990, 1997; Van Ness, 1996; Van Ness & Strong, 1997; Sherman & Strong, 2007; Amour et al, 2008). This shows that the concept remains hard to define (McCold, 1999; Brazemore & Schiff, 2001; Latimer et al, 2005; Pranis, 2007). However, at a United Nations Convention, a working definition was adopted and titled "the Marshall Definition" (McCold, 1999; Newell, 2002) the following is his definition: "Restorative justice is a process whereby parties with a stake in a specific offence collectively solve how to deal with the aftermath of the offence and its implications for the future" (Marshall, 1999). Mier (1998), attempts to define restorative justice without any reference to two of the circles namely the victim and society. In a later definition Menkel-Medow (2007) acknowledges Marshall's definition but attempts to be more concise: "restorative justice in its most idealised form attempts to repair, restore, reconcile and reintegrate offenders and victims to each other and to their shared community." However, the United Nations and the Council of Europe have agreed that there are differences in the terminologies and ideologies on restorative justice (Roche, 2001; Mier et al,

2001; Johnstone et al, 2006). With or without an accurate definition the concept of restorative justice has been in use since the early 1970's in Canada and after became widely used and identified with; Victim offender mediation (VOM), conferencing, circles, victim assistance, ex-offender assistance, restitution and community service. Whereas retributive/criminal justice focuses on punishment, the restorative paradigm emphasizes accountability, healing, and closure (Umbriet, 1998) and looks at the offence as on the person and not on the state.

One of the major consequences of restorative justice is the healing or closure for the victim of the offence. For too long the victim was made to suffer the offence many times over in the criminal justice system and in some cases feel a level of disrespect, as the case was dragged through court, this caused the victims to run that gauntlet of emotions over again and sometimes being unable to cope with those feelings they skip hearings or even cause the case to be quashed letting the offender go free and feeling that he had the advantage (Graef, 2000; Herman & Webster, 2005; Newell cited in Edgar, 2002.; Menkle-Medow, 2007; YJB, 2008) In the criminal justice system the victim is hardly ever given an opportunity to explain how they have been impacted by the offence and sometimes are not even given the chance to meet their offender in court, this can cause repression of emotions and further scaring, they are given very few real opportunities to become an active participant in the court process because the criminal justice system is all about the offender and not the victim (Herman & Webster, 2005; Umbreit 1998; YJB, 2008). In restorative justice the emphasis ideally should be on all three sections relating to the offence; the victim, the offender and the

society/community (Newell, 2002; Schiff, 2007; Marshall 1999) surrounding the offence, however a little more emphasis is placed in many cases on the victim, this type of mediation (Graef, 2000) makes the victims feel that they are an important factor (Graef, 2000; Crawford et al, 2003; Herman & Webster, 2005; Angel, 2005; Kubanzky, 2007 cited in Sherman & Strang, 2007). With restorative justice the victim feels a sense of vindication understanding the reasons, if any, behind why they were targeted for the offence which sometimes lead to an understanding that this will not happen to them again, at least not by the hands of the same offender and that they were not the cause of the offence being inflicted upon them (Umbriet, 1998; Graef, 2000; Herman & Webster, 2005; Green 2007). As a result of restoration the victim is able to put a face to the crime and not be assailed with the fear that the culprit is still out there; watching them; even living next door to them or possibly a friend, they are more satisfied with the result (McCold et al 1998; Strang 2002; Sherman & Strang 2007; Tudor, 2002.). The victims feel comfortable and are able to reintegrate themselves into society as a productive member (Umbriet, 1998; Marshall 1999; Graef, 2000). In cases where the victim is allowed to decide the retribution of the offender they can feel a sense of justice as the sentence is exactly what they want in order to feel retribution for the crime committed this assists in repairing the harm caused (Herman & Webster, 2005; Schiff, 2007). Restorative justice is seen in these cases to be much more rehabilitative than any correctional programme in the criminal justice system because it is the human side of the offence (Graef, 2000; Herman & Webster, 2005; Tudor, 2002.) and it places emphasis on repairing relationships which are the tapestry of society (Schiff, 2007).

Linda Radzik (2007) argues that restorative justice focuses heavily on the ability of the offender to take positive restorative action (Graef, 2000), she continues to point out that in all cases in order for this action to be fully restorative it must be sincere and voluntary (Umbreit 1994; Menkle-Medow, 2007). It must also be offered for the right reasons and must also be married with other sincere and voluntary efforts on the part of the offender, such as a change in behaviour (Radzik, 2007). Radzik (2007) also goes on to outline the necessary steps the offender needs to complete in order to be considered reformed under the restorative justice concept.

One of the main consequences of restorative justice is that the offender is able to heal in a more positive and possibly holistic manner, thus limiting the impact of his suffering, to the criminal justice method of public “shaming”, this type of indirect shaming does not rehabilitate the offender but usually leads to further anger being internalised and then released as further offending (Graef, 2000). Within this system the offender is treated for the offence, this treatment may be for the psychological, psychiatric or other underlying problem which is underlying the offence committed and may not be limited to traditional medicated treatments but may take the form of counselling, examination of self and emotions and understanding the impact of their actions (Umbreit, 1998; Graef, 2000; Radzik, 2006; Schiff, 2007; Menkle-Medow, 2007). Sutton (2002) states that the restorative justice process provides a concrete manner in which offenders can confront their own behaviour and the damage it causes. He goes on to say that the object is not to punish the offender of the prisoner but to show how they can become a part of the community - even a prison community. Braithwaite

(1989 cited in Graef, 2000) countered with the argument that shaming can be a useful tool in the restorative process and once used wisely forms a part of the offender's rehabilitation, this is called "rehabilitative shaming".

In order for restorative justice to work and healing to take place, the offender must take responsibility for their own actions and the effect on those impacted (Graef, 2000). Walgrave (2007 p. 562) agrees that crime is a public event. The following excerpt sums up the result of the act of taking responsibility by the offender:

"In the restorative process, the victim has the opportunity to witness the offender taking responsibility for his or her actions and apologising for his or her behaviour. For the offender, this means taking responsibility for what happened, but doing so in a context in which he or she is reassured that he or she need not be defined by that action now ostracized forever by family, friends and community. Traditional processes tend to stigmatize both the act and the actor, in the restorative process the two are distinguished so that the offender having acknowledged responsibility and made reparations, can earn his or her way back to acceptance by the community" (Brazemore, 1998 cited in Schiff, 2007 p. 231).

Another important result of the restorative justice process with respect to the offender is its effect on the offender's family. In many instances there are reports of the family of offenders having to hide from the public or even move to other countries, states and deny any relationship with the offender because the public is willing to take their revenge on the family if they cannot have the offender (Tudor, pp 16-19, 2002). This occurs too often to

the detriment of the family and the offender. The offender usually look to their family for support, comfort and love no matter how heinous the crime, however if the family or support unit feels endangered by the actions of persons who are not in favour with the offender then they may not want to be in contact or may fall on foul deeds at the hands of another in society who in angry. The offenders also need a support system in order to reintegrate as a productive and valued member, usually loved ones are the bridge which they use to regain trust and acceptance from society, if this is not there then there maybe a relapse (Graef, 2000, Sutton, 2002). In many cases restorative justice limits the suffering on the family of the offender. Sutton (2002) takes this a little further by proposing that prisons should be seen as extensions of the community and not a separate entity because it makes the offenders visible and he indicates that the prisons are community service vehicles or working communities (Graef, 2000; Sutton, 2002) and need to be seen as such, this he says is achieved through restorative justice. Through this restorative process the offender is able to re-evaluate their actions and use the network of support which is given to ensure that they never re-offend (Graef, 2000; Schiff, 2007).

A recent briefing report on expenditure in the criminal courts by the Centre for Crime and Justice Studies (2010) indicated that expenditure in the criminal courts system rose by as much as thirty-one percent to £1027. 89 million within the past three years, while staffing fell by fourteen percent (1,088 staff members) and the number of cases brought to the Crown Court increased by seventeen percent. This is a significant expenditure on any government for a criminal justice system. It is neatly summed up by Schiff

(2007) when she stated that the criminal justice system assumes that the government is responsible to address all stakeholder concerns. Pranis (2002) made mention of the “skyrocketing cost of punishment”, and noted that restorative justice required much less monetary investment as it is about healing and reparations. While Menkle-Medow (2007) stated that restorative justice is less costly and more efficient in monetary and deterrent effects. Due to the fact that restorative justice responds to crime and offences without utilising salaried members of the system (police, legal aid, lawyers, magistrates, clerical personnel, prison personnel, in-house counsellors and hospitals) and solutions within the system (correctional facilities, jails and hospitals) the cost of the offender and victim is much less (Marshall, 1999; Sherman & Strang, 2007; Menkle-Medow, 2007). Even delays within the criminal justice system cause increases in cost. In a paper by the Barrow Cadbury Trust there are calculations showing the various costs and savings of diversions of cases from the criminal justice system to the restorative justice and juvenile system. It shows tremendous saving from these diversions in a period of one to five years. Diversions to restorative justice conferencing will realise a savings of £7, 050 per offender; diversions from custody to community orders via changes in sentencing guidelines will realise a savings of £1, 032 per offender and diversions from trial under adult law to trial under juvenile law following maturity assessment is likely to produce a lifetime cost saving to society of almost £420 per offender (Barrow Cadbury Trust, 2009). This will produce significant savings over the life of some cases where preparatory time is high and the chances of winning the case is low This is summarised by Sherman and Strang (2007) in the following quote “ .. one is to reduce the use of courts for processes that fail

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to bring offenders to justice. A second is to reduce the use of prisons for offenders whose incarceration does not prevent total crime...”.

The unintended consequences coming out from the positive side of restorative justice as listed by the National Institute of Justice (2007) involves such things as the co-option of restorative process for coercive or punitive ends; undue offender orientation and the expansion of social control.

However according to the National Institute of Justice (2007) these are to be resisted.

From the above references and studies conducted restorative justice has shown itself to be not only cost effective but also very effective in reintegrating and re-establishing some sense of normalcy in the lives of some if not most of the victims which were involved in the process. More research needs to be conducted on the variables of restorative justice which in more countries to be able to come to firm and conclusive statements regarding the concept. This research will also bring conclusion to thoughts from Miers et al (2001) who says that restorative justice is “ time consuming and labour intensive beset by communication problems and delays”. Even if restorative justice does not become a mainstream section of the system, it can quite possibly be integrated into the present criminal justice system to deal with offenders or criminals (Walgrave, 2007 p. 569). In this manner he is countered by Sherman & Strang (2007) with the following summary views on the effectiveness of restorative justice:

Crime victims who receive restorative justice do better, than victims who do not, across a wide range of outcomes, including post-traumatic stress.

In many tests, offenders who receive restorative justice commit fewer repeat crimes than offenders who do not.

In no large-sample test has restorative justice increased repeat offending compared with criminal justice

Diversion from prosecution to RJ substantially increases the odds of an offender being brought to justice.

Restorative justice can do as well as, or better than, short prison sentences, as measured by repeat offending.

Restorative justice reduces stated victim desire for violent revenge against offenders.

With these above successes there must be some place in the system for restorative justice.