Restorative Justice

The European Model of Restorative Relationships: Protecting Rights, Restoring Respect and Strengthening Relationships

Prof. Irene Petruccelli with dr. Jacopo Brunni
Restorative justice may be considered a model of justice that:

* involves the victim, the offender and the whole community looking for solutions to the effects of the generated conflict.

In contrast with «traditional» criminal justice, in which, pragmatically, main questions are «Who deserves to be punished?» and «Which sentence?», restorative justice has a different paradigm: «What may be done to restore the damage?» (Zehr, 1990)

The reinforcement of the collective sense of security

The reconciliation of the part

The restoration of the damage

In order to encourage: the victim, the offender and the whole community looking for solutions to the effects of the generated conflict.
Feedback of prevention in restorative justice

McCold, 2005, in Wright, 2010

Offence

Needs

Request

Encounter

Response

Restorative

Demeses

Causes

Create

Restore

Prevent

Needs
Restorative justice and restorative practices «

Any process whereby the victim and offender are enabled, if they freely consent, to participate actively in the resolution of matters arising from the criminal offence through the help of an impartial third party (art. 3, co. I.D - Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime).

Wachtel (2005) said: «the science to restore and develop social capital, social discipline, emotive welfare and civil involvement»

Restorative justice «Any process whereby the victim and offender are enabled, if they freely consent, to participate actively in the resolution of matters arising from the criminal offence through the help of an impartial third party (art. 3, co. I.D - Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime).»
4 Important Concepts

- Social capital
- Perceived self-efficacy and collective efficacy
- Ecology of responsibility
- Well-being
Well-being

Amartya Sen:
Ecology of Responsibility

In the ecological model by Gaetano De Leo, responsibility represents a constitutively interactive concept, culturally and socially constructed to connect all the parts involved. Responsibility is a relational process, an emerging quality in the systems of reciprocity and interaction that is built up in the relationships between subject, action, institutions and society. It is at the same time a framework that organizes the relationships between individuals, actions, norms and collectivity.
Looking at people as architects of their own affective and cognitive functioning, bearers of resources and capable of governing their own levels of well-being in interaction with their own living environment, means attaching importance to constitutive relational and contextual variables of wellness itself. Lent and Brown, in the field of positive psychology and in a unifying perspective, propose a socio-cognitive model that considers well-being a state of personal satisfaction to which people tend through a process that includes perceived self-efficacy, the effective pursuit of one’s own objectives, the material and social support of the context, personal, social, and emotional variables including those susceptible to intervention and change such as perceived self-efficacy, behavioral, personal, and emotive variables constitutive, relational, and contextual variables of wellness itself. Lent and Brown, in the field of positive psychology and in a unifying perspective, propose a socio-cognitive model that considers well-being a state of personal satisfaction to which people tend through a process that includes perceived self-efficacy, the effective pursuit of one’s own objectives, the material and social support of the context.
Social capital, binding value (concept often linked to social “reputation” and civic virtues).

Social capital by Putnam: a “good” that people and groups can dispose of, consisting of immaterial indicators such as the degree of trust, positive or negative assessments, social credit, support, influence, and expectations of mutual commitment.

The concept of binding value to underline the functions performed by the quality of social ties in the development, even economic, of a local community that would thus be better able to reduce opportunistic action in favor of the cooperative one.

A community that wants to become restorative and relational has marked weakening of progressive social ties that increasingly marked weakening of social ties, the concept of binding value to underline the functions of social capital.
Restorative practices build social capital and have positive implications for all social contexts, from families to workplaces. Reparative practices support a society based on participation and mutual trust, a society where citizens take more responsibility for their own life paths. Leaders and governments have a role in achieving social well-being, but support from our social networks is equally important: family, friends, neighbors and the community.

Fundamental hypotheses: people are happier, more cooperative and more productive, and are more likely to make positive changes when those in positions of authority do things with them rather than to them or to them.
Social discipline (Wachtel & McCold, 2001)

*
Chapman, 2005

Relationship, Responsibility, Respect.

Adapted from McColm and Wooldredge's Social Discipline Window.
Restorative justice engages those most affected by an injustice in a process that restores what has been lost, damaged and violated by the harm that has resulted from the injustice.
Wherever people live or work together or when they encounter each other in a diverse society, there is a basic need to be treated equitably and they encounter each other in a diverse society. They experience harm and they need justice. When this does not occur, they do not experience harm and they need justice. Whether harm occurs in crime and the need for justice, or community and organisational life and in major conflict, it is just as keenly felt in families, schools, and the need for justice is not restricted to the criminal justice system. It is just as keenly felt in families, schools, and in major conflict. Wherever people live or work together or when people interact in a diverse society, there is a basic need to be treated equitably and with respect. When this does not occur, they experience harm and they need justice. When this does not occur, they experience harm and they need justice.
Areas of Research...

Northern Ireland
Restorative Youth Conferences in
Restorative Youth
Restorative Justice
Northern Ireland and

Community Restorative Justice Ireland

Alternatives NI

School system
Children’s Services

Family Group Conferences

State system
Youth
- Low risk - Police Restorative Cautioning
- Medium risk - Public Prosecution Service referral for diversionary conference by Youth Conference Service
- High risk - Youth Court referral by Youth Conference Service

Intensive Support and Supervision Programme

Prison Service
Probation Service
Adults

Youth Services
- Children’s Units
- Family Group Conferences
- Children’s Services

School system

Alteratives NI

Community Restorative Justice Ireland

Community system
Youth Conference

Target Group

18 year old children and young people who admit to a criminal offence.

Criminal Justice (Northern Ireland) Act 2002
**PURPOSES OF YOUTH CONFERENCES**

1. To devolve decision making to participants
2. To meet the victim’s needs
   - Consistent with children’s rights and proportionality
3. To reduce the risk of reoffending

---

Consistent with children’s rights and proportionality
Participants

Mandatory

Youth Conference Coordinator

Young person

Parent, guardian or appropriate adult

Police officer

Young person’s lawyer is entitled to attend

Non-mandatory

Adequate representatives of the community

Other appropriate professionals

Young person’s supporters

Victim’s supporters

Victim

Other appropriate professionals

Appropriate representatives of the community

Mandatory

Youth Conference Coordinator
Options for victim participation in conferences

- Attendance: 50%
  - Face to face meeting
- Additional participation: 18% via:
  - Video and telephone conference
  - One way screen
- Recorded message (video, audio, written)
- No participation: 32%
  - Representative attends
Action Plan Options

1. Apology
2. Reparation work
3. Financial compensation
4. Supervision by an adult
5. Participate in activities or programs to address offending
6. Restrictions on actions
7. Treatment for mental condition or alcohol or drugs
8. Electronic tagging
9. Custody

Action plan must be approved
Outcomes for Youth Conferences

Number of youth conferences now over 17,000
Over 900,000 people have participated in a youth conference

Victim participation: 50/70%
Victim and young person satisfaction: 90%

94% successful completion of plans

43% seriously offending; 21% minor offences but offending persistent; 26% serious or very serious offences, 53% intermediate

Reoffending for custody 72% for all other community disposals 61%; for custody 72% (22% for serious harm)
Reoffending for diversionary referrals 19%
Reoffending 43% (22% for serious harm)

England and Wales put about twice as many young people into custody as Northern Ireland

Intervention highly effective

Early intervention highly effective
Restorative justice with young people who persistently offend or who commit serious offences can:

- Reduce offending
- Satisfy victims
- Reduce the use of detention
- Reduce costs
- Reduce offending

offences can:

Persistently offend or who commit serious
Restorative justice with young people who
To support governments, organisations, practitioners, trainers and researchers to develop restorative justice throughout society that is fit for societies which are modern, democratic, diverse and complex.

Policy context – European Union Directives e.g. Agenda for the Rights of the Child, Charter of Fundamental Rights, Support and Protection of Victims,

Theoretical context – European critical social theory:

Friendly Justice

- Council of Europe Recommendations e.g. Child of the Child, Charter of Fundamental Rights, Support and Protection of Victims,

Practice context – mediation and social pedagogy

Why a European Model?
Restorative justice can achieve this earlier, quicker and at less cost.

When harm occurs most people want to move on and get back to their normal lives.

Restorative justice offers:

* A process through which the community sees justice being done, feels safer and can offer support to the young person who has caused the harm.

* A process through which the victim experiences justice, reparation and a commitment that it will not happen again.

* A process through which the victim experiences justice, reparation, the opportunity to be accountable, feel and express remorse, reparation and be reintegrated with respect.

* A process through which a young person who has harmed another has normal lives.
Skills that enhance relationships:
- Taking personal responsibility
- Listening to others
- Empathy and understanding others
- Expressing remorse
- Making and keeping commitments
- Letting things go and forgiving

Skills that enhance relationships:
Engage with children whenever and wherever adults

circles of support and accountability

State - mediation, restorative conferences and

Schools - mediation and restorative circles

Communities - mediation and restorative

Group conferences

Families - restorative parenting and family
Level 1: Restorative Parenting, Family Group

Level 2: Mediation to divert from entry into the criminal justice system

Level 3: Restorative reintegration and for detention and parole practices in culture and accountability to divert support and conferences and circles of mediation in schools, restorative circles and relationships in schools, restorative circles and conferences, mediation and restorative mediation in the community.

A holistic policy framework
Intercultural Conflict in Alternative Contexts
Austria – the relationship between Muslim immigrants and longstanding residents in a social housing estate

Serbia and Northern Ireland – post-conflict society

Hungary – the relationship between the Roma and other residents in a village

Northern Ireland – housing estate immigrants and longstanding residents in a social

Austria – the relationship between Muslim
Restorative Justice

Defines the desired outcome
in a measurable way

Controls access to service
- crime committed, offender detected and admits guilt, individualised, slow process
- out of sight
- controls location of practice

Controls location of practice
- individualised, slow process
- detected and admits guilt,
- crime committed, offender
- controls access to service

Restores labels
- offender, community, victim,
- defines roles

Feels safer and more
confident on the margins

Seeks inclusion and active
participation in a rapid
response often to inter-group
harm

Feels more concerned with the
hidden harm.

More concerned with the
community

States system

Restores the desired outcome
The politics of identity sustain conflict and can stimulate violence. Security responses control and manage conflict but do not transform it. Difficult to resolve the cultural, relational and personal aspects of conflict. The politics of identity sustain conflict and can stimulate violence.
Community is an active, reflexive social and communicative practice on how to live equitably with an increasingly diverse range of other identities.

Through this practice, community solidarity can be enlarged to include diversity while still being cohesive.

Identity is multi-dimensional and dynamic depending upon context and the purpose of the activity. It is expanded to include diversity while still being cohesive.

Justice is experienced through active participation which creates greater security through offering safe and just processes for people to move towards and towards.

Justice is experienced through active participation and community with those they fear.

Through this practice, community solidarity can be increased by diverse range of other identities. Community is an active, reflexive social and communicative practice on how to live equitably with.
People, even more than things, have to be restored, renewed, revived, reclaimed, and redeemed; never throw out anyone.