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Restorative Justice in Caribbean Contexts

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**Eastern Caribbean Governments/UNICEF Programme Cycle Review
Forum, Barbados**

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'Towards a Caribbean Model of Restorative Justice'

A growing social movement to institutionalize peaceful approaches to crime, responding to harm, problem-solving and violations of legal and human rights. Examples range from international peacemaking tribunals such as the South Africa Truth and Reconciliation Commission to initiatives within criminal justice systems, schools and communities.

Focuses on crime as an act against an individual, family or community rather than the state.


Theoretical Base

Rather than privileging the law, professionals and the state, restorative resolutions engage those who are harmed, wrongdoers and their affected communities as it is believed that solutions arising out of this process are more likely to promote repair, reconciliation and the rebuilding of relationships

Process

Victims able to express the full impact of the crime upon their lives, to receive answers to any lingering questions about the incident, and to participate in holding the offender accountable for his or her actions.

Offenders can tell their story of why the crime occurred and how it has affected their lives. They are given an opportunity to make things right with the victim—to the degree possible—through some form of compensation.

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- Restorative justice draws on existing traditional, indigenous and religious ways of dealing with disputes and as such recognizes that that state is not the only source for the delivery of effective and equitable justice.
 - Restorative justice should be embedded within a well functioning and credible criminal justice system.

Differences

- The traditional justice system focuses on these three questions:
 - *What law was broken?*
 - *Who broke it?*
 - *What punishment is deserved?*
- Restorative justice focuses on these three questions:
 - *What harm has been done and to whom?*
 - *What needs to be done to repair the harm?*
 - *Who is responsible for repairing the harm?*

Range of approaches

- Victim-Offender Dialogue
- Family Group Conferencing
- Community/School Conferencing
- Peacemaking Circles
- Reparative Boards
- Victim Impact Panels
- Victim Services
- Community Service
- Restitution
- Reintegration Services
- Indigenous Healing Circles
- Mediation

Key concepts and techniques

- Restitution
- Reparation
- Mediation
- Negotiation
- Empowerment

African philosophy of humanity and community,
'ubuntu': 'a different kind of justice'

International Picture

Africa - based on recovery of indigenous justice practices, use of community service to address chronic prison overcrowding and national restorative responses to genocide and civil war

Asia - Focus on juvenile justice, on regularizing indigenous practices, and on peacemaking and reconciliation in divided societies.

Europe - Characterized by experimentation with both government and community-led initiatives. Used to address issues as diverse as juvenile justice in many countries, alternatives to paramilitary violence in Northern Ireland, and justice reform needs in Eastern Europe.

Latin America - Developments in response to a variety of needs including increasing rates of crime and violence, restoring citizen confidence in justice systems; national reconciliation efforts after years of civil war; and communities looking for alternative ways of addressing violence and conflict to create a 'culture of peace.'

Middle East- Experiments are beginning in the Middle East - some are related to the use of traditional processes for conflict resolution while others deal with child welfare and juvenile justice issues.

North America - Restorative justice in North America has arisen out of various sources such as indigenous practices of First Nations people, a discontent with the justice system, and a need to meet the needs of victims. Currently being applied in various areas from prison to schools to child welfare issues.

Pacific - In the Pacific region, restorative justice is well established as a manner of responding to crime. With roots in indigenous practices, restorative justice is being used to address crime, school discipline, and other types of conflicts.

A Caribbean example - Jamaica

- Jamaica has some 15 years (public & private initiatives) restorative justice experience
- 2004 declared the National Year of Dispute Resolution highlighting the country's commitment
- Main non-governmental institution - Dispute Resolution Foundation)
- Activities:
 - Special church services
 - Monthly breakfast meetings with sector leaders
 - Mediation display rotating monthly among libraries
 - Lecture series on Mediation
 - Conferences and workshops
 - training in mediation and victim offender conferencing
 - training staff for Peace and Justice Centres
 - providing mediation services
 - facilitating community meetings

However... common form of dispute resolution is violence

- Homicide has become a common feature of dispute resolution in Jamaica.
- Violence in Jamaica: an analysis of homicides 1998–2002 (Lemard & Hemenway, Harvard)
- victims were male (over 89%) aged 15–44 years old (80%).
- motives were disputes (29%) and reprisals (30%).
- Homicides in Jamaica are not primarily gang or robbery related. Rather, they are mainly caused by arguments or reprisals.

Challenges

- Gender-based violence:
 - Socialisation
 - Culture
 - Education
 - Inequality
- Societal violence:
 - Domestic violence
 - Child abuse
 - Corporal punishment
- Existing criminal justice systems (inefficiency, ineffectiveness, RJ marginalised rather than routinised, retribution seen as more important than restoration)

Values of RJ

- Inclusion
- Democracy
- Responsibility
- Reparation
- Safety
- Healing
- Re-integration
- Rights
- Respect

Lessons for the Caribbean (macro, meso and micro level issues)

- Ensure cultural relevance and utilise indigenous problem solving techniques
- Develop programmes wherever conflict is an issue
- Address gender and power issues within the actual RJ process and in the setting up of programmes
- Teach conflict resolution skills in schools
- Institutionalise restorative justice within the criminal justice system
- Do not reduce restoration to a set of institutional procedures, tasks and responses
- Don't demand or expect unrealistic successes
- Build alliances – include those who work with victims as well as those who work with offenders
- Model the values & principles of RJ in organisations and among professionals involved

Beginning

- The work begins with the first case, (from here problems and limitations can be identified and training needs highlighted).
- Begin slowly taking on more cases as successes and experience build
- Involve the media in a constructive way: a tool for public education and generating interest and alliances
- As the work develops, involve others interested in expanding the program to reach more neighbourhoods or to deal with different types of conflicts.
- Ongoing training of all involved
- Remain true to the principles

Victims

- Empowers victims to have a voice in the justice process
- offers them an opportunity to ask questions and seek answers
- affords them a role in the sentencing decision
- provides them with avenues for healing and closure.

Offenders

- Enables offenders to be accountable for their conduct
- affords them opportunities to make amends and express remorse
- offers them constructive ways to repair harm as well as support for making responsible choices
- creates a forum for forgiveness, reconciliation, and reintegration.

Communities

- Re-invests citizens with the power to contribute meaningfully to the resolution of community problems
- allows citizens to articulate and affirm the moral and behavioural standards of the community
- provides a forum for addressing the underlying conditions which generate crime
- contributes toward the creation of safe, thriving, and peaceful communities.