

Restoration, Transformation, and Accountability

From “An Overview of the History and Theory of Transformative Justice”

Restorative Justice

“In the late 1970s, peacemaking criminology, an alternative to the US retributive criminal system, emerged from peace churches—Mennonites, Quakers, and Brethren. Peacemaking Criminology, co-founded by Hal Pepinsky, is rooted in the area of radical criminology. Pepinsky is the author of *Peacemaking: Reflections of a Radical Criminologist* (2006). The most well-known theory within the field of peacemaking criminology is Restorative Justice (RJ), co-founded by Howard Zehr (1995), a Mennonite who teaches at Eastern Mennonite University and worked for many years prior with the Mennonite Central Committee around the world as a mediator, peace educator, and community organizer. Zehr working with others, developed RJ out of aboriginal and Native American practices in North America and New Zealand, which use community circles to bring victims and offenders together to heal, forgive, and take accountability. Ron Claassen, author of *Restorative Justice - Fundamental Principles* (1995), stresses the following points about RJ:

- RJ is grounded on the belief that punishment hurts relationships, the victim(s) and the offender(s).
- RJ views crime as wrong and after it occurs, there exist dangers and opportunities.
- RJ believes that crime should be addressed as soon as possible to make things right again.
- RJ includes the victim and their friends, family, etc. into the process of justice.
- RJ believes that, after everyone is safe, the event should be made a teachable moment and to have the offender learn new ways of acting in the community.
- RJ promotes volunteer involvement in the justice process and not coercive measures.
- RJ promotes a collaborative and cooperative process.
- RJ recognizes that not all offenders are willing to cooperate; therefore, there is a need for outside authority to decide for the offender in a coercive manner.
- RJ considers that, while prison should not be used as a result of the process, prison might need to be used in situations where the offender is a risk to him/herself and/or others until the time comes where s/he is willing to voluntarily meet with the victim(s).
- RJ stresses following up with those involved in the crime in order to know if all parties are holding to their agreements.
- RJ stresses the role of religious institutions in aiding in justice among people and to promote moral and ethical values within communities.

Here, Claassen (1996b) explains the difference between restorative justice and retributive justice: I think that our whole system could be based on the purpose of restoration of victim, community, offender, families, friends, restorative justice officials and any other individuals or relationships that might have been damaged by the crime. In a restorative system, the primary focus would be on the human violations and need for healing and restoration of individuals and relationships. Focusing on the violation of law would be a backup for those unwilling to be cooperative. A Restorative Justice System would use cooperation as much as possible and coercion as little as possible.”

Transformative Justice

“In the late 1990s, Ruth Morris, a Quaker in Canada, challenged restorative justice because it did not address issues of oppression, injustices, and social inequities within conflicts. Coker (2002) notes that the terms ‘transformative’ and ‘restorative’ justice have erroneously been seen interchangeable. However, Morris argues that while restorative justice challenges the retributive justice system and brings people together, it fails to recognize the socio-political and economic issues addressed by transformative justice (Coker, 2002).

For instance, if a 14-year old boy who is queer and from a poor neighborhood robbed a store when it was closed at 2:00 a.m., transformative justice would not only look at the crime of burglary, but why the boy did it. Was the boy kicked out of his home by a father who was homophobic? Did the boy need money for food, clothes, and shelter? While restorative justice only addresses the specific conflict between the victim and offender, transformative justice strives to use the conflict as an opportunity to address larger socio-political injustices.

Further, ‘restorative justice processes threaten to create a deeply privatized criminal justice process’ (Coker, 2002, p. 129) by constructing a victim vs. offender relationship which makes absent the issues of social oppression. It is for this reason that many prison abolitionists and feminists working with domestic violence issues critique restorative justice for its limitation in addressing oppression (Coker, 2002). Because society oppresses those who are poor and queer, there are (at least) two victims; therefore, the conflict must be addressed using larger community-based approaches rather than interpersonal mediation. Restorative justice stresses that the system is flawed, overworked, and retributive, but does not address why it exists, how it is racist, sexist, abelist, and classist, whom it benefits, and how it was developed.”

(The Peace and Conflict Review

<http://www.review.upeace.org/index.cfm?opcion=0&ejemplar=23&entrada=124>>)

Principles of Transformative Justice

From “Toward Transformative Justice: A Liberatory Approach to Child Sexual Abuse and Other forms of Intimate and Community Violence”

“Transformative Justice responds to the lack of—and the critical need for—a liberatory approach to violence. A liberatory approach seeks safety and accountability without relying on alienation, punishment, or State or systemic violence, including incarceration and policing. We premise the Transformative Justice approach elaborated in this paper on three core beliefs, namely:

- Individual justice and collective liberation are equally important, mutually supportive, and fundamentally intertwined—the achievement of one is impossible without the achievement of the other.
- The conditions that allow violence to occur must be transformed in order to achieve justice in individual instances of violence. Therefore, Transformative Justice is a both a liberating politic and an approach for securing justice.
- State and systemic responses to violence, including the criminal legal system and child welfare agencies, not only fail to advance individual and collective justice but also condone and perpetuate cycles of violence.

Transformative Justice seeks to provide people who experience violence with immediate safety and long-term healing and reparations, while holding people who commit violence accountable within and by their communities. This accountability includes stopping immediate abuse, making a commitment to not engage in future abuse, and offering reparations for past abuse. Such accountability requires community responsibility and access to on-going support and transformative healing for people who sexually abuse. In addition, Transformative Justice also seeks to transform inequity and power abuses within communities. Through building the capacity of communities to increase justice internally, Transformative Justice seeks to support collective action toward addressing larger issues of injustice and oppression.

The term ‘Transformative Justice’ emerged directly out of Generation FIVE’s work on child sexual abuse as the term that best describes the dual process of securing individual justice while transforming structures of social injustice that perpetuate such abuse. While we developed this model as a response to child sexual abuse, we imagine Transformative Justice as an adaptable model that can and will be used to confront many other forms of violence and the systems of oppression they enable and require.”

(Prison Culture: How the PIC Structures Our World <http://www.usprisonculture.com/blog/wp-content/uploads/2012/03/G5_Toward_Transformative_Justice.pdf>)

Community Accountability

The Creative Interventions Toolkit: A Practical Guide to Stopping Interpersonal Violence “promotes an approach called community-based interventions to violence or what some call community accountability or transformative justice as a way to break isolation and to create solutions to violence from those who are most affected by violence – survivors and victims of violence, friends, family and community. It asks us to look to those around us to gather together to create grounded, thoughtful community responses.”

“The term, community accountability, can be thought of as a more specific form of a community-based response or approach to interpersonal violence. The word, ‘community’ acknowledges that it is not only individuals but also communities that are affected by violence. Interpersonal violence is not only an individual problem, but a community problem. The word, accountability, points to the idea of responsibility. In brief, accountability is the ability to recognize, end, and take responsibility for violence.

We usually think of the person doing harm as the one to be accountable for violence. Community accountability also means that communities are accountable for sometimes ignoring, minimizing or even encouraging violence. Communities must also recognize, end, and take responsibility for violence – by becoming more knowledgeable, skillful, and willing to take action to intervene in violence and to support social norms and conditions that prevent violence from happening in the first place. The community might be a neighborhood where violence took place; it may be an organization or workplace in which violence against its members occurred; it may be an extended family that allowed violence to go on unchallenged.”

“In this model, community accountability works best if:

- ♣ The community recognizes its own participation in directly contributing to harm or letting harm happen while it also holds the person doing harm responsible.
- ♣ The community takes responsibility for the ways that it may have participated in harm. This can be done by:
 - Naming the ways in which it participated in harm.
 - Changing the conditions that led to or allowed the harm to happen. o Supporting the survivor or victim.
 - Offering repairs or reparations to the survivor or victim.
 - Supporting the person doing harm through the accountability process.
 - Changing attitudes and behavior and supporting these through policies, new practices, and new skills.
 - Keeping up these changes over the long run.”

(Creative Interventions Toolkit: A Practical Guide to Stopping Interpersonal Violence
<<http://www.creative-interventions.org/wp-content/uploads/2012/06/CI-Toolkit-Complete-Pre-Release-Version-06.2012-.pdf>>)