



RE-JUSTICE

Judicial Training in
Restorative Justice

Annex 11

Handout 11: Successful Restorative Justice Development around the World



What is success in Restorative Justice?

WHOSE PERCEPTION OF SUCCESS IS IT?

- ▶ the victim
- ▶ the offender
- ▶ victim/offender families and communities of care
- ▶ professionals in the justice system
- ▶ local communities

WHAT DO WE MEAN BY SUCCESS?

- ▶ satisfaction for the participants of a process
- ▶ lower rates of re-offending
- ▶ impact on post-traumatic stress for victims
- ▶ reintegration of offenders
- ▶ cost-effectiveness for policy-makers
- ▶ transformation of contexts that consciously or unconsciously support behaviours with harmful impacts – for example changing attitudes towards hate crimes or domestic violence, better training and support for police to address unconscious racism and police violence
- ▶ adherence of RJ principles, standards and values
- ▶ suitability of RJ practices and policies to the communities where they are used



Using a systemic framework for Restorative Justice

Look at the image.
What is your first gut
reaction?
What do you notice?
What does this remind
you of?

Where would you place
yourself in the picture?

***Our Restorative
Justice processes
are already
starting in this
landscape, not in
neutral conditions.***



This image shows how power and privilege, and therefore access to resources, can be organised in communities and societies. The purple people have easy access and total control of the resources (apples), the red people have little access and no control, the blue people have no access and are intentional kept out by the fence, the barbed wire and the purple people.

Resources can be:

- ▶ Material (apples or salary rates)
- ▶ Access to services (health care, education, Restorative Justice)
- ▶ Power and privilege – being taken into account, having a voice (the needs of this group matter in society)
- ▶ Safety (freedom of movement, levels of fear, chances of being harmed by police).

Engaging with systemic issues of power and privilege needs to be consciously and proactively designed into everything we do and how we do it, or we will definitely reproduce these patterns, probably unconsciously.¹

***“Every social intervention will have unintended consequences.
It will always go astray,
even if we build-in safe-guards.” –***

Howard Zehr²



Interpersonal restorative justice & Systemic restorative justice

Key learning:

- engagement at all 3 levels is systemic transformation
- all 3 levels exist & reproduce each other

CULTURE =
assumptions & ideas about the world
the roots of deep transformative restorative justice



DIRECT ACTIONS/ BEHAVIORS

transformation here - direct level only, is interpersonal restorative justice, it may change behaviors but doesn't transform systemic patterns of power & privilege

STRUCTURES

law, policies, rules, practices, language discourse, institutions (e.g. finance, education, justice), access structures for Restorative Justice (implicit or explicit)

Johan Galtung, 1990
Positive and Negative Peace

Illustration by Willemijn Lambert, Wwww.Drawin.Ink

One Brazilian judge warned that much care is needed to ensure that restorative justice is **not coopted** to reinforce judgement and exclusion or that practice becomes a "disguised circular courtroom".³

Practitioner Dominic Barter warns of the '**punitive drift**' that can occur when systemic issues are not taken into account in RJ policy and practice.⁴

Academic Galtung argues that direct violence, while remaining the choice and responsibility of those who commit such acts, is made possible by structural and cultural violence.⁵

Example: the intentional murder of a woman by her husband (**direct violence**) may have been exacerbated by the fact that the police reporting structures did not follow up on previous complaints (**structural violence**), possibly because in that society consciously or unconsciously, violence in the family may be considered a private matter (**cultural violence**).

Restorative Justice which is truly successful will focus not just on the direct level of violence (**interpersonal RJ**), but also at the structural levels (**access to RJ services, impacts of structural issues**) and at the cultural levels looking at the **assumptions and beliefs** which may consciously or unconsciously support harm (**systemic Restorative Justice**).

Howard Zehr addressed the importance of systemic awareness in Restorative Justice and the need for action to ensure it does not perpetuate systemic injustices in his 2015 anniversary edition of Changing Lens.⁶



One example of such systemic action is the New Zealand development of Restorative Justice. That particular RJ practice came about when those with much power and the little impact from the justice system (the government, policy makers, criminal justice professionals) took the time to listen to those with less power and the most impact from the system (the indigenous, colonised Maori community)⁷

What might be possible if Restorative Justice development addressed systemic issues?



Questions for Reflection

- ▶ What would successful Restorative Justice look like for you?
- ▶ In your own context who is most impacted by the criminal justice system? Do they have a chance to participate in RJ development?
- ▶ Drawing on one of your own cases, can you identify the direct, cultural and structural violence at work in the situation.
- ▶ What do you think are the most important systemic issues of power and privilege in your country? How might these issues begin to be addressed?
- ▶ Are there one or two concrete actions you could take to begin to participate in addressing systemic issues in restorative justice in your context?



References

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4. Dominic Barter developed Restorative Circles in Brazil, firstly in the favelas of Rio and then further in the juvenile justice system in partnership with judges and staff in the justice system, for more information see Barter, D. (2012). *Walking Towards Conflict*. Tikun: politics, spirituality, culture, Winter, 21 & 70
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For further study

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