

Quadrant II – Transcript and Related Materials

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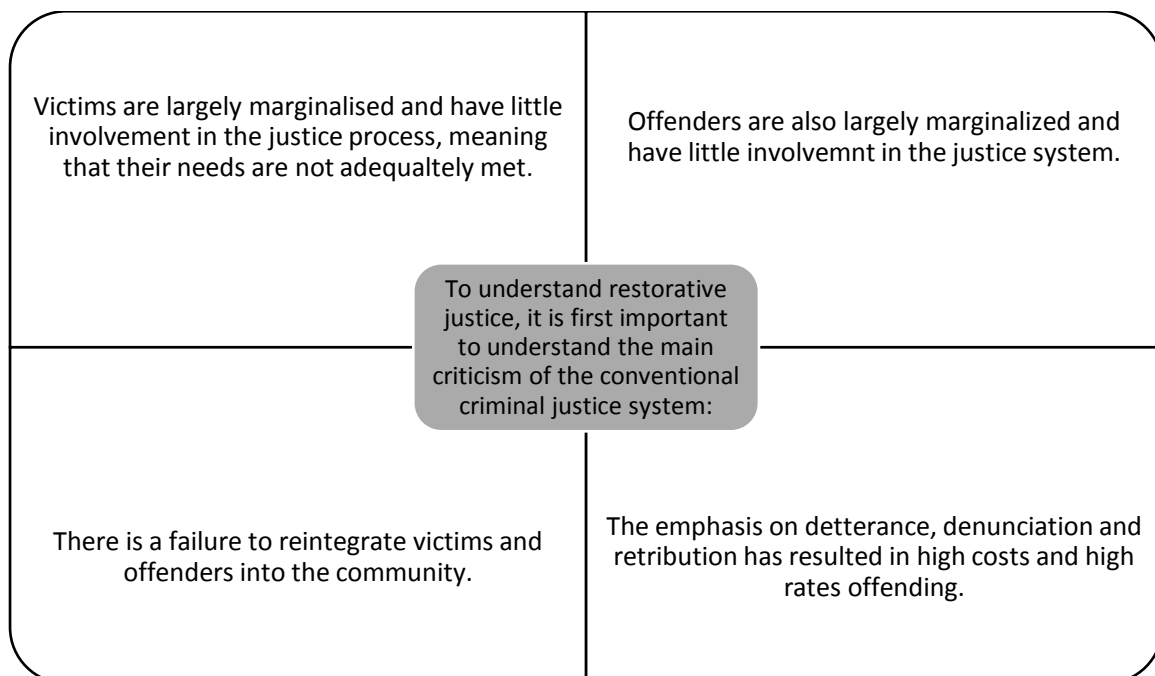
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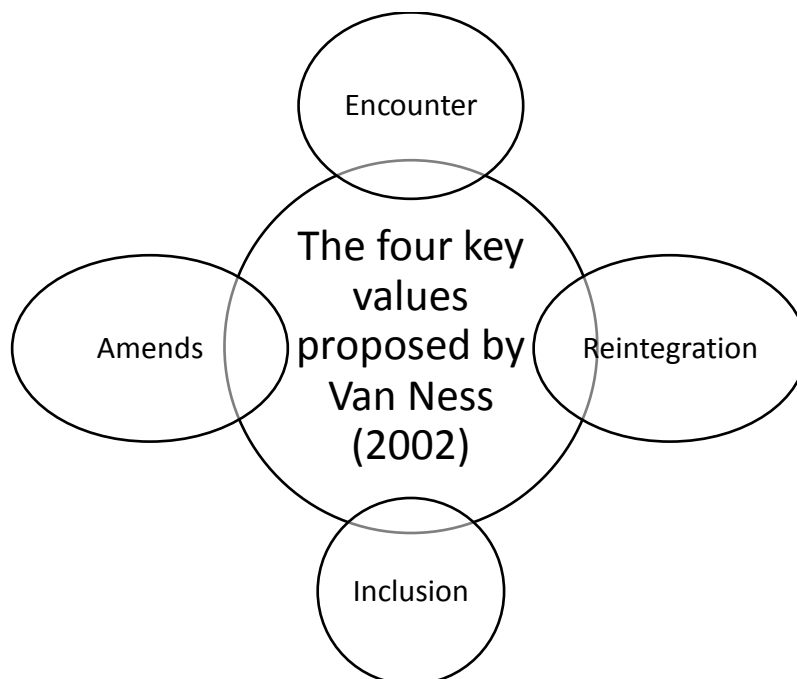
Notes



Restorative Justice is an approach to offending that attempts to address some of these deficits in the conventional criminal justice system. The concept of restorative justice can be readily understood in terms of a set of key principles.

Van Ness (2002) suggests that the three key principles of restorative justice are:

Restore	<ul style="list-style-type: none"> •Justice requires taht we work to restore victims, offenders and communities who have been injured by crime.
Opportunity	<ul style="list-style-type: none"> •Victims, offenders, and communities have opportunities fr active involvement in the restorative justice process as early and fully as possible.
Responsibility	<ul style="list-style-type: none"> •in promoting justice, the Government is responsible for preserving order in teh community for establishing peace.



1. Encounter: there are opportunities for victims, offenders and community members to meet and discuss the crime and the effect of the crime on the victim.
2. Amends: offenders are expected to take steps to repair the harm they have caused.
 - amends can be made in various ways, including a sincere apology, recognition of the harms caused by the offence, reinstition attempts by the offender to change his/her behaviour.
3. Reintegration: both, the offender and the victim, ideally, should be reintegrated into their community.
4. Inclusion: offenders are given an opportunity to be meaningfully engaged in the resolution of the crime.

In practice, restorative justice typically involves the coming together of offenders, victims, family, and community members, in order to discuss the impact of the crime on the victim and establish how best the harms caused by the offence may be repaired. It is important to note, however, that restorative justice is often integrated within the conventional justice system, rather than as an entirely separate approach to responding to crime.

Types of Restorative Justice

1. Family Group Conferences

Family group conferences were first implemented in 1989 as a result of the Children, Young Persons and eir Families Act 1989, and are used for all medium-to-serious offences committed by young people (aged 14-17), with the exception of murder and manslaughter. Family group conferences operate in the following way. The offender, their family, the victim and support people along with representatives from the criminal justice system meet to determine how the young person will be held accountable for their offence. After the coordinator of the conference introduces everyone present, the facts of the case are presented to the group and the offender either admits or denies the charge. If the charge is denied the matter is referred back to the police or the court to decide what to do. If the offender admits to the charge then the offence is discussed by all members present. The impact of the offence on the victim is discussed and the victim has an opportunity to indicate what they believe are the appropriate actions that need to be taken to repair the harm caused by the offence. Time is then allowed for a private family discussion about what the family believes are realistic and appropriate responses to the offence. The family group then reports back to the conference as a whole and the conference members try to reach an agreement on a plan of action that suits everybody. This might include such actions as apologies from the offender, reparation to the victim in the form of money or work in kind, community work, curfews and participation in alcohol and drug rehabilitation programs, If agreement cannot be reached the case will be referred back to the youth court.

2. Community Panels

The second form of restorative justice programme implemented in New Zealand is community panels (Morris and Maxwell, 2003). Community panels differ from family

group conferences in several important respects: (1) they are used for adult, not youth offenders; (2) they are not required through legislation and operate on the discretion of individual judges, (3) members of the community play a key role in the decision making process, and (4) the victim plays a less central role and may not be present at all. Community panels operate in the following way. Selected offenders are diverted by judges on their first appearance in court. The offender meets with panel members who are drawn from the community. A police officer is also typically present and the victim of the crime may or may not attend. During the meeting the offender is confronted by their crime and its effect on the victim and the community. A decision is made by all present concerning the best way to respond to the offence and if agreement is reached then the offender makes no more court appearances. Actions typically focus on making amends to the victim and the community through reparation and making arrangements to participate in rehabilitation programmes.

3. Court Referred Justice Conferences

The third main type of restorative justice initiative that has been implemented in New Zealand is court-referred restorative justice conferences. Like community panels these conferences are for adult offenders and judges refer selected cases. Unlike community panels, the victim of the offence plays a more important role and must be present for the conference to proceed, and members of the community (apart from relevant victim and offender support people) are not involved. As with family group conferences and community panels, the impact of the offending on the victim is discussed in the conference and a joint decision is made concerning how the harm caused by the offence might be repaired. The outcome of the conference is provided to the judge, who is obliged by law to take the report into account. However, the sentence decided upon is ultimately at the judge's discretion (Morris and Maxwell, 2003). Sometimes the judge will adjourn for completion of a plan that has been set out in the conference. For example, it may have been decided that the offender will complete an alcohol rehabilitation programme. The plan will then will be monitored prior to the final sentencing.

Does restorative justice work?

Hayes (2005) summarizes the main aims of restorative justice:

1. Meeting the needs of victims.

2. Holding offenders accountable.
3. Repairing the harm caused by crime.
4. Restoring victims, offenders, and communities.
5. Reducing reoffending.

Current evidence supports the idea that restorative justice can help reduce crimes – although the magnitude of its impact may be relatively small and is likely to depend on both, the nature of the restorative justice initiative and type of offender.

Not all victims are satisfied with the outcomes. Not all offenders change in ways that are likely to reduce offending, and restorative justice is not appropriate for all types of offending.

Moreover, there are likely to be significant constitutional restraints on the more widespread implementation of restorative justice programmes.

Of course, not all victims are happy with the outcome of the restorative justice process and some may even be adversely affected, although these appear to be in the minority. Research also supports the idea that offenders are more satisfied by restorative justice programmes, and they are more likely to comply with requests to provide compensation to victims (Latimer et al., 2005; Sherman and Strang, 2007). Establishing the extent to which restorative justice can be said to truly restore' is not an easy task. However, research findings support the idea that involvement in restorative justice conferences can reduce post-traumatic stress, fear of the offender, and desire for violent retaliation by the victim (Sherman and Strang, 2007).

We have included reducing reoffending as one important objective of the restorative justice process, although for most advocates of restorative justice this is not necessarily considered a primary aim. However, if restorative justice does effectively work to restore offenders to the community then they should be less likely to reoffend in the future. Most reviews of the effect of restorative justice on reoffending are largely positive (e.g. Bonta et al., 2006; Hayes, 2005, 2007; Latimer et al., 2005). Bonta et al. (2006), for instance, in a recent meta-analysis of thirty-nine studies that had evaluated the impact of restorative justice programmes on recidivism found that, on average, restorative justice initiatives were associated with a 7 per cent reduction in recidivism. The currently available evidence base, then, supports the idea that restorative justice can help to reduce crime, although the magnitude of its impact may be relatively small

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Restorative justice is no panacea. Not all victims are satisfied with the outcomes, not all offenders are changed in ways that are likely to reduce offending, and restorative justice may not be appropriate for all types of offending. Moreover, there are likely to be significant institutional restraints on the more widespread implementation of restorative justice programmes (Tonry, 2006b). However, the currently available evidence base suggests that the outcomes of restorative justice initiatives are largely positive, especially for victims of crime, and may play one, albeit small, role in reducing reoffending