Restorative Justice

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Restorative justice can be defined as processes focused on the healing, reintegration and reconciliation of both the victims and perpetrators within a given post-conflict community. These processes can be enacted in both an official and local manner as people try to move forward and cope with their given situation.

Institutional Restorative Justice

Institutional forms of restorative justice can be applied on both a national and international level. Examples of institutional restorative justice include Truth and Reconciliation Commissions, national media, the development of school curriculum, monetary reparations, and symbolic reparations (including monuments, memorials, national holidays). Often economic and political factors play a role in the reconciliation process. Similarly, in different post-conflict regions, governments form different relationships and hold different levels of ownership over their own processes of reconciliation. For example, the process of institutional restorative justice in Indonesia did not begin until several decades after the 1965-66 conflict because the reigning New Order government remained in power and the climate of political fear and violence continued. Therefore, it is often necessary for a transition of government to occur in order for these processes of reconciliation to begin.

A Blurred Line between Institutional Restorative Justice and Retributive Justice

Institutional restorative justice is a “top-down” approach towards societal reconciliation. However, because post-conflict governments are often responsible for the judicial and legal processes surrounding human rights abuses, there are times in which the lines between restorative and retributive justice are blurred. In more general terms, retributive justice is meant to focus on the punishment of the perpetrators, while restorative justice tends to place a larger emphasis on truth telling, reconciliation and the reintegration of members of society. This confusion of language can similarly create confusion surrounding the goals of a TRC for example. In some cases, their fusion can be beneficial because, by including the perpetrators of a conflict in this process of reconciliation and by giving victims ownership of the testimonial and reintegration process, these goals of reconciliation can be achieved more effectively within the framework of the local society.

An example of this is shown by the Gacaca courts of Rwanda where traditional methods of communal law were enacted in order to achieve reconciliation between the victims and perpetrators of the 1994 Genocide. This forum was adopted in an attempt to integrate local traditions and official procedures of prosecution as a means of establishing unity within the community, while officially reintegrating perpetrators back into the society. [For further information, please see Multimedia Materials on the Aftermaths homepage]. A similar approach was taken in Sierra Leone. Several of the Special Courts of Sierra Leone chose not to persecute child soldiers, and thus were able to engage the entire community in addressing the needs of the victims by focusing on processes of truth telling and reconciliation, rather than retribution.

Unfortunately, the blurring of the lines between restorative and retributive justice can sometimes have negative consequences as well. With the Gacaca courts, for instance, prosecution of the perpetrators fell largely in the hand of the victims, inhibiting them from giving testimony due to fear of future violence. A very similar situation also occurred during the TRC courts of Sierra Leone as victims similarly fear future retribution from ex-combatants. Therefore, it is crucial that government sponsored reconciliation programs take a direct look at the monetary, emotional, and safety needs of the victims within a given community.

Truth and Reconciliation Commission in Moyamba, Sierra Leone, 2003 (Photograph courtesy of Rosalind Shaw)

No “Cookie-Cutter” Solution
It is also crucial that institutionally enforced forms of restorative justice examine the historical and cultural context of the community. In contrast to international retributive organizations (like the International Criminal Court), which enforce international law, institutional restorative justice cannot apply "cookie-cutter" solutions to a post-conflict region because each community has a diverse and complex set of needs. For example, Dwyer discusses in her article "Posttraumatic Politics," how Post Traumatic Stress Disorder (PTSD) assistance programs have become, "[...] packaged as a standard component of humanitarian relief efforts and postconflict aid programs," such as Indonesia. And while these treatments are often beneficial to the people they serve, Dwyer also notes that it has become increasingly important for relief programs to pay specific attention to how trauma "engages with particular social, cultural, and political contexts," and to put the internationally applied program within a region cultural and historical framework.

**Truth and Reconciliation Commission**

One of the most common forms of institutional restorative justice is the Truth and Reconciliation Commission (TRC). Although several TRC’s have been known to adopt aspects of retributive justice, the main goals are to create a historical record of the violence that occurred, to address human rights violations, to respond to victims needs, and to promote national reconciliation. While TRCs have been effective in several post-conflict regions at promoting national unity and uncovering human rights abuses, they are face several challenges. For example, in Sierra Leone, the procedures of the TRC were not necessarily aligned with the cultural practices of the people or the historical context of the region. For instance, as the people of Sierra have lived for many years with the constant threat of violence, it has become a societal norm for emotions and personal testimonies to only be shared within small circles (a practice that historically dates back the time of slave trade). But rather than address local enthusiasm for the “forgive and forget” approach, the TRC instead implemented its own values of truth telling and testimony over the healing and forgetting processes valued by the people of Sierra Leone. Therefore, it is disputed whether this institutionally sponsored forum for public testimony was beneficial for the people of Sierra Leone because it interrupted local reconciliation processes and his not take into account the historical context and vocalized needs of the people.

**Sources:**


Greater Boston Anthropology Consortium

- Hillary Sieber

**Local Restorative Justice**

Restorative justice seeks to restore relationships within a community that has been torn apart by a conflict as we see in Finnstrom’s account of Uganda. Personal resolve to move on and reconcile on an individual level fuel the larger goals of restorative justice as demonstrated by the efforts of the people in Indonesia in 40 Years of Silence.

**Restorative Justice In Uganda**

![Drinking the bitter root: Performing the Mato Oput Ritual](image)
In Uganda, Finnstrom describes the Mato Oput ritual—originally a ceremony used to reconcile homicides, accidents and other unnatural deaths—which was used to reconcile the perpetrators with the victims of the conflict in Northern Uganda in order to restore order and harmony in the community. The different steps of the ritual have symbolic meaning that correspond to the steps of restoring the relationships, such as the drinking of the "bitter root" to wash away the bitter feelings. "Justice" is achieved here through accountability: when the perpetrator of violence owns up to his actions and compensates the victim.

This ritual is an example of how a community adapted an existing tradition and coping mechanism to apply to the greater trauma of the conflict. This form of justice is a community effort to reintegrate and reconcile with oppressors who were at one point also members of their community. However, oppressors and victims first need to see each other as equals, which is why the LRA will never drink the bitter root with the Ugandan military and government, as the government continued to hold a patronizing position over the LRA. Finnstrom describes the restorative justice approach as in the spirit of the Acholi people: "Compensation and reconciliation rather than revenge or blood vengeance is the institutionalized Acholi way of handling disputes, homicides, and unnatural deaths." Finnstrom references Dwyer's analysis in which he explains, "Compensation maintains order, but revenge perpetuates chaos.*

Personal Healing and Reconciliation in Indonesia

Lanny prays in a scene from 40 Years of Silence

Many people, as we saw in 40 Years of Silence, are focused on making peace in order to move on, rather than seeking justice. For example, Lanny, whose father was killed, said that while hatred allowed her to survive, it also "killed" her. She began to focus on organizing relief for her village. She also turned to Buddhism to refocus her hatred. She wanted to "do good things for the future," to inspire goodness in others rather than perpetuate a divide in her neighbors and friends. Budi, who was very angry and expressed desires for revenge in footage from early the early 2000’s, reconciled with his memories by focusing his anger into his sport and his brotherhood. Both of these individuals recognized a need to rebuild and move on, rather than obsess over the past and getting justice—especially when the search for revenge was futile. Budi describes this change in outlook as "returning to the light.”

Challenges

While personal reconciliation and restorative justice can work to reparation the relationships among neighbors and even for a whole community, it is a small-scale effort. As it is a very intimate process, it cannot be used for nation-wide reconciliation. Additionally, as mentioned earlier, victims and perpetrators of violence must view each other as equals, something that may be easier for individuals who used to be neighbors, but not as easy for a government entity that must admit equality with a rebel group before it can partake in a Mato Oput form of restorative justice. The attitudes of restorative justice, seeking to move on, compensation for crimes, and reintegation of oppressors into the community, do not align with the international view of justice, which encourages justice through retribution.

Sources:


-Mae Humiston