

C. For the Skeptics and Idealists: what Restorative Justice is *not*...

The term “restorative justice” has been around long enough to be misunderstood, and occasionally misused. Not long ago, a Northern Ireland government official was in a radio interview and dismissed restorative justice: “Oh, I’ve heard about restorative justice, alright. That’s when vigilantes shoot out knee-caps to teach people a lesson.” So, let’s outline what restorative justice is *not*:

- **Forgiveness, reconciliation.** Some practitioners call forgiveness the “f-word.” Restorative justice can sometimes lead a victim to forgive, but it is not the goal of the process. Making it an expectation – even in subtle ways – can place a heavy, unfair burden on the victim. Furthermore, reconciliation is not a requirement. Victims may always be upset about what took place but the process may have answered important questions. C4RJ does not mention the term “forgiveness” unless the victim initiates. C4RJ offenders are also encouraged to not demand it.
- **Only for youth.** In the U.S., there are now more programs taking adult referrals than juvenile referrals. If restorative justice seeks to better serve victims, why should the process be unavailable to them because the offender happens to be 17 (and thus considered an adult by criminal justice definitions)?
- **Diversion.** The term “diversion” is popular in criminal justice and refers to practices that divert juvenile, first-time offenders from the court system (it’s generally not offered to adults or offenders with a longer rap sheet). The goal is to keep youth from getting on the wrong track, ending up in more trouble, and straining the system. Many diversion efforts do harness some community engagement (e.g. by prescribing community service hours). Restorative justice is different in that it actively seeks to meet victim/community needs as well as offering the offender opportunities to learn and be held accountable. Restorative justice is a collaborative process where repair is developed by consensus (vs. prescription) and is not limited to juveniles or first-time-offenders.
- **Closure, therapy.** For victims, the term “closure” can be hollow. Especially in cases of severe violence, nothing is ever “closed” after the incident, not even if a restorative justice process is successful in every way. On the contrary, life can be raw, open, and ugly. For offenders, the term may be less prickly. Many are eager to put the incident behind them, to know that they have done their best to make right. While the restorative justice process can be therapeutic, it is not designed as therapy. Restorative justice practitioners encourage other therapeutic interventions.
- **Easy on offenders.** If an offender were to appear in court, several things would make that appearance “easy” for him/her. Firstly, s/he would likely be represented by an attorney who would speak *for* him/her. Rarely would an offender speak for him/herself. Secondly, the offender would rarely see the victim (depending on the charge, other criminal justice officials represent the interests of the victim), much less speak to that person, or hear from him/her. Very often, the reality of an offender having caused harm remains distant, and more easily minimized. Thirdly, the offender is a *passive recipient* of the decisions made in the court room; court officials decide on the appropriate response (restitution, community service, 6 months of “good behavior”, etc.) and the offender merely complies. This “slap on the wrist” rarely asks the offender to closely examine his/her behavior or learn from it. Restorative justice is not *easy* on any of these counts. It asks offenders to speak for themselves, address those harmed, and compose repair.
- **New.** At last count, there were 291 programs in U.S. alone, dozens in South Africa, Norway, N. Ireland, New Zealand, Canada, and even South Korea. Since restorative justice has much in common with indigenous systems of justice, it tends to take root in cultures that still take cues from indigenous values.
- **Mediation.** Mediation assumes that the parties are on equal moral footing, that the balance has not been fundamentally upset. Rather, the parties in mediation may have a misunderstanding, or disagreement and the goal is to seek resolution or understanding. In restorative justice, one party has clearly harmed another and the process is about seeking accountability and repair.
- **The opposite of/substitute to existing system.** The criminal justice system has great value. It seeks to be equitable and proportional, it seeks to preserve the rights of individuals, and it helps maintain safety and security of the citizenry. Those functions are important, and should not ever be replaced. However, there are elements of the criminal justice system that may not adequately serve the needs of those affected by crime. Restorative justice is most accurately viewed as a *complement* to the current criminal justice system, not its *replacement*.
- **A specific program or blueprint.** Restorative justice is not a single off-the-shelf software package that can be installed as program in any community. It is a set of principles that give rise to programs and process in a wide variety of settings.
- **An umbrella term for everything out-of-the-ordinary.** There are many innovative practices out there to respond to wrongdoing: youth courts, drug courts, peer mediation, diversion, and student-led disciplinary hearings among others. Fully restorative practices all subscribe to very specific principles that require stakeholder inclusion in a non-coercive environment with the aims to address harms, needs, and obligations and to make things as right as possible.
- **A panacea.** Despite the enthusiasm for restorative justice that you may hear at C4RJ and elsewhere, not every criminal matter is appropriate for the process, not every case results in Disney butterflies and twittering birds, and world peace is not imminent. However, it can play an important role in cases where the participants engage voluntarily and meaningfully.