

RESTORATIVE JUSTICE AND PEACEMAKING CIRCLES

The basic idea of restorative justice is quite simply to turn to dialogue between victim and offender in order to seek a mediated solution without having recourse to the courts. Approaches to restorative justice vary primarily in terms of the parties involved. Basically, the mediation moves from the two or few individuals immediately involved to a whole community of people impacted by the crime. Let us see how.

Victim-Mediator Mediation (VOM) was started in Ontario, Canada in 1976. In the year 2000, an estimated 1200 programs operated worldwide. The term mediation is sometimes replaced by dialogue, conferencing, reconciliation, etc. In this approach a solution is sought after the offender acknowledges responsibility for his crime, and fully understands the consequences of the act he has committed. The trained facilitator moves the process towards a settlement that meets the needs of the victim. This agreement can involve monetary or labor restitution, some form of apology, community service, etc. In this approach victim and offender have more possibilities for finding support systems within their own communities.

We can move a step further with Family Group Conferencing. In this approach, not only the two key participants are involved but also family, friends and those most involved in the lives of both parties. The facilitator identifies the key participants through the input of victim and offender. The victim directs the process toward expected outcomes that would satisfy his desire for restitution. The addition to this second approach is that all participants have a chance to describe how the crime has affected their lives. The offender can thus have a larger perspective of what repercussions his acts have on the web of social relationships, not only on the victim.

Both Family Group Conferencing and VOM are used for minor crimes such as cases of vandalism, minor assaults, theft, arson, drug offenses, etc. Both forms of mediation, or indeed the whole approach of restorative justice, offer victims a means to become more involved in satisfying their needs. They receive more in terms of restitution and also feel safer in the community than those turning to traditional justice. Offenders accept more readily to offer restitution and are more likely to modify their future

behavior. We will now move to a larger process that has been originally called Sentencing Circles and is now known as Peacemaking Circles.

Sentencing Circles were first introduced into the criminal system in Canada in the eighties as an alternative for passing a sentence on a guilty party.¹ At present their use is growing, particularly in juvenile justice. In order to facilitate the reinsertion of the youth into school, community, family or workplace, the Circles may be initiated a year previous to release and may be continued for as long as a year after. Circles are also used with adult offenders serving long sentences, in organizations working with ex-gang members or youth at risk, particularly when violence escalates. They can further be adapted to a wide variety of needs such as Circles of Support.

However, they are not appropriate for all kinds of conflict. Their limits lie in the fact that they require planning, human resources and commitment. Circles work best for complex cases that are open-ended, since they allow exploration of all aspects of a crime for both curative and preventive work affecting the whole community. They also deal well with problems of mixed responsibility, gray areas of culpability with no clear-cut definition of victim and offenders. They are a very good choice for crimes within a community of people who know each other (e. g.: tribal conflicts). They later serve as an ongoing practice for community-building, capitalizing on the accumulated experience of its members.

Peacemaking Circles have been adapted from Native American practice and are in fact a hybrid of old and modern concepts. They draw from Native American traditional practice and, particularly from the teachings of the “Medicine Wheel” or “Sacred Hoop” according to which life is articulated in rhythms and cycles.² The Medicine Wheel is a circle that the four directions split in four quadrants. To each directional space corresponds a notion to be integrated.

The four dimensions that Circles incorporate in their functioning are:

- Physical: the logistic dimension of the Circle: the location, use of the space, the physical arrangement of the participants, refreshments, schedules, breaks, etc.

- Mental: addressing all the needs present in the situation that the crime has disturbed; gathering information and making it available to all parties; structuring of the Circle or Circles; paying close attention to what is said, etc
- Emotional: ability to express feelings and emotions safely; creation of a safe space where participants can hear and understand each other.
- Spiritual: setting of values and guidelines, encouragement of self-connection, use of ceremonies, incorporation of music, dance, art, etc.

The above four steps can be summarized in: getting acquainted, addressing issues, building understanding and trust, developing vision and a plan of action. Traditional justice cannot accomplish this overall vision because it does not address the emotional and spiritual dimensions of crime.

Let us delve deeper into the essence of Peacemaking Circles and detect what constitutes the spirituality of human relationships, embedded and hidden within the mundane dimension of restorative justice. To best understand the dynamic use of Peacemaking Circles one should look at the inner and outer framework of reference. These form the roots and trunk upon which the practice of the Circle can yield fruits of reconciliation, connection and community-building. Quite simply we could say that on the inner side of the equation rest the values that the Circle wants to embody, the atmosphere of respect and trust that allows the Circles to include all parts in a conflict, their ability to be accessible to all and be designed anew by each group according to their needs. The external structures of Circles are the following: the role of the “keepers” that help maintain the integrity of the Circles; the importance of the “talking piece,” the practical guidelines deriving from the values adopted, the opening and closing ceremonies and the process of consensus in decision making.

Let us turn to the inner frame of reference. Values central to the particular Circle are explored and defined together. Values are not tools to be used, rather attitudes to embody; “values are not about *how* to do a Circle but how to *be* in a Circle” add the authors of *Peacemaking Circles: from Crime to Community*.³ Values are such an essential starting point that discussing them can take hours or even days. Some of the most often

recurring values are: respect, honesty and trust without which the possibility to share our life stories and experiences could not be carried within a Circle. Other important values are inclusiveness, empathy, courage and forgiveness, among others. In fact all the values that go to sustain good relationships are those most important in time of conflict. To embody these values the preparation often includes a preliminary workshop that explains how Circles work. Each group designs its own process, according to its own values and according to the goal to reach (support, sentencing, follow through, etc.) Moreover, the process evolves organically according to the needs of the moment and may be quite different three months, six months or a year down the line. Building the Circle for the specific use is in itself an opportunity for deepening relationships and commitment.

Circles include all interests and maintain respect for all. The more encompassing and the more diverse the participation the deeper and more effective the solutions promoted by the Circles are likely to be. In fact it is very important to reach to those with the most challenging views and those very people who oppose the Circles process (e. g.: initially people within the justice system often do). When any perspective is absent the Circle has to be mindful to include it in its consciousness. When all perspectives are present the likelihood of conflict increases too and careful preliminary preparation is all the more essential.

Circle processes are accessible to all. They are transparent and participation, although strictly voluntary, is open to all and not limited by level of knowledge, financial resources, skills, connections, etc. In fact there are no official roles in a Circle. A judge, a lawyer, a police officer strictly represent themselves.

From all of the above Circles derive their ability to explore matters related to crime to its roots. Overtime the process moves from repairing the immediate damage to preventing future one. Like many other similar modalities Circles operate on the realization that solutions naturally follow connection. Once order is brought into the web of human relationships through tolerance and forgiveness, practical steps are immediately possible.

Circles rest on a few important external elements. To recapitulate these are: the

role of the “keepers”; the importance of the talking piece, the practical guidelines that mirror the values adopted, the opening and closing ceremonies and the process of consensus.

Keepers are not the leaders of the Circle; they don't direct it but help participants direct it. They are not exactly facilitators or mediators neither, although both skills are foundational. They render possible an inclusive dialogue, uphold the consciousness of the Circle and promote leadership skills in others. Although they hold a position of responsibility toward others, they work most effectively when they encourage everyone to realize that they are co-keepers. If the keeper played a prominent role the others would not step forward. For the same reason keepers are also participants on equal footing with the others: they express their feelings, their views and opinions like all other individual participants.

The whole range of keeper responsibilities is an ideal of service toward which to strive for a lifetime. Keepers welcome everybody. They often model behavior by showing how to be vulnerable when offering a life-story. When called to give an opinion they tend to speak last so as not to influence unduly the process. Keepers turn their attention to hearing all necessary perspectives, making sure that all concerns are given equal attention, and that no important concerns are missing. They hold the integrity of the space, especially when intense emotions come to the surface. They do not shrink from intensity of feelings; rather they honor it and allow it to bear fruit for the whole. On a practical level keepers set the direction of the discussion by focusing on particular questions or themes, by providing summaries and reflections. They are mindful about the pacing of the meeting and balance time of sharing with that of breaks, ask for adjournments, etc.

The talking piece is an essential symbolic object that helps to model the sacredness of all-inclusive participation and focus upon one person at a time. To quiet people it ensures that they will have an opportunity to share and those who talk most learn to listen more deeply. The talking piece is a powerful statement for equality, for slowing down the pace and for silence. It is also used, through the power of the symbol chosen, as a reminder to share truthfully and from the heart.

Keepers explain how guidelines are tied to values in the opening phase of a Circle. They explain them and then they seek consensus, asking for additional suggestions. In fact each time the Circle convenes the guidelines need to be renewed. Recommitting to the guidelines is a sort of ceremony of mutual commitment to build and preserve a sacred space for sharing. Some of the most recurring guidelines are: respect for the talking piece, speaking from the heart, listening with respect, remaining in the Circle, honor confidentiality. The keeper uses a variety of skills in reminding the participants to honor these common agreements.

Ceremonies form important transitions in Circle practice; they are used at the beginning and end. They should use rituals that are easily accepted; thus in most instances non-denominational, drawn from different traditions, non-threatening and welcoming participation. To be effective rituals work best when people can understand their meaning, are comfortable with them and feel free to participate or abstain. In fact ceremonies can be used as ice-breakers, introduce lightness, humor and relaxation as well. Opening ceremonies are very important to help people center and move into a heart-space, to deepen listening, generate respect, offer a feeling of connection; inspire participants to act on their values.

Consensus decision-making is not usually well understood. It does not necessarily mean unanimity; this in fact rarely happens. However consensus does not mean compromise. The prerequisite of consensus is deep honesty, which implies accepting complexity and avoiding quick fixes. This is the foundation that allows to move to solutions that incorporate as much as possible everyone's needs and interests. When there is no unanimity the participants at least agree to "live with the outcome" that promises the most for everyone in the given circumstances. When a consensus has been reached in which a party is not fully satisfied the responsibility falls on it to express its concerns clearly and to the others to listen to them fully, so that ways will appear to strengthen the plan of action in the future. In fact, if that is not done problems will occur down the line. It lies therefore in everybody's interest to try to incorporate what has been left out of the earlier consensus stages. Consensus is a long-term process understood as the ultimate reality that no sets of needs and values are irreconcilable; only the imagination that

allows this possibility may be limited at any given time.

We will now look at how Peacemaking Circles work in the context of restorative justice. The process of dealing with crime can take weeks, months or years according to what is involved in the situation. The Sentencing Circle constitutes the most important part of the process but it is preceded by a lengthy preparation and is followed by a careful follow up. Support groups are a key component of the process. They come before and after the Peacemaking process. Schematically the stages can be characterized as follows:

- Stage 1: determining suitability through Interview or Application Circle
- Stage 2: Preparation through Support Group Circles
- Stage 3: Peacemaking (Sentencing) Circles seeking a consensus
- Stage 4: follow up and maintaining accountability through Review Circles and Support Group Circles

Let us look at the central process of the sentencing (stage 3). Pronouncing a sentence is the end stage of a journey of self-awareness and transformation. Everyone can be changed through the process and will further grow through the later stages of Circles.

The sentencing stage of Circles can be schematically divided in five steps. Other Circles are simplified versions of the Peacemaking Circles whose goal is much more encompassing. The five steps are:

- Opening and “storytelling”
- expressing needs and interests
- Exploring options
- Building consensus
- Closing

The three middle phases are not followed in a linear way. The keeper may elect to go back and forth, a little like one would do in a mediation process. During the opening the participants share in a ceremony and come to a consensus about guidelines. Then follows a round of storytelling in which participants share content from their biography. Stories that may seem not immediately relevant, serve to organize information because they offer a context for the impact of crime. In addition many of these are sources of

inspiration and hope. This whole phase is seemingly unrelated to the content proper but is essential because it offers the connection and quality of relationships that can form a vessel capable of containing the most volatile emotions.

In the second step legal information is reviewed and additional information offered. The support groups and other groups share of their work. In a second round people share all their feelings and concerns. At this point intense emotions can come to the surface and the keeper makes sure to receive them with trust and respect. The keeper closes this phase by reflecting feelings, needs and concerns.

From reviewing the past it is then possible to move into the future by exploring available sentencing options. Circles go beyond the immediate issues at hand in two directions: inwardly, towards people's experiences and stories, outwardly, to the larger context of the crime. The two complement each other. The inward focus encourages change at the personal level; the outward encourages collective change. At this stage emerge creative solutions. The Circle looks at addressing the harm done to the victim, restitution offered by the offender, and finally the deeper issues of the crime and how to address them. It is the Circle not the keeper that comes up with the sentence. Sentencing becomes much more free and creative than it would in a normal court. Consider the example of the cocaine dealer asked to do community service with crack-addicted babies in the local hospital and be personal care-attendant for a gunshot victim.

Even in case of lack of total consensus, once the resolutions are brought to justice, the points of agreement will be incorporated by the judge in the official court sentence. Thus the time and effort of the Circle is not lost and the work of the court is made easier through the additional information it can draw from.

In closing the keepers review the points of agreement and of disagreement. A round may be devoted to make sure that everything has been incorporated into the decision. The closing also involves a final round of reflections, not about the contents but about the Circle process, in order to honor the transformational and healing process just experienced. A closing ceremony seals the mood thus created.

A successful Peacemaking Circle is the beginning of a next stage. Follow up is

critical; in fact one of the greatest challenges of the successful use of Circles. The offenders have to comply towards those that have supported them and they may need further support. Reviews are useful to them and to the community. They also serve the purpose of revising objectives in ways that are accepted by all. It is important to keep supporting offenders so that they trust the process and that other offenders will come forward in the future. Review Circles also have the important task of celebrating progress. Follow up is the practical step of establishing a new culture, of transforming what has been done within the Circle and rooting it into habit in daily life.

Circles promote a culture of celebration and a different way to envision failure. Celebrating little and large individual milestones is important; it will help keep momentum during the darkest moments. Failure is evaluated differently. Accidents along the way are often unavoidable, especially with people who have a past of “failures.” Circles celebrate the uniqueness of individual development with its own utterly personal phases and rhythms, and promotes understanding and support for individual struggles. This is important in the perspective of having realistic goals. The real failure is the abandonment of the Circle process.

The talking piece reinforces the notion that we are entering a space of sacred relationships. A Lakota circle keeper expresses it thus: “In a Circle, when each person speaks with the talking piece, it’s like a prayer.” Holding the talking piece could be compared to giving an oath. The piece is in fact chosen in order to embody as much meaning as possible in relation to the people present and the issue at hand. It should be chosen carefully and the participants should take time to make a good choice.

Finally, the most sacred aspect of Circles work is the willingness to affect each other’s lives and to enlarge the notion of individual responsibility. A crime is most often the result of a torn social fabric. It has a history of progressive steps that led to it. Responsibilities are shared along the way, that fall upon various members of the community, be it through omission, tacit acceptance or unconscious participation in the steps that lead to crime. Bringing reconciliation hardly means absolving the offenders. These in fact often realize that the sentence given in Circles isn’t any easier than what they would receive in court, but they know that they are been given a level of support and

the ability to grow that jail would not offer them.

Keepers play a unique role that differentiates them from being a pure leader, facilitator or mediator. The keeper is not and cannot feel that she is responsible for the outcome, nor can she direct the process towards particular solutions she favors. The best of keepers performs her work almost invisibly. She is aware of the importance of taking care of all aspects of the process: physical, mental, emotional, spiritual. Ultimately she must be deeply committed to spiritual self-development. Even, with this goal in mind, her participation remains utterly human and her presence equal to that of others.

Circles question many assumptions of our social life. First among our assumptions is the notion of conflict, which forms the heart of Circle process. Since conflict cannot be avoided, the real question is how to be able to use it; this is the bottom-line message and the very justification for a Circle. In fact new, creative outlets cannot be introduced in the social body without conflict. Thus conflict should be seen as an opportunity and allowed, not suppressed, albeit skillfully handled. Intense and charged emotions need come to the surface in a Circle because people are called to be real and to be known integrally. The universal experience of human grief is thus transformed and given meaning. This is also why, everybody's grief needs to be known. We don't solve a problem by segregating individuals. Rather, both victim and offender need to be reintegrated in the fabric of the community.

Peacemaking Circles move away from the common dualistic perspective of good and evil that forms the foundation of our legal system. According to that approach only punishment and rewards can affect behavior. Inner, spiritual development plays very little part in a legal sentence or in time served in jail.

Circles or similar forms of restorative justice further move to that space where needs, believed to be mutually exclusive, can be reconciled. In some instances a victim in one case is an offender in another; they are part of a cycle. The energies that are wound up around pain, fear and hatred can be released towards connection, collaboration and transformation. In this perspective connection – the realization of what is universally human – is the foundation for resolution. Exploring differences in an atmosphere of trust

and respect is what brings resolution to Circles.

Examples like Circles are first steps in which we move from the political view of social change to a cultural perspective. Communities can start seeing Circles as a way to tackle larger issues and societal problems, and thus reclaim their own resources. In our present democratic system solutions are shaped by majorities and minorities are protected by law. Consensus building goes a step further by incorporating all needs. In this perspective no sets of needs has less importance, or can be swept aside. Ultimately Circles move us beyond the need to rely on enemy images by giving us another understanding of the other.

In finishing we will look at an example of the application of Peacemaking Circles to a situation of social unrest – the polarization that followed a state workers’ strike at a juvenile residential facility.⁴ The initiative to call in a Circle was taken by administrators at the facility, and this was followed up by a first half-day Circle to introduce the procedure and a second day-long Circle a week later.

The first Circle placed the core values of the residential program as the values that would govern all practical guidelines. Since students could not be brought in, the workers were asked to keep envisioning a larger Circle of students surrounding the circle of those present. The first Circle was naturally introduced through ceremony and an introductions round. Then the members were asked to express what they needed in the Circle in order to feel safe. After that the process explored the issue of the strike by asking all members to write on an index card how they had been affected by the strike, meaning how they had been impacted and how they felt they had harmed others. The cards were simply collected and the participants invited to share from them at the next Circle if they so wished. The gathering was brought to an end with a brainstorm on what the workers wanted to see happen in the next three months at the facility.

The second Circle started with the usual steps. Then the participants were asked to look at what had been most stressful in their experience of the strike. This was followed by a round in which the individuals had a chance to share from the impact statements written the previous week. This offered some the opportunity to offer apologies. This offered the natural setting for the next round in which people looked at how to move on,

what could be done to address the issues that had been raised. The step was consolidated by stating individual commitments to concrete steps.

NOTES AND REFERENCES

- 1) *Peacemaking Circles: From Crime to Community*, Kay Pranis, Barry Stuart and Mark Wedge, (St. Paul MN: Living Justice Press, 2003), 21.
- 2) Ibid.
- 3) Ibid., 49.
- 4) *The Little Book of Circle Processes: A New/Old Approach to Peacemaking*, Kay Pranis, Chapter 3: “A Circle Story: Finding a Way to Move Forward After a Worker Strike” (Intercourse, PA.: Good Books, 2005).