

Challenging Power Dynamics in Restorative Justice

Mikhail Lyubansky and Elaine Shpungin¹

Department of Psychology

University of Illinois, Urbana-Champaign

Power dynamics play an important and often unacknowledged role in restorative processes. At the societal level, variables such as race, gender, age, sexual orientation, and socioeconomic status interact to create explicit and implicit biases towards members of some groups. At the restorative system level, unquestioned paradigms around the roles of victims, offenders, gatekeepers, and facilitators may contribute to inequitable access and procedures. Finally, at the restorative process level, facilitation and practices that limit participation and ownership may contribute to participant disempowerment. When power dynamics within these three levels interact and influence each other, they result in less restorative processes and outcomes for all. The chapter concludes with recommended strategies to counteract these power dynamics and increase the field's alignment with its values of power-sharing, ownership, choice, and voice. These recommendations include: cultural competence education for facilitators, the standardization of the RJ process in relation to the victim-offender role, the elimination of RJ gatekeepers, the inclusion of community members and youth as facilitators and process co-creators, and attention to facilitation that maximally empowers participants to do their own restorative work.

Subject Index: colorblind ideology, community involvement, criminal justice, cultural competence, empowerment, facilitators, gatekeepers, implicit bias, intersectionality, justice, multi-partiality, needs, power, power dynamics, procedural fairness, race, racism, restorative justice, restorative practices, Restorative Circles, victim-offender paradigm

Person Index: Dominic Barter, John Braithwaite, Nils Christie, John McDonald, Anita Wadhwa, Howard Zehr

¹ The two authors contributed equally to this work.

Modern societies are plagued by differential access to human rights and “justice” created by the intersections of group membership and social status. At its heart, the modern restorative justice (RJ) movement aims to address some of these inequities by giving voice, power, and choice back to the communities in which the crime or painful conflict took place (e.g., Christie, 1977). However, we contend that most modern RJ practices inadvertently mirror and exacerbate existing power dynamics, and, in some instances, even create new artificial power hierarchies that were not previously present. We further contend that, although they exert both subtle and explicit influences on RJ processes and outcomes, power dynamics have mostly been under-studied, under-discussed, and under-appreciated by the restorative movement.

In this chapter, we first describe the way these power dynamics manifest at three ecological levels²: (a) societal attitudes and beliefs, such as implicit racial biases (macro-level); (b) restorative systems, such as the “victim-offender” paradigm (exo-level); and (c) restorative processes, such as participant disempowerment (micro-level). We then offer strategies and recommendations that can help counterbalance these power dynamics at multiple levels of the system. We approach this work as both academic psychologists³ and RJ practitioners⁴ with facilitation experience in various contexts including university residence halls, intentional communities, academic departments, the juvenile detention center, schools, churches, and families.

Power Dynamics Within Society: Implicit and Explicit Biases

² These ecological levels are dynamic and interactive, and power dynamics manifesting at any level affect the others. Similarly, each of the recommended strategies, while being nested in a specific level, is understood to affect power dynamics at multiple levels.

³ In addition to restorative justice, our academic interests include racial justice (Mikhail) and community psychology (Elaine).

⁴ We both facilitate a community-based restorative process developed in the Brazilian favelas by Dominic Barter and associates called Restorative Circles. See <http://www.restorativecircles.org>

Power dynamics within society are created when individuals with structural power hold (and therefore act upon) *explicit and/or implicit biases* based on *group-level characteristics*, such as race, gender, ethnicity, immigration status, socioeconomic class, caste, religion, sexual orientation, age, and disability. These rays of social location are not unidirectional but intersect in complex ways (e.g., gay, Christian, female, professor) with some intersections being differentially salient in diverse global and local contexts (e.g., Nash, 2008). As will be discussed below, the power dynamics created by this intersectionality are both ubiquitous and covert. It is thus our contention that unless individuals explicitly attend to the privileges associated with their group status, the power dynamics resulting from the intersectional identities will create tears of inequity in the fabric of restorative justice. Below, the examples of social status and racial status are used to illustrate the point.

Explicit Bias: Social Status

Explicit racism is increasingly taboo, but it is still normative and socially acceptable in many communities, especially at the intersection of gender, age, and poverty, as is readily evident in the increasingly frequent usage of “thugs” to refer to young, black males living in poverty. More saliently, it is common for individuals to hold shared beliefs about which groups of people in the community deserve more respect and deference. For instance, in many communities around the world, it is an explicit value that adults (parents, teachers) and elders are to be treated differently than children and adolescents. Similarly, for many people, professional status within the community (e.g., mechanic versus professor), or within a specific organization (e.g.,

doctor versus nurse), carry unquestioned rules around deference and respect that may show up in social manners, language, and habitual differential treatment.

In a restorative process, this may exhibit itself, for instance, as men asserting power over women, or adults asserting power over young people. Wadhwa (in press), writing about the school context, describes multiple examples, including a circle of 19 high school students in which boys outnumbered girls two to one. In this circle, the author is an *adult participant* and the facilitator is a youth.

I continue to hear a lot of crosstalk among the boys. Lincoln says, “I was so hungry in the middle of the night!” When I turn toward the boys, I see Romero making a gesture toward his friends; he flits his tongue in and out between two fingers shaped in a V, a reference to oral sex on a woman. I get the piece and say, “Even though people think words don’t impact people, they definitely do. And actions also impact people.” I ponder whether to derail a conversation from a talk about race to what I’ve just seen. My decision to speak up about the sexual gesture is fraught; was I perpetuating a youth-adult dynamic in which I called upon my power as a grown up to essentially discipline him for his action? “Romero, I just saw what you did and it really grosses me out.” Lois, traditionally one of the more vocal females in circle, says, “I saw you too.” It takes him a minute to understand what I’m referring to and then he starts laughing, covering his mouth. He says, “Oh! I didn’t know.” Lois whispers to Monica, “We should do a circle on sexism.”⁵

This example shows the complexity of intersectionality. The facilitator, the boys, and the affected girls are all adolescents. The adult is a participant who can exert her age-related power to advocate for the girls, at the risk of silencing or reprimanding the boys. While the focus of this example is the intersection of age and gender, such dynamics can also occur along other previously discussed lines (e.g., race, ethnicity, religion). Because Wadhwa is aware of these dynamics, she navigates them with caution and awareness. When those with structural power are not aware of the weight of their words and actions, they can inadvertently affect the extent to which the process is

restorative for all. For now, we simply point out the way power dynamics may play out between participants. Later, we will discuss how the restorative system, and facilitator biases, also play important roles in such interactions.

Implicit Bias: Race

Implicit bias refers to bias in judgment that operates without intentional control and typically without conscious awareness. Because of its salience in the U.S. context in which we are based, and because of the preponderance of data regarding racial inequities (see Lyubansky & Hunter, 2014, for review), we use racial status in the United States to illustrate how one kind of implicit bias may operate in one particular global context. We invite readers to use this example to examine dynamics that are likely to be present within their own community and national context.

In the United States (and other global contexts) individuals who are perceived to be white enjoy many unearned benefits related to employment, education, medicine, housing, the legal system, and financial resources (McIntosh, 1998). Multiple studies have shown that perceptions of race significantly affects the unconscious behavior of police officers, attorneys, jurors, and judges, as well as health care providers, school staff, landlords, salespersons, and many other professionals (Staats, 2014). This difference even shows up in studies in which concocted resumes, or emails to professors, are identical except for the presence of an ethnic sounding versus Caucasian sounding name (e.g., Bertrand & Mullainathan, 2003). In all these cases, the perception of *non-whiteness* creates barriers to obtaining home loans, decreases chances of an interview, and negatively affects treatment by teachers, professors, and doctors. In the legal sphere, being black or Latino increases one's chances of being searched, arrested,

accidentally shot, and imprisoned, even in laboratory studies (e.g., Sadler, Correll, Park, & Judd, 2012; Correll, Park, Judd, & Wittenbrink, 2002).

Importantly, the findings suggest that, while some are indeed overtly bigoted and prejudicial, most behave this way unintentionally, based on implicit biases of which they are not aware (Staats, 2014). The findings are so pervasive, so consistent, and so robust that Dasgupta (2013) suggests that everyone is vulnerable, regardless of his/her good intentions.

Despite this reality (or perhaps because of it), the last decade has seen the rise of the so-called “colorblind” ideology (Apfelbaum, Norton, & Sommers, 2012). This philosophy asserts that the most moral and effective response to racial inequities is to “not see color,” that is, to treat all people the same, regardless of their race or ethnicity.

The colorblind approach, while appearing just, actually serves to deny the racial reality of U.S. life. To use a metaphor, not seeing color is akin to treating the results of all contestants in a race the same way at the finish line, even though some competitors had to carry heavy gear and jump over more obstacles, received less help along the way, or started the race at a further distance (Lyubansky & Hunter, 2014).

Notably, the negative effects of colorblindness on both those endorsing the ideology and on members of racial minority groups are well documented. For example, Burkard and Knox (2004) found that psychotherapists’ level of color-blindness was inversely related to their capacity for empathy with black clients, but not white clients, while Plaut, Thomas, & Goren (2009) found that dominant-group members’ colorblindness had a negative impact on their work colleagues’ psychological engagement with the job.

Power Dynamics Within the RJ System: Unquestioned Paradigms

Victims and Offenders

Differentiation of needs. The most invisible and insidious power dynamic present in the vast majority of restorative practices is based on a “core” RJ principle: that victims and offenders play fundamentally different roles, and therefore, have fundamentally different needs in a restorative process. For instance, Zehr (2002) explains that because victims are *violated*, they need: (a) information from the offender about what happened; (b) the opportunity to tell and re-tell their story; (c) empowerment through ownership of the process; and (d) restitution and vindication through reparative actions by the offender. On the other hand, because offenders do the violating, they need to: (a) take responsibility for their actions, express empathy, make amends; (b) address issues of competency, personal healing, and community integration; and (c) address issues of future community safety⁶.

While this magical combination (information sharing, empowerment, harm reduction, accountability, empathy, community reintegration, reparation, and safety) is undoubtedly the driving force behind the well-documented positive outcomes associated with restorative justice (e.g., Sherman & Strang, 2007), the parsing of these needs by victim versus offender unintentionally mirrors and exacerbates the power-dynamics found in the outside world, distracting from the act that needs restoration and reducing restorative outcomes for all (Gavrielides, 2013). This is because both victimhood and offenderhood are fluid concepts that are: (a) socially constructed by culture, media, and impacted stakeholders; (b) artificially assigned by gatekeepers

⁶ It is important to note here that Zehr’s RJ formulation also includes the presence of the community, which holds needs related to both victimization and co-responsibility, making their roles more fluid and complex.

based on limited legal definitions of crime; (c) muddled by contextual factors (e.g., domestic violence) and systemic inequities (e.g., unequal arrest rates for certain groups); and (d) often shared by multiple parties in a conflict (Shpungin, 2014). As a result, multiple people in a restorative process usually experience both victimhood and offenderhood and, consequently, the need for safety, empowerment, and information on the one hand, and healing, self-responsibility, and self-accountability on the other.

Fluidity of needs. Numerous cases studies from the media, the RJ literature, and our own Restorative Circles practice illustrate the inherent risks of assigning a-priori victim-offender roles and *systematically* treating individuals differently based on these. As just one example, one of our Restorative Circles revealed that the legal system's designated offender (a young man who had fatally shot another young man) was experiencing: (a) realistically founded fears for his life, via retaliation by the brothers and cousins of the deceased; and (b) significant un-addressed trauma and grief caused by the accidental firing of the gun that resulted in the death of his close friend.

Thus, in addition to his need to take responsibility, make amends, and integrate back into his neighborhood and school, the "offender" also had a clear need to "tell and re-tell" his story, remain safe from future harm, and experience some sense of empowerment in what had turned out to be a nightmare situation in his young life. At the same time, the deceased man's brother, who was seen by the justice system as the "victim", had needs that are generally associated with those we regard as "offenders". These included taking responsibility for his leadership in the revenge plan, which could have potentially led to a cycle of violence and multiple incarcerations that would affect the community at multiple levels, as well as co-creating (with the "offender") a new

restorative plan: a memorial poster for the deceased. This is just one of multiple examples where “offenders” experience victimhood and “victims,” if given the chance along with community members, benefit from the opportunity to explore self-responsibility, accountability, reparation, and the multi-directionality of conflict or violence in the relationship.

Gatekeepers and Facilitators

Many restorative systems are designed in such a way that those with structural power (e.g., school officials, law enforcement personnel, prosecuting attorney) have the right to: a) determine whether or not a restorative process will occur; and (b) formally assign to individuals the labels of “offender” and “victim” (see next section). At the same time, both gatekeepers⁷ and facilitators are more likely to come from backgrounds of relative privilege in terms of education, financial resources, gender, race, caste, ethnicity, and other group-level variables. In other words, gatekeepers and facilitators do not typically represent, demographically speaking, those they “serve.” As such, they are more likely to hold colorblind ideologies that can negatively affect their gatekeeping and facilitation.

Finally, because implicit bias is almost a “universal virus”, they are likely to be influenced by unintentional beliefs and prejudices about certain groups. For gatekeepers, this is likely to affect their decisions about who can and cannot appropriately engage in - and benefit from - restorative practices. It therefore follows that courts, schools, and organizations may unintentionally create structures in which

⁷ In this context, “gatekeepers” refer to all individuals who are not directly involved in the conflict but have the structural power and authority to determine whether a particular act will be responded to restoratively. While this power sometimes resides with the facilitators, more often it is held by school disciplinarians, work supervisors, or, if the act is criminal in nature, the various parts of the criminal justice system.

restorative processes are more likely to be offered to individuals from certain ethnic, racial, religious, or gender groups. On the facilitation side, implicit biases may affect how facilitators interact with participants in both preparation meetings and within the restorative justice process.

Just as importantly, however, the very concepts of needing professional gatekeepers and facilitators show an implicit and unquestioned bias, within our RJ system. It is true that the restorative justice processes, not unlike formal justice processes, requires resources of time, education (of facilitators) and space. However, it does not naturally follow that professional gatekeepers are the best judges of how these resources ought to be spent, and on whom. As a frequent example used by Dominic Barter, access to police officers, ambulances, and fire fighters was significantly less equitable before the introduction of the “universal emergency telephone number”⁸. Would it not better reflect the values of empowerment, voice, and choice inherent in the restorative justice movement if any participant in the system could press a button to initiate a restorative process – without permission and access from someone in structural power? Similarly, how much more restorative might justice be if facilitators came from all walks of life and represented the communities using the process?

Power Dynamics Within the RJ Process: Facilitation and Participation

Facilitation

As we discussed earlier, factors such as racial status and victim-offender labels, create power dynamics among restorative process stakeholders⁹. Here we want to zoom

⁸ The first universal emergency number (999) was introduced in London in 1937, though it took many decades for infrastructure to catch up to this invention around the globe.

⁹ In this context, “stakeholders” refers both to those participating in the restorative process and those impacted by the conflict and its outcomes.

in on aspects of the facilitation itself. Facilitators hold power in the process by virtue of their facilitation role. That is, facilitators are often given explicit power to direct who is speaking, when, how, and how much. This creates a dialectic -- a tension between two seemingly opposing approaches to addressing power in RJ. On the one hand, facilitators may use their power to balance out pre-existing inequities between participants. On the other hand, by using their power this way, facilitators may mirror or exacerbate existing power dynamics, or create new ones. For instance, facilitators may use their power to “equalize” air-time among participants. Facilitators may also choose to step in when, in their judgment, the participants are behaving in ways that seem to be “disruptive,” pejorative, sexist, homophobic, or racist. McDonald (2012) argues that such use of power ensures that the RJ process is free of tyranny. However, it can also exacerbate the power dynamics present between facilitators and participants, especially since facilitators are more likely to come from sectors of society with more structural power, especially in school settings where facilitation is often done by adults who may also be vested with other authority.

In addition, personality differences and other interpersonal power dynamics (see next section) may also lead facilitators to want to assert their own power in order to bring the dialogue back to a more constructive form or otherwise support connection and truth-telling. Finally, facilitators may have more experience than participants in understanding which types of agreements are more likely to be restorative and may be tempted to lend their wisdom to others. Though all of these may, at times, create more restorative outcomes, they also undermine participant agency and efficacy, potentially

creating a narrative that the participants lack the skills or desire to work through the conflict on their own.

Participation

The last type of power dynamics we want to discuss is the power associated with RJ participants holding different occupational and/or familial roles. These include teachers and students, parents and children, supervisors and supervisees, and a variety of other ways in which structural and interpersonal power is evidently dissimilar among participants. In our own facilitation, we have frequently observed parents, teachers, and bosses insist on being heard without (in our evaluation) being open to hearing and being impacted by the words and experiences of others. While it is certainly the case that no restorative process can guarantee such openness, there are two strategies that we believe can create conditions for it to occur: community involvement and participant preparation.

Below we present strategies for restoratively addressing the various power dynamics associated with the three ecological levels explored in the chapter. These recommendations are distilled from our knowledge of restorative justice theory, principles, and practices as well as our understanding of how power, oppression, and privilege operate in a variety of domains. Most importantly, these strategies are ones we have explored both through our own Restorative Circles (RC) practice and through multiple discussions with Dominic Barter, the founder of RC.

Countering Power Dynamics Based on Societal Biases: Cultural Competence

While there are only a few things that can be done to affect the way that colorblindness, explicit prejudice, and implicit bias operate *between participants* in a

restorative justice process¹⁰, there is much we can do to balance out these power dynamics as they manifest themselves in RJ gatekeeping, facilitation, and treatment of participants.

The notion of “cultural competence” to describe the consciousness and communication skills necessary to work with individuals from different cultural/racial/ethnic backgrounds (and diverging identities) has been embraced by both the helping professions and the corporate world. As psychologists, we know all too well that the academic literature on cultural competence is fraught with inconsistencies and contradictions that require further scrutiny. We also recognize that there are no objective criteria for a “culturally competent” professional. Nevertheless, cultural competence’s influence and contributions are undeniable, and the restorative justice movement would do well to adopt its insistence that individuals be recognized and acknowledged not only as human beings and unique individuals but also as racial, ethnic, and cultural beings.

Our rationale for urging the restorative justice movement to explicitly recognize race and other differences and explicitly address the various forms of injustice is based on our recognition that, whether we want them to or not, race and other forms of difference matter in our society. Given the historical and current racial bias in the criminal justice system, a justice movement that fails to address this bias explicitly will be perceived by racially targeted groups as either uninformed, unjust, uncaring, or all of

¹⁰ The question of how we can increase authentic (rather than tokenized) listening between participants of unequal social status is of great interest to us, and we have been experimenting with some strategies around this. However, these are beyond the scope of the current chapter.

the above¹¹. To be sure, even color-blind *restorative justice* is likely to be superior to the current justice system in that it's more likely to involve community members who have the cultural knowledge and experience necessary to handle the conflicts with sensitivity. However, not all communities have retained or developed this cultural knowledge, and a justice system that fails to acknowledge and take measures to address racial inequity is bound, in our opinion, to create conditions for racial inequity to continue, regardless of its good intentions to the contrary.

Facilitator self-awareness. A detailed description of what a “privilege-conscious¹²” restorative justice system would look like is beyond the scope of this chapter. However, we want to propose three dimensions of competence that are often articulated in the psychotherapy/counseling literature: (a) awareness of own assumptions, values, biases, and historical experiences; (b) understanding the worldview of culturally/ethnically/spiritually different individuals; and (c) developing appropriate [facilitation] strategies and techniques” (Sue et al., 1998). Of these, we find the first dimension to be foundational, as empirical data show that those who are interested in justice can learn to recognize and eventually cognitively override their own prejudices and biases, including those that are implicit in nature (see Staats, 2014, for review). Self-reflection and awareness training can support facilitators in learning how to recognize and acknowledge their privileged status, which if unseen can create unintentional harm. Similarly, by becoming more aware of how social privilege may be impacting those participating in the restorative process (e.g., by interfering with

¹¹ Gavrielides T. (2014) has similarly argued that if RJ doesn't pay attention to racial inequality, it will soon have to face its demise.

¹² We refer here to the privileges and benefits associated with membership in dominant groups (e.g., racial, gender, religious).

responsibility taking and making amends for unintentional harm), facilitators may be better able to create conditions for more restorative outcomes.

Facilitator education. Though time-consuming and potentially controversial, we contend that restorative systems need to integrate this kind of self-awareness work (including of implicit bias) into formal facilitator education. Where facilitator education is less formal (e.g., learned through apprenticeship), facilitators can engage these issues independently or in small groups through relevant readings, videos, and discussion. What is critical here is that facilitators are introduced to the idea that “color-blindness” (or ethnic-, religious-, GLBTQ-, disability-, gender-, or age-blindness) can be seductive but unproductive, creating unintended biases in their facilitation and contributing to pain rather than restoration for some participants.

Facilitator multi-partiality. Many restorative justice facilitators and circle keepers aim for neutrality. Some even adopt a more biased, protective stance towards participants they consider most vulnerable. While the latter approach may seem, at first glance, to support the leveling of power differentials, it instead often serves to reify structural power differences. In contrast, a multi-partial approach, in which the facilitator aims to be equally allied, respectful, and caring towards all participants, lets participants know that the restorative process will take place within a container in which each person will be treated, at least by the facilitator, without blame or judgment.

One strategy for increasing facilitator multi-partiality is to build in short *facilitator preparation* meetings into the restorative system. In the Restorative Circles model developed by Barter in Brazil, facilitators support each other by taking turns answering the following question before facilitating either the Circle itself or the

preparatory meetings that precede it: “Do you hold any ideas, thoughts, images or beliefs that may prevent you from seeing the humanity of everyone involved?” The facilitator then speaks freely about his/her worries, fears, assumptions, and pre-dispositions in regard to either self or others in the process. The listener (an informed co-facilitator or colleague) listens non-judgmentally without giving advice, criticism, or reassurance, perhaps reflecting back the essential things being said. Similar to the non-fixing, non-rescuing approach of facilitation itself, the goal here is not therapy or problem-solving but bringing biases and worries into awareness with the goal of increased multi-partiality.

Countering Power Dynamics Based in RJ Structures: Procedural Fairness

The goal of procedural fairness is not equal treatment but treatment that is fair and transparent. In the context of restorative justice, this means: (a) treating all participants with respect and dignity; (b) guaranteeing that like cases are treated alike; and (c) ensuring that all those directly affected have a voice in the process (Maiese, 2004).

To these ends, it is our contention that the unquestioned paradigm that victims and offenders have orthogonal needs based on their roles vis a vis the conflict results in more harm than benefit to all involved parties. We also contend that the needs of all participants can be better met with a paradigm shift that calls for *standardizing systemic components* of the process while simultaneously *increasing customized supports*. Rather than being contradictory, these two concepts are like twin pillars holding up the restorative platform, which predictably becomes unstable if either pillar is given short shrift.

Standardized procedures. In many contemporary restorative practices, the *identified offenders* are often asked, both in the preparation and restorative conferences, to talk about how their actions have *impacted others*, while the remaining participants are asked to speak to how *they have been impacted*. In contrast, we believe that it is important to standardize the questions and procedures used in the preparation and restorative meetings, while, at the same time, addressing participants' individual needs, which may include language interpretation, age-related supports, disability accommodations, and individualized safety plans in order to increase safety, clarity, and buy-in for all participants, regardless of their status or role in the conflict.

Our experience shows that when we ask the same question to all participants (e.g., What is important to you about what happened? or What do you want Person X to know?) the restorative process is more likely to include multiple narratives about co-responsibility as well as co-victimization. As Shpungin (2014) noted, the European Union's victim-centered movement provides an excellent blueprint for individualized supports and accommodations that increase meaningful (as opposed to tokenized) participation in restorative practices. However, these individualized accommodations would address power and privilege much more effectively if they were actually offered to participants based on individual need, regardless of their identified role in the process.

Individualized supports. At the same time, when power discrepancies are evident, facilitators or circle-keepers may need to support those with less structural power in order to create conditions that maximize both participation and restoration. For example, those who fear harm or retaliation may benefit from the presence and participation of advocates, support persons, written agreements concerning future legal

actions, and safety accommodations. Examples of such accommodations include having the restorative meeting via tele-conference from another room or location or even placing limits on certain people's participation (e.g., Braithwaite and Daly, 1994). It is important to note here that it is not necessarily clear, before preparation meetings begin, which parties will feel a lack of safety (i.e., it could be the identified victim or the offender who fears physical attack from others; it could be the family member or partner of either the official victim or offender who feels most traumatized by the event). Ideally, the menu of possible supports and constraints would have been established previously by a community process, making such supports easy to invoke and, if necessary, tweak, to accommodate a particular case.

To summarize, restorative justice has always taken pride in the way it shifts the focus of the process from “Who violated which rule and how should we punish them?” to “What harm was done and how do we repair it?” By labeling offenders, victims, and community members ahead of time, we find ourselves still operating, in part, through the “who violated?” lens. By eradicating this concept more fully from our vocabulary¹³ and restorative processes and allowing the restorative process itself to co-create and co-discover the most fitting narrative about harm, impact, and restorative action, we simply take this core restorative justice value to its natural conclusion.

Participant preparation. Earlier, we briefly described some ways that facilitators might prepare themselves and each other. Here we want to focus on the preparatory work with the participants. This is a big topic and our intention is only to discuss those aspects that we believe can support participants in listening to and being

¹³ To help facilitators track participants vis a vis a specific act of harm, RJ practices can adopt new vocabulary, like “author” and “receiver” (Lyubansky & Barter, 2011). These would not be synonyms for offender and victim but new language that reflects the paradigm shift that we are suggesting.

impacted by others' experiences. In this context, we take the position that “empathy begets empathy”. Thus, by providing an empathic presence to all participants during the many preparatory meetings leading up to the restorative process, facilitators not only help participants become more clear about what matters to them and what they want to say when everyone is brought together, but also provide a sense of being heard, understood, and accepted without judgment. Though sometimes time-consuming – empathy tends to be in short supply in our world – this kind of presence can relieve some of the internal pain and thus make room for the experiences and perceptions of others.

Countering Power Dynamics Based in the Process: For the People by the People

System co-creation. We believe that when people have a say in what their restorative process looks like, especially if they come from disenfranchised or marginalized groups, they are more likely to participate in the process in a meaningful way and sustain the gains made in the process. Given the realities of painful conflict and the demands of modern life, most communities are likely to adopt a restorative practice from another community or school (rather than co-creating one from scratch), based on word of mouth, seeming fit, or local knowledge. However, theoretically sound and effective such a borrowed practice might be, it will be stronger still when those who are most likely to use it get to make meaningful modifications so that the process better fits their specific circumstances and needs. This is analogous to modifying the rules of UNO¹⁴ to accommodate the needs of younger players or the preferences of a particular group. Having a voice in decisions about facilitation, guidelines, and process can make a restorative process more powerful and more empowering for community members, while

¹⁴ A card game also known, in some parts of the world, as Mau-Mau or FLAPS.

also countering the often well-intentioned, top-down tendency of professionals and helpers to deliver ready-made products.

Non-rescuing. In a similar vein, we recommend that systems examine the extent to which facilitators are inadvertently doing much of the restorative work for the participants, rather than creating conditions that allow participants to do it themselves. The idea of participant empowerment is woven into the spirit of restorative justice, which aims to do justice “with those affected, rather than for them, or to them”. Even our language reflects our hopes for how restorative justice is different from other processes. The word “facilitator” stems from Latin *facilis*, to make easier, while “keeper”, as in circle-keeper, is a caretaker, custodian or guardian of something. However, in practice, facilitators are often seduced into cajoling, reassuring, advising, fixing, and leading, in both preparation and restorative meetings, turning themselves into restorative “directors” (Old Latin for *governor* and *guide*), “coaches” (originating in the concept of *tutoring*), and rescuers (*to drive out or remove*). While these heroic actions may result in gratitude and a glowing sense of accomplishment, they diminish the potential of the process to create conditions in which the participants themselves struggle with the tough questions of power, co-responsibility, and restorative actions. As McDonald (2012) says:

Facilitation is not only about technique. However to be a good facilitator technique is critical. A facilitator should work hard not to be noticed by the participants. The role is not designed for people who want to rescue others, or for facilitators who want to be the centre of attention. In fact it’s the exact opposite... When we facilitate a process that delivers justice through participation, equality, deliberation and non-tyranny, we enable a group affected by a crime to understand better what has happened and why it took place. The group also gets to learn more about how they and others have been affected by what’s happened and eventually to determine what to do, if anything, to make things better...

Community involvement. Painful conflict is not only about the unmet needs of the involved individuals but also represents unmet community and system needs (Barter, 2014). In this way, it is not just those directly involved in a particular conflict who benefit from a restorative process but also those who have been impacted by what happened, as well as those who might get entangled in similar (or different) conflicts in the future. By ensuring that the community is fully represented rather than excluded or tokenized, we create conditions for greater accountability, wider sharing of power and responsibility, and deeper re-integration into community for those who did harm. In addition, we also create conditions for understanding systemic as well as interpersonal harm and, therefore, for creating not only interpersonal but also systemic strategies for both restoration and prevention of future harm.

Additionally, as Braithwaite (2002) pointed out, though only a few people may have been involved in committing a crime, many more often have the power to prevent it. Thus, in the corporate world, superiors can use their structural power to put an end to harmful practices by subordinates, subordinates can exert their influence through whistle-blowing, and business partners, auditors, regulators, and consultants can create conditions for socially responsible behavior by refusing to collude in (and reporting) unethical practices. The inclusion of all these parties in the restorative process widens the scope of responsibility and, in so doing, limits the ability of any particularly powerful actor (e.g., a corporate CEO) to shape the outcome to his/her will. Similarly, restorative dialogues and subsequent restorative actions following a drunk driving incident could include loved ones, drinking buddies, and even the bar staff to minimize

the possibility that the usually young, male driver will minimize the incident and not show sufficient motivation to change (Braithwaite, 2002).

In regards to power dynamics, the extent to which a restorative process can achieve more restorative outcomes may be improved by allowing those who are directly involved to create their own invitation lists of community members, once again minimizing the power of gate-keepers to determine who will be present. As each participant is invited, he/she is asked, in turn, to identify and invite others who need to be present for the process to be more fully restorative. This snowball invitation method creates a Venn diagram of invitees, with overlapping areas containing individuals that many people invite, and critical non-overlapping areas containing important voices and supports which were invited by only one or two other participants.

Such a list may eventually include people who were directly and indirectly impacted by the events, people who helped create the conditions (even if inadvertently) for what occurred, advocates and support persons, and others affected by the systemic nature of conflict (e.g., neighbors, organizational staff). Although McDonald (2012) does not explicitly address the presence of support persons such as translators and mentors, he speaks eloquently to the importance of wide participation in ensuring a more democratic process:

Of the four conditions necessary to deliver deliberative democracy, participation remains one of the most difficult for facilitators to translate into practice. There are very few crimes committed which do not affect a wide system of relationships: the victim, the offender, family members, extended family, friends, neighbours, work colleagues, community workers, drug or alcohol counsellors and police officers. Take the Restorative Justice Conference mentioned in the opening paragraph. Thirty five participants attended and participated and that number could have stretched to many more. For facilitators, the more participants involved, the more likely it is that the participants will engage with others, learn how deeply each other has been affected and provide ideas to respond to the hurt

and harm, while considering ways to prevent future harm. Sadly for most programs, this number of participants would be the exception rather than the rule. Our sense is that facilitators often decide not to include a wide group of people. I believe this is much more about the facilitator's anxiety at not being able to control a larger group of people, than it is about people not wanting to attend.

Open access and facilitation. Finally, to fully uphold its claim that restorative justice is a justice done *with* those who are directly involved, it is necessary for RJ to become an open-access, open-facilitation system. That means that RJ needs to move away from the concept of gatekeeping with all possible haste. In other words, any member of a community in which restorative justice is an option needs to be able to initiate the process by using a “universal restorative justice number.” This may look different in each community, ranging from writing to a predetermined email address that can be accessed by more than one person to putting a note in a cardboard box. The important thing is that there is an unbiased way to initiate a restorative process that does not require anyone's permission or consent.

In a similar vein, facilitators and others associated with the community's restorative system need to be representative of the community itself in regard to race, gender, education, and other characteristics that are valued by the community. Thus, in a high-school with a school-wide restorative system, the RJ facilitators/circle-keepers would ideally include teachers, administrators, and diverse staff (e.g., bus-drivers, custodians). Just as importantly, facilitators would also include students (a) from all grade levels; (b) in both remedial and college-bound tracks; (c) with and without a history of disciplinary problems; and (d) who more or less proportionally resemble the student body demographically.

Notably, in the psychotherapy literature, decades of research (see Christensen & Jacobson, 1994) have shown that treatments delivered by trained community volunteers (paraprofessionals) consistently have outcomes that match or surpass treatment delivered by licensed psychotherapists. Although not typical, there are RJ systems in which those who are most vulnerable and most affected by conflict (e.g., students in a school, inmates in a prison, families in a working-class neighborhood) facilitate restorative processes within their own “community.” As an example, in Houston, USA, high school teacher Anita Wadhwa taught students with the worst discipline records to be circle keepers, attracting accolades for the positive and empowering outcomes, and grant support to share this approach through the Houston Restorative Justice Collaboration. Similarly, the award winning Restorative Circles process (see Gillinson, Horne, & Baeck, 2010) involves all members of a community in facilitation, as well as participation in restorative practices.

Conclusion

Because addressing power dynamics in a restorative system typically requires us to acknowledge and confront (and possibly share) our own power, there is substantial psychological resistance that must be overcome. As restorative justice becomes increasingly mainstream, there will be corresponding increasing pressure to either ignore or replicate existing power hierarchies. How the restorative justice movement responds to this pressure will go a long way in determining whether restorative justice will be a truly revolutionary force for justice or just a slightly less punitive version of what we’ve been doing all along.

In its ideal form, restorative justice is a community response. As such, restorative efforts require collaboration with a wide range of allies, including those with divergent world-views and ideologies and both those with and without the trappings of structural power. It is appealing to distance ourselves from those who embrace punitive and retributive strategies and dismiss their efforts as misguided or even unenlightened. It is easy, as well, to avoid conflicting ideologies (e.g., regarding the victim-offender paradigm) within the restorative movement, which is itself ideologically diverse. It is certainly tempting to avoid the racialized dimensions of justice on the grounds that they are too controversial or too deeply entrenched. Such conflict avoidance might be logical in a right-wrong, win-lose paradigm but is at odds with restorative principles, which urge us to move toward conflict with the goals of understanding it and finding ways to move forward that work for all involved. Such collaborations are only possible if those who identify with the restorative movement are themselves willing to move toward conflict restoratively. In our view, doing so is essential both to achieving sustainable social justice outcomes and to “walking the walk” with integrity as we propel the restorative revolution forward.

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