Restorative Justice as a Strong Approach in Mediating Conflicts

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Mediation is a tactic that has been used in conflict resolution for a long time. These conflicts can exist in countries, in communities, or even within oneself. The main idea is to know not only that these types of conflicts exist, but more importantly, that they are all related to one another. The process of understanding plays a key role in solving conflicts, as opposed to the many circumstances where compromise is made with a gun pressed to one's head or a treaty shoved down one's throat. The feeling of interconnectedness is important so we can acknowledge that although we all come from different backgrounds, different cultures, and different countries, we are all linked back to each other as human beings.

What is ironic about human beings is that they let their unique ability for critical thinking become a burden. We build walls with words, and let grudges, tragedy, and misunderstanding take hold of our judgment. Communication, used correctly, is to not take our weapons out right away for defense, but more so to break down those walls of insecurity that all of us possess, and learn from oneself and another.

Restorative Justice can be defined as "an ideology that focuses on reducing harm and making right the wrong". Zehr is describing here that when genocide and war arises, there are ways to reflect on the roots of the issues concerning those tragedies and actively learn from those mistakes.

**Mediation Strategies**

There are three types of mediation: government intervention (formulating and negotiating treaties), restorative justice (through conflict rebuilding workshops), and a combination of the two. Each of these types of mediation provides the insight in solving conflict through respective ways.

Government intervention has been the primary tactic used in times of conflict. It is what prolonged the differences between the Hutu and Tutsi's in Rwanda; it's what caused us to go to war with Britain before the United States declared ourselves free in the Revolutionary War. Most don't associate the words “war” and “mediation,” however they are extremely interlinked. More importantly, the treaties and peace agreements that lead up to these wars serve an interesting perspective on the process of solving conflicts. The idea behind government intervention is to provide a “quick fix” in the form of a law or agreement to satisfy an extremely complex situation. This type of mediation is mainly done at the international level, where there is more of a demand for solving conflicts quickly to prevent extreme circumstances (i.e. genocide, war).

Restorative justice is a mediation tactic that focuses largely on the themes of rebuilding, forgiving, understanding, and most importantly, trusting one another. A simple way to think about restorative justice is through breaking down relationships. The first is interpersonal: the relationship that one has with oneself the perceptions they make of themselves, and the experiences that influence those perceptions. Second, is intergroup: the relationships one has with their communities and families and more importantly, how personal actions of an individual can impact the community or family as a whole (for argument purposes, community is also classified at the familial level). Lastly, is relationship at the international level, a complex realization that every individual is connected to the world. Combined, one can clearly see that “institution-building, economic development, and political

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processes require that people work effectively together. To do so, they need to co-operate and trust each other in significant respects”.

A combination of government intervention and social workshops is a final approach of mediation. According to the book, Peace Building: A Field Guide, the “aim is to intervene with the appropriate third party method at the appropriate time”. Therefore, the process can begin by providing social workshops, in hopes that the conflict will be sorted between the warring parties. If and when conflicts escalate, power mediation will come in. This motive increases the effectiveness and the chances of peace negotiations by using social work and power mediation to ensure that there will be an agreement.

**Effectiveness of Strategies**

An idea that falls under the category of government intervention is the outcome-oriented approach of “power mediation.” As Thania Paffenholz, who is a lecturer in peace, development, and conflict studies and a researcher at the Centre for Conflict, Development and Peacebuilding at the Graduate Institute of International and Development Studies in Geneva, describes, “a precipice starts when a conflict situation changes suddenly...for example, be the death of a leader of one of the conflicting parties or natural disaster such as a drought.” This concept relies heavily on ultimatum, a motivational threat as a means to cease conflict. In the summer of 1995, for example, the United States “linked financial support to reconstruct war-torn Bosnia to a peace agreement by the warring parties”.

If no peace agreements were made between the warring parties, the United States would have simply bombed Bosnia's artillery. Although these methods provide an easy and quick solution to solving problems between warring parties, they fail to recognize the very personal and human part of negotiating. Ceasing the fighting in situations like Bosnia and their enemies can only be effective for so long before extremists are bound to override the law and let their days, months, or even years of aggression take hold of their reason. That is why it is argued that “they need real information, not speculation or the legally constraint information that comes from a trial or plea agreement”. This is where long-term relationship building and understanding could be a more rational and positive approach with not only restoring previous conflicts, but also preventing ones in the future.

It is known that “victim-offender mediation is the oldest and most widely practiced expression of restorative justice”. The HROC organization is a fine example for the powers of restorative justice. HROC is centralized in the African Great Lakes region, which covers Burundi, the Democratic Republic of the Congo, Kenya, Rwanda, and Uganda. HROC's conflict resolution tactics begin with the philosophy “that in every person, there is something good”. More important is their understanding that perpetrator and victim experience trauma and its aftereffects. Their main method in approaching reconciliation is through standard workshops. These workshops run a course of three days, a strategy used by many society building organizations mainly because in order for “reconciliation to be lasting, some kind of trust must be built, and for that to happen, attitudes must change—hence the relevance for forgiveness”. These workshops are geared to centralize around the very core of human reasoning, covering

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4 Reychler and Paffenholz. Peacebuilding: a field guide.
5 Ibid.
6 Zehr. The little book of restorative justice.
9 Kohen, Zanchelli, and Drake. “Personal and Political Reconciliation in Post-Genocide Rwanda.”
10 Ibid.
uncomfortable topics such as the reasons behind trauma and how it can affect the individual, the family, and the community dealing with anger, grief, loss, and mourning, and finally, the causes of trusting and mistrusting.\[11\] HROC’s workshops in Africa consist of ten perpetrators, and ten victims. The structure of this workshop is essential because it allows the victims and the offender to not only meet on a face-to-face level, but to spend three days sorting out their differences, building trust through exercise, and sharing the different experiences and trauma that they had in result of the genocide. From the year 2006 to present day, the effectiveness of these workshops has resulted in “more than 200 cases…resolved through mediation”\[12\]

**Restorative Justice as a Strong Approach in Mediating Conflict**

The power of restorative justice remains an extremely controversial topic. Many prefer to use the quick and easy solution by implementing a forced resolution on a conflict. Although this may solve problems existing in the present moment, it may not be the best solution in preventing similar conflicts in the future. The reason for such aggression is because there were unresolved issues within the internal self of the warring parties. This is an indication of why lawbreakers “have been re-arrested after committing other crimes, many while trying to destroy evidence related to their alleged involvement in the genocide, Rwanda”\[13\]. Because of their inability to connect with themselves and others around them, and more importantly to find peace and closure in their pasts, it has led to further crimes as a result of their traumatic experience.

Similar to the perpetrators in Rwanda, restorative justice is practiced in prisons, right here in the United States of America. This process, like HROC’s workshops, aims to provide mediation practices between offenders and victims. Although it is noted “crime victims may be favorably or adversely affected by their experiences in the criminal justice system and with criminal justice authorities,” the risk of the latter seems to be less likely than the productivity of the positive outcomes.\[14\] Those who “found that victims who participated in mediation were more often satisfied that justice had been rendered in their case than victims whose offenders received community service or another non-restorative alternative sanction”\[15\].

Assuming that everyone knows the feeling of getting into a dispute at one point in their lives, it is also widely known that the guilt of the situation carries with a person in all that they do unless it is reconciled. This is a subconscious and personal reaction, often leading one to mask this uncomfortable trait that they possess. The effectiveness of restorative justice can then only be accomplished if the parties are open for reconciliation. This process is both known to be “an awakening” or “a very uncomfortable situation to realize that these are real people”\[16\]. Adding the human aspect of mediation is also very important. In many cases, the perpetrators and victims in large-scale conflicts never get to meet face to face, thus there is a lack of awareness that there are real human beings involved in the conflict (both the offender and the victim). In order for them to meet, it is essential that they accept the self that they had projected onto others as a way of blaming others for what they perceive as failures in their own lives.\[17\] This is a difficult awareness, being that the real enemy is most often ourselves, and that the enemy from within us often projects “roles or masks that do not reflect our authentic feelings so we can

\[11\] HROC. “Helping to Create a More Peaceful Future in Africa.”
\[12\] Ibid.
\[13\] Kohen, Zanchelli, and Drake. “Personal and Political Reconciliation in Post-Genocide Rwanda.”
\[15\] Ibid.
divert attention from our mistakes”.[18]

Although mediation is proven to work in some cases, it should also be considered that like anything, it is very circumstantial. Kohen puts it simply,

*Human nature is not fixed or eternal, but changes with culture and conditions. No two parties are alike, no two mediators are alike, and no one is the same from one moment to the next. What succeeds for one mediator with one party at one moment may fail for another mediator with a different party or a different moment. What is needed is no prescription, nut skill, intuition, flexibility, and the ability to be dangerously honest and apathetic.*[19]

However, it is also important to note that given the correct circumstances and the correct attitude towards those circumstances, there is an unbelievable result of conflicts being resolved not only within that one moment, but for the future as well. The actions of an individual can impact not only their family and their community, but on a national and global scale as well, which proves the idea of interconnectedness. In all conflicts, the opposing parties have nothing in common, however it is remarkable how often they fit together like parts of a system.[20] One simply could not recover internally without the other, just as one could not find closure (consciously or not) without the acknowledgment or awareness of the others’ existence. Restorative justice, although covering various topics such as reconciling with extreme traumatic events like the genocide in Rwanda, or a simple theoretical situation of arguments between family members, allows us to believe in one very important thing: “People escalate their conflicts by not being authentic. As they accept themselves more fully, they become more accepting of others.”[21]

Restorative justice is one way to provide non-violent solutions to sometimes extremely violent circumstances. They are chances to not only identify the conflicts in the present, but by also preventing them in the future. Although quick fixes such as negotiating peace agreements, or providing an ultimatum in order to reach agreements do have immediate effects, these effects tend to only worsen the aggravation and have a better chance of fueling similar conflicts in the future. Through finding forgiveness in oneself, it allows one to forgive others as well, thus breaking the cycle of violence by projecting true personalities.

Restorative justice however, can provide mediation on three different levels, instead of concentrating solely on the surface level of conflicts. It allows the chance to understand not only the actions one does to another, but also how these actions affect not only themselves, as well as their community. This awareness is a more positive approach regardless of whether it is successful or not. Because restorative justice relies heavily on the cooperation of the facilitators, the offenders, and the victims, the outcomes are undetermined. Many who have participated in a form of mediation have expressed the gratifying feeling it was to finally understand the “why” of their case. As philosopher Martin Buber states, “I can only become I through my relationship with you, so truth is never just mine or yours, but ours.”[22] By using restorative justice as a positive approach towards mediation, it will be possible to begin to realize the truths that bind every human being in this world.

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18 Cloke. Mediating dangerously the frontier of conflict resolution.
19 Kohen, Zanchelli, and Drake. “Personal and Political Reconciliation in Post-Genocide Rwanda.”
20 Ibid.
21 Cloke. Mediating dangerously the frontier of conflict resolution.
22 Kohen, Zanchelli, and Drake. “Personal and Political Reconciliation in Post-Genocide Rwanda.”
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