



WORKSHOP 13:

PARTICULAR APPROACHES IN RJ PRACTICES

Chair: Zbigniew CZWARTOSZ (Poland)

1. MEDITERRANEAN MEDIATION (abstract)

by Ilaria De VANNA, Office for Penal and Civil Mediation in Bari (Italy)

The mediterranean model of mediation has been created in Bari by CRISI, a mediation centre that manages the Civil and Penal Mediation Office for the Juvenile Court. This model comes from the so called humanistic model and on the one hand it is in opposition with the problem-solving model. On the other hand it feeds itself with all the suggestions that in mediation room send back to history and culture of the past to whom belong both mediators and those mediated. This going back to the past means to go back to the origins that, in this specific case, are founded in Mediterranean, the sea which mediates between lands but also people.

The model realises, through the experience of people meeting in mediation, the overcoming of categories, victim and offender, to bring both into the only universal category of human being. This process happens first in the mediation room and then in society and the people who participate in mediation can find again their dignity as human beings that were devastated by the crime.

2. BREAKING THE CHAIN OF CROSS & TRANS-GENERATIONAL CRIME: CAN RESORATIVE JUSTICE FAMILY CIRCLES BE PART OF THE RE-SOLUTION?

Some preliminary thoughts for a model of RJ that focuses on the family, brothers & children of victims & offenders

by Beni R. JAKOB, Co-director of the Mediation Constructs Centre for mediation and training (Israel)

I am a newcomer to the field of Restorative Justice and decided to thrust myself into this area as a result of my own experience as a psychologist and mediator. The aim of this paper is to propose an emphasis on a certain direction of action and in parallel raise questions for reflection and discussion.

In my humble opinion, the current criminal system does not achieve the goals expected from it. Furthermore, I would assume that criminal activities may continue to rise whilst budgets may continue to decrease, therefore, the system would be even more inadequate. Change of approach and practice in Society's Institutions seems to be inevitable.

Contrary to public myths, experts claim that about 60% of crime is committed between non-strangers. Furthermore it is claimed, that most offenders were victims themselves.

The trend in democratic society entailed intensive interventions of the State in the Family. The current radical shift from socialism to liberal democracy^{1*} might result in a shift of responsibility back to the family. Government would have essentially only a regulatory role. Such trends might definitely have a further impact on families, which are already going through a process of deconstruction. Families play a central role in developing one's identity, sometimes over several generations^{2*}. The implications are that interventions for change would focus again on the Family.

1. Francis Fukuyama (1992) *The End of History*¹

2. Titelmam, P (Ed) (1998) *Clinical Applications of Bowen Family Systems Theory*, The Haworth Press, NY



In order to interrupt criminal patterns that run across families and people who know each other, or were by themselves victims, Families themselves might be the most effective change agents.

The first and foremost challenge would be to restore to the Family its sense of legitimate authority and responsibility. When dealing with families in which suspected as well as actual crime is an issue, professional facilitators will have to seek ways to empower them.

This is not meant to replace or diminish the function of the current Criminal Justice system. What is proposed is to make the necessary modifications as to enable the pivotal place of the Family in the process.

Family Group Decision Making³ has produced some promising results worldwide but although there are no official statistics yet, they support this trend.

Restorative Justice (RJ) is an approach in the area of criminal processes. Its` main aim is the Conflict with focus on the victim/offender encounter. The communication process in RJ is that of Negotiation aiming to resolve conflict resolution by agreement. The intervening facilitators see the Community, Family included, central to the process.

Assuming that family is the basic unit of Society^{4*}, a model is proposed for discussion in which the focal issue is resolving the Conflict between Victim and Offender with a special emphasis on the Family involvement.

The goals are:

- Improving coping behaviour of victim as well as offender.
- Decreasing violent or criminal behaviour of both parties, and their extended family (mainly siblings and offspring) on the long term.
- Empowering the enlarged family unit, whenever possible.
- Encouraging the family to open its “secrets” to its` members.
- Reducing guilt feelings appropriately.
- Enabling meaningful retribution for the victim.
- Strengthening human and family values as an antidote to prevailing feelings of alienation in individuals.

Summarizing, the **RJ direction** proposed **at this stage** is:

1. Within the shadow of the legal court system, as **an additional venue**.
2. **Mandatory** parallel work with victims & offenders and their **“Family Circles”** with the facilitation of an RJ officer. In the Family Circle, children would be encouraged to tell anything without fearing personal rejection, so that open communication, with **limits of conduct**, and **feelings of belonging** are learned and encouraged. There will be **work on “feelings of guilt”**; room for anger and confrontation; appropriate **empowerment**, and discussions about **retribution**.
3. **Victim/Offender mediation** with the respective Family Circles: allowing for emotional expression and release; as well as a **focus on the problematic of the conflict** rather than on the persons involved. On these grounds enable/encourage empathy which might serve as a basis to **break the negative endless circles across and within-generations**.

The presenter suggests that Personal Construct Theory⁵ is an appropriate theoretical framework from which illuminating relevant ideas can be brought forward, such as definitions of “Guilt” and “Aggression”.

Several dilemmas emerge: When asserting that the focus should be on the Problem and not the Person, does RJ join in with the much criticized treatment approaches that increase alienation?; When aiming to empower and strengthen The Family, are we not taking the risk of reinforcing “undesirable” values and behaviors that are eminent to different sub-cultures? In psychologically problematic families - should RJ still empower and encourage the Family’s authority? When recommending to revealing “family secrets” – many questions arise, such as children’s participation and confidentiality issues. When there is no admission of guilt – is RJ still applicable?

3. Lisa Merkel-Holguin, MSW, Director, National Center on Family Group Decision Making, American Humane.

4. Quotation of Israel’s Supreme Court Chief Justice, Aharon Barak

5. George Kelly (1955) The Psychology of Personal Constructs, Norton, Chicago



Despite all these dilemmas, and more, it is suggested that it is important to take action, even when we do not have agreement on how to resolve them.