

Does Terrorism Leave Space for Restorative Justice? The Case of Israel-Palestine

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Restorative justice has become a well accepted way to settle criminal and other conflicts. Can it be used to settle the aftermath of terror attacks? The Israeli-Palestinian arena presents some evidence of a human urge to restore relations. But, still, terrorism is a unique type of crime.

In criminal cases, the victim and the offender are encouraged to meet, discuss 'their' case and try to reach an agreement to settle the conflict. In such cases, the community is the prime beneficiary of the process.

However, when dealing with a terrorist attack, there are three major obstacles to such a process. First, at the heart of terrorism is the fact that terrorists disassociate themselves from the community and even harm it aggressively. Terrorism is associated with severe mental and physical injuries, death and significant loss to private and public property. Terrorists aim at the public, at the community at large. True, terrorists are willing to admit their offences, but at the same time they are proud of them, showing no shame or remorse. Does restorative justice theory or practice relate to such a scenario?

The second obstacle to the effective implementation of restorative justice is accessibility: police and prosecution keep terrorists far from the public. It is usually special units that lead the investigation. After all, state security matters are involved. The community, victims included, is kept out of the process leaving no space for voluntary conferencing. The third obstacles are the courts: Courts are often closed to the public when security matters are discussed. Victims have no say and their voices are not heard in such cases. Most, if not all court sessions, are closed to the public. For example, in Northern Ireland the special 'Diplock Courts' were designed to try terrorist cases.

If people do not share the same (even virtual) community; if terrorists are kept under tight police custody, and even the legal process is closed to the public, it seems impossible to engage in any restorative justice discourse, conferencing.

On the other hand, hostilities may decline if people meet and talk. This leaves a theoretical and practical challenge to examine ways to link terrorism with restorative justice principles and practices. It is much more effective 'to talk to the enemy' than to fight it, and it is probably much cheaper to do so too.

Paradoxically, but as some expected, since the creation of the Palestinian Authority (according to the "Oslo Accord" 1993), the Israeli-Palestinian arena has become much more violent. Surprisingly however, parallel to this violence, there are scores of informal and formal, registered groups of people who try to promote peace in cross-community, Israeli Palestinian ventures. The number of the formal groups is estimated at 1100 (See: www.ipcri.org). Despite their common mission, that of promoting peace in the Middle East, these organizations vary in their size, participants, operational methods, funding capacities, funding source(s), public backing etc.

Some peace organizations share a joint leadership and some have only Jewish or Palestinian leaders, and members of the 'other group' are invited to join. Some operate on a one-time program(s) basis and others maintain long-term activities and programs. Despite accessibility obstacles, especially in tense areas or periods, these activities contribute to improved interpersonal relations and understanding, and reduce animosity and hate.

Some cross community, peace organizations engage Palestinian and Israeli youth by promoting sport, music or leisure activities. Others involve Arab and Jewish adults in literature, art or environmental issues. Joint activities restore relations. They may indeed be very beneficial, but not necessarily very popular in their own communities. Why meet the 'enemy' or talk to him? Not everyone subscribes to 'normalization' in a turbulent environment.

In past years (1967 - 1987) Israel was open to all Palestinians, and so were the Palestinian towns and villages. Ideas, culture, art, craft (and food!) were exchanged. People from both communities got to know each other quite well at work or at leisure, often visiting and celebrating family events such as weddings and child births. The first Intifada (September 1988), the creation of the Palestinian Authority (1993), and the second Intifada (September 2000) made communities drift apart. Walls were built and much life, blood and hope were lost, sacrificed.

Despite all this, there are some unique and important 'bottom up' Israeli-Palestinian mixed groups that were formed. One such a group represents a unique community: that of the bereaved. Individuals and families who were personally victimized, or felt so emotionally, formed groups. Most of these groups were initiated by individuals and families who had paid a heavy personal toll as a result of the conflict: some had lost a member, some had been injured and lamed and others had spent years behind bars. All share an urge to tell their personal stories, stories of pain, suffering and loss, and share them, freely and directly with the other side. The Middle East crisis is far from ending, but the need to share and acknowledge pain is there. This is, perhaps, a first step in restoring relations.

Here are a few examples to such groups: The Arik Institute was initiated by a religious Jew, Mr. Yitzhak Frankenthal a (then) successful business-man whose son, Arik, was kidnapped and killed by three Palestinians in 1994. Mr. Frankenthal decided to bring together Palestinian and Jewish families, who had lost their loved ones in the conflict to discuss the realities of Israeli-Palestinian life. These meetings had a significant healing effect on the families involved

(www.arikpeace.org). This initiative was followed by a group of bereaved parents and families, both Israelis and Palestinians, who suffered loss and wanted to meet and discuss their agony and pain (www.theparentscircle.com). The third, different example, is that of ex-combatants, Palestinians and Israelis who, instead of fighting each other, organized to lend a hand towards a joint fight for peace. They call themselves Combatants for Peace (www.combatantsforpeace.org). These and similar initiatives are not always understood locally, but they are encouraged locally and supported by peace groups and governments from all over the world.

Most participants of these groups are people who feel trapped in a conflict in which everyone is victimized. There are no clear offenders and victims, and they do not want to be viewed as either. They simply want to engage in an open dialogue that empowers its participants and relates to some of their personal pain, looking for a way to overcome it.

Terrorism makes the news, but people make the community. South Africa, Northern Ireland and Cyprus finally succeeded, with some outside leadership and help, to convince the fighting factions to realize that there is life beyond the conflict, and that the public will benefit if a joint community is formed. Militants put down their arms and made sincere efforts to stop painful past atrocities and lay the foundations for a prosperous, future-oriented community.

Restoring relations is perhaps the first step in this direction - even in the Middle East. The public demands it by forming peace groups and forums. However, can such groups pursue the mission? Can community-based peace groups open up, or lead along a political path? If they do, justice can be done. Restorative justice therefore is not only the means to change the climate, but also the way to end tragic atrocities that hurt everyone. Perhaps part of the solution is in the hands of those who paid a personal price and who wish to end the conflict, and restore relations and justice.

Suggested links: <http://www.iwagepeace.org>; www.jerusalempeacemakers.org, www.peacengo.org, www.peres-center.org, www.sulha.com,