

# Restorative Justice as a criminal science, with the aimed to improve our criminal law

Virginia Domingo de la Fuente

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Sociedad Científica de  
Justicia Restaurativa



# Objectives:

- What Restorative Justice is for me?
- Common aspects between Restorative Justice and Retributive Justice
- Conceptualization as a criminal or social science
- Conclusions

# It is common to define Restorative Justice as opposed to the current Retributive Justice



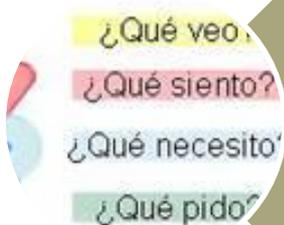
Retributive Justice sees crime as a simple transgression of the law.

Restorative Justice recognizes that crime hurts victims, communities and offenders , themselves.



Criminal Justice, only gives a role to the government and the offender.

The Restorative also includes the victims and the communities.



Criminal Justice, measures how much punishment was infringed

Restorative Justice measures how many damages have been repaired or prevented.

# UNITED NATIONS says:

- Evolved response to crime that respects the dignity and equity of each person, builds understanding and promotes social harmony through the healing of victims, offenders and community
- Restorative Justice is not a specific process but rather a set of guiding principles and values, a framework to identify and address the damage and obligations. It is somewhat broader than the different models of specific encounters.

# Three perspectives of Restorative Justice:

- The crime causes damage, it must be repaired and we have to give the opportunity to those affected to participate

PHILOSOPHY

VALUES AND PRINCIPLES

- Many values and principles, are part of this JR, some are: encounter, participation, respect, reparation, responsibility, security, healing, reintegration and empathy

- As a tool to apply this philosophy that contains these values there are a great variety: victim-offender mediation, conferencing and circles, among many others

TOOLS OR PRACTICES

# COMMON POINTS OF RESTORATIVE JUSTICE AND THE RETRIBUTIVE JUSTICE

- The origin of both Retributive and Restorative Justice, are not theoretical assumptions but emotions
- Being a victim of a crime or an injustice causes indignation, anger, humiliation and revenge or desire to compensate for the damage suffered, inflicting pain on the offender. But letting out these feelings of revenge can be dangerous.
- If this anger and indignation are not channeled to avoid revenge actions, the consequences can be catastrophic for social life.



- **The transformation of revenge into retribution has reduced or eliminated the human and emotional dimension. The current criminal justice system has been reduced to the same concepts and procedures for all, full of bureaucracy. In addition, the retribution focuses on the public dimension of crime.**
  
- **Restorative Justice does address, the emotional dimensions of crime, transforming and channeling these emotions, not positive and destructive for something constructive (healing motivations)**

# FIRST CONCLUSIONS

- Both ways of understanding Justice arise from emotions
- The difference lies in how they manage the crime
- Why not use Restorative Justice to improve criminal law?
- The Objective would be to achieve the ideal of Justice

However, what started in the criminal field has soon been seen as a way of life or a social movement.

In other words, this philosophy or philosophical legal theory and its different values and principles can be applied in other areas of our lives.

To achieve a more peaceful coexistence, a more responsible society and citizens with better skills to manage their problems



# Restorative Justice as a criminal science

- Criminal Sciences; set of knowledge related to crime, offender, penalty or sanction and other aspects of defense against crime.
- In this set, Criminal Law is one of those sciences that studies the problem of crime, from a purely legal view.
- Restorative Justice as a science that studies crime from a legal point of view, such as criminal law but also from a social, community and natural point of view.

# Why a criminal science?

- It has a refined scientific methodology
- It has a well-defined transitional paradigm that is "humanizing justice" and promoting the humanization of our way of relating
- It has a "philosophical legal theory" (empathy, Thomas Kuhn)



# Scientific methodology

To apply Restorative Justice there are different methodologies, the best known are criminal mediation, conferencing and peace circles

But it is possible to design more practices or restorative methodologies, taking into account three R's, following Howard Zehr: respect, responsibility and relationships of the members of the community

# Transitional paradigm

- The goal of restorative justice is to return to the emotional aspect of crime and harmful events.
- Learn to recognize each other as human beings, giving the opportunity to strengthen the relationships between all of us, fostering respect and responsibility for our actions.



# Well-defined philosophical legal theory

It is based on two aspects:

Stop focusing on the crime-punishment binomial to rely more on damage-repair (Zehr, 1993)

Instead of trying to prevent the offender from committing crimes with the fear of punishment, try to focus on not to do it because he/she does not want to harm another human being. (Kuhn, 1968)



"Aquel que procura asegurar el bienestar  
ajeno, ya tiene asegurado el propio"  
Confucio

# Last conclusions:

- Both justices are not entirely incompatible.
- Restorative Justice is not a panacea but it can be used to fill gaps and improve the current penal system
- The mechanisms (for example, sentences of conformity ...) that already exist in criminal law can be improved through this restorative approach, which encourages the active participation of those really affected by the crime victim and offender. The criminal process would no longer revolve around the state and the offender, but the victim would recover a leading role.
- So as in México we should have in our criminal law the restorative justice principle.

# What about RJ in other areas?

- Can we consider RJ as a social science?
- If we are going to use in other area such as community, schools ...the response is Yes

# Social Science

A group of all the scientific disciplines whose object of study is linked to the activities and behavior of human beings

The social sciences are called the various systematically organized bodies of knowledge that have as their object the study of men /women in society.

Restorative justice starts from the fact that we are all beings that live in community and help us to improve our way of relating

# Restorative Justice as a social science:

Restorative justice addresses the relationships of community members

Try to generate accountability in its members

Respect should be the basis of their relationships

# Why redefine restorative justice as a criminal or social science?

- To give it the importance and entity it deserves
- Build penal and penitentiary norms with a restorative approach
- Create fully restorative communities in different areas (school, workplaces....)
- Help to build a better world



# A better world ¿Utopía?

With Restorative Justice it is possible, a restorative justice as a social science, or even as a way of life



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# THANK YOU

Virginia Domingo de la Fuente

[virsunday@outlook.es](mailto:virsunday@outlook.es)

[Virginia.domingodelafuente@yahoo.es](mailto:Virginia.domingodelafuente@yahoo.es)

<https://blogdelajusticiarestaurativa.blogspot.com.es/>