

# *The Little Book of Restorative Justice*

by Howard Zehr

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## Short Summary

### Chapter 1: An Overview - Short Summary

Restorative Justice is a movement to address the needs and roles of victims of crime, offenders, and communities, rather than the legalistic system that holds offenders purely in relation to violation of the state and law. Victim needs include a sense of increased involvement and empowerment with the criminal justice process, including learning the facts contributing the crime and allowing healing through the telling of their story. Offender needs center around having the offender empathize with the victim and take responsibility for their actions. The community is involved as a “secondary victim” and is encouraged to have their voices heard, while also contributing to how a safer, healthier community can be achieved.

Restorative Justice may sometimes lead to beneficial byproducts, such as reconciliation and forgiveness as well as decreased recidivism and repeat offenses, but these are not necessarily required or central to the process. The reason for RJ is that it is the best thing to do to heal and address the needs of stakeholders involved in a crime. Also, in contrast to misconceptions, RJ is not meant as a substitute for the legal system or prisons necessarily (it can often work well in parallel with these). Importantly, RJ does not imply a return to past experiences of a status quo which may in fact be troubled, but rather a transformation to our better selves and communities which are always available to us as a potential.

## Chapter 2: Restorative Principles - Short Summary

Restorative Justice can be defined as an approach toward achieving justice that, to the best extent possible, involves all the stakeholders involved in a crime to address the harms, needs, and obligations arising from the crime by putting right and enabling healing to the greatest extent possible. The 3 pillars of RJ are harms, needs, and obligations. At its core, RJ is about “putting right wrongs and harms” grounded in “respect for all”, which stems from an acknowledgment of interconnectedness but also diversity; this is done by focusing on harms and needs, addressing obligations, involving all stakeholders, and by using collaborative, inclusive processes. RJ is not a specific program, but through relying on the guiding questions and signposts of RJ, we shift the question from “What does the offender deserve?” to “What are the harms, needs, and obligations of a crime? Who needs to be involved? How do we address these and the underlying causes?”

## Chapter 3: Restorative Practices - Short Summary

Restorative justice has a range of applications and forms. Core to most approaches is a facilitated encounter. Popular forms include victim offender conferences (VOC), family group conferences (FGC), and circles, but more often these days aspects of all these are being blended. FGCs have worked especially well in New Zealand as an alternate to the judicial system for juveniles, as this came out of the family-oriented approach to juvenile corrections in the native traditions there. Circles, where all stakeholders form a circle and take turns speaking through a “talking piece” with the aid of facilitators (aka “circle keepers”), have had the widest appeal across the globe, and Zehr refers to it as “the closest thing to a ‘universal’ model of addressing harm and conflict”.

Goals for restorative justice vary from being an alternative to the judicial process, to promoting healing and therapeutic processes, to transitioning from prison into society. Based on how closely the RJ goals are being addressed, practices can fall along a “continuum” of fully restorative to mostly, partial, potentially, and pseudo- or non-restorative.

## Chapter 4: Where From Here - Short Summary

Retributive justice of the Western legal system and restorative justice are not polar opposites. In fact, they both involve the “balancing of scales” in response to a wrongdoing. They simply differ on the response to balance the scales. Retributive justice believes in pain and punishment balancing the scales, while restorative justice focuses on acknowledging and addressing harms, needs, obligations, and getting at causes. Zehr imagines a world where our justice system is as restorative as possible.

Zehr concludes that restorative justice, as others have come to tell him, can be a way of life, a philosophy grounded in 3 “R” values: respect, responsibility, and relationship. He concludes by saying that restorative justice is like a river with many sources; though it began in the 70s in its modern form in North America, it has deeper sources in traditional societies and many tributaries are and will be its source. Ultimately, “it is a reminder that all of us are indeed embedded in a web of relationships” (82).

## Detailed Summary

### Chapter 1: An Overview - Detailed Summary

Restorative Justice is an alternate form of criminal justice that focuses on addressing the needs of victims and community and the obligations of the offender. This is in contrast to offenses done against a state or the law. Restorative justice began (in its modern form) in the 1970s to address burglary and property crimes, but since has expanded to very serious offenses like rape and murder.

Restorative Justice, like other movements, runs the risk of leading to too many offshoots that don't stay true to the foundational principles and risk diluting or co-opting the movement. Hence this book.

Restorative justice has expanded to school and university settings. The movement also needs to re-examine the effects of racial bias (vis a vis *The New Jim Crow* by Michelle Alexander). Some have called into question the over-simplified labels of “victim” and “offender”, especially in contexts where responsibility is diffuse (e.g. school setting), and some have also preferred “restorative practices” over “restorative justice”.

It's important to stress what restorative justice **is not...**

Restorative Justice:

- *is not primarily about forgiveness and reconciliation.* Though this may happen as a byproduct, no one should be pressured to forgive.
- *does not imply a return to past circumstances.* Some things can't be restored (e.g. murder of a child), nor can some offenders with terrible history of abuse be restored; rather things must be *transformed*, i.e. it is not a movement to the status quo, but rather transformation to bring out the goodness that has always been available but missed.
- Beautiful quote by attorney Fania Davis (in email to Zehr): “It's not about returning to the pre-conflict status quo but about returning to one's best self that's always there. When well facilitated, RJ processes create the possibility for transformation of people, relationships, and

communities. This is often a radical departure from the pre-conflict status quo. So what are we restoring? For me it's about returning to the part of us that really wants to be connected to one another in a good way. Returning to the goodness inherent in all of us. One might say, returning to the divinity present in all of us. Or as indigenous elders put it, returning to that part of us which is related to all things." (14, 15)

- *is not mediation*. Sometimes parties don't want to meet, so it's not necessarily about an encounter. Also, mediation assumes two parties are on equal moral footing, which is not the case in restorative justice. Better words are "dialogue" and "conferencing" instead.
- *is not primarily about reducing recidivism or repeat offenses*. Though this can be a valued byproduct, RJ is done because it's the right thing to do: have victims' needs addressed and have offenders take responsibility.
- *is not a particular program or blueprint*. RJ solutions must be built from the bottom up, taking to account a given community's needs and context. There is no single ideal blueprint, as RJ is not a map, but more like a compass.
- *is not limited to "minor offenses" or first-time offenders*. Some think RJ should only be applied to "minor offenses", but its real power and value may actually become most evident in severest of cases, as these are often where the needs of the victim and obligations of the offender are greatest. Facilitators of RJ, though, need to be especially well equipped and knowledgeable to handle the nuanced power dynamics and underlying causes of certain cases like domestic abuse, child offenses, or hate crimes.
- *is not primarily a new or North American development*. Though the early founders of the modern RJ movement started in Canada and the US, RJ practices have been implemented way back in human history, going back to indigenous traditions of North America and New Zealand.
- *is not a panacea or replacement of the legal system*. Criminal justice has a public/societal dimension and a private/personal/interpersonal or community dimension. The legal system is needed for the former and the latter RJ can address quite well, but it's not a total replacement of the former.
- *is not necessarily an alternative to prisons*: though RJ can work well as an alternative to prison in some cases, they can be used to compliment prison sentences but not as a total replacement
- *is not the opposite of retribution*, despite Zehr's earlier writings.

Restorative Justice is concerned about needs and roles

- Restorative justice focuses on needs rather than deserts or punishments. The needs of the victim include:
  - **information** (e.g. why did the offense happen? what contributed to it?),
  - **truth-telling** (where there can be therapeutic release or "restorying" which gives transcendence of one's experience and pains through public/symbolic acknowledgment and conveying to offender impact of their wrongdoing),
  - **empowerment** (giving victim a sense of involvement in legal process),
  - **restitution or vindication** - knowing that offender sets things right as best as possible and symbolic representation of this
- Needs of the offender include

- Having the offender empathize with their impact on the victim and community and take responsibility (the opposite of this often happens in the adversarial legal system where we are focused on protecting themselves from sentences)
- In addition to (1) accountability, offenders need justice to provide (2) personal transformation and healing, (3) facilitated reintegration into society, (4) for a small number, temporary restraint
- Needs of the community
- Communities should be considered secondary victims and be involved with (1) their concerns as victims, opportunities to build a sense of community and mutual accountability, promotion of healthier community

## Chapter 2: Restorative Principles - Detailed Summary

Restorative Justice comes from the premise shared by many traditional societies of the interconnectedness of our human relationships. A harm to one hurts the entire web of relations and obligates us to repair it. The criminal justice system focuses on *getting offenders what they deserve*; this comes from seeing crime as harm against state or law, determining guilt, and delivering punishment. RJ by contrast, focuses on the needs of the victim (and community) and the offender's responsibility to repair the harm done as best as possible.

Restorative justice has 3 pillars: (1) focusing the *harm* and resulting needs primarily of the victim, but also the community and offender, (2) the *obligations* of the offender to repair the harm as best as possible, and (3) the *engagement* or participation of all these stakeholders in the justice process.

RJ favors inclusive, collaborative processes and consensual outcomes between the stakeholders. Some have claimed that the stakeholder of "community" is somewhat ill defined in certain cultures with erosion of community, but nonetheless RJ focuses on micro-communities of place and relationships.

Restorative Justice aims to put right harms and wrongs by focusing on harms and needs, addressing obligations, involving stakeholders, and using inclusive, collaborative processes. This all needs to be done with an attitude of respect for all.

Definitions have drawbacks, but if wanted, "Restorative justice is an approach to achieving justice that involves, to the extent possible, those who have a stake in a specific offense or harm to collectively identify and address harms, needs, and obligations in order to heal and put things as right as possible" (48).

Rather than rely on a specific "program" for RJ set in stone, it's better to apply the guiding questions of restorative justice to the crime at hand.

- 1. Who has been harmed?
- 2. What are their needs?

- 3. Whose obligations are these?
- 4. Who has a stake in this situation?
- 5. What are the causes?
- 6. What is the appropriate process to involve stakeholders in an effort to put things right and address underlying causes?

Essentially, these questions change the question from “what does the offender deserve” to a RJ approach.

## Chapter 3: Restorative Practices - Detailed Summary

Restorative Justice practices have evolved and been applied to a range of applications, including aiding conflict transformation and peace-building in various places around the world. Core approaches in RJ often involve a facilitated encounter, while once different approaches like victim offender conferences, family group conferences, and circle processes are blended. To resolve a wrongdoing, 3 things must happen.

- (1) The wrong or injustice must be acknowledged;
- (2) Equity needs to be created or restored
- (3) Future intentions need to be addresses.

It is critical that victim participation is fully voluntary. Efforts should be made to also maximize voluntary participation by the offender. Various communities are working to include restorative justice encounters as part of the legal process. More often, this may occur after the sentencing, but some cases have shown positive results as part or prior to the formal hearing, utilizing a “reverse Miranda” statement that blocks anything from the encounter from being used in the court of law.

Models of restorative justice differ in form, and many of these models are now blended. There are victim offender conferences (VOC) that focus primarily on victim and offender encounters with a facilitator; here the family members or community members are largely secondary. Family group conferences (FGC) broaden the circle to family members and other significant parties; FGCs have been quite successful in New Zealand where conferences (along with a police officer or special facilitator) can replace the judicial system for juvenile cases and address both reparation and prevention. Circles are a form of restorative justice that seems to have the widest applications. Participants gather in a circle and pass a “talking piece” and everyone takes turn speaking, along with the facilitation of “circle keepers”. Circles have been held for peace-making, sentencing circles, workplace conflicts, and community dialogue. It’s important to note that restorative justice may not involve an encounter.

Models of restorative justice differ in their goals, including alternative or diversionary programs, which provide an alternative or divert cases from the criminal justice process and sentencing; programs that focus healing or therapeutic practices; and transitional programs which focus on reintegration into society after a prison sentence. Based on how closely the RJ goals are being addressed, practices can fall along a “continuum” of fully restorative to mostly, partial, potentially, and pseudo- or non-restorative.

## Chapter 4: Where From Here - Detailed Summary

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