

Human Dignity in Restorative Justice

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Introduction

Spirituality in restorative justice is an important concept that is rarely understood in criminal justice procedures. Religion and cultures influence how a society is structured and spirituality reflects how multipath perceptions in criminal justice, both in theory and practice. There exist interrelationships between and violence, and therefore, a look into religious traditions gives a good understanding of how reconciliation, healing and restoration may be implemented in multicultural societies. Ideally, to get a good view of the concept of spirituality in criminal justice, it is essential to look into religious teachings about crime and punishment to examine the strengths and weaknesses of restorative justice concerning its objectivity. The conventional criminal justice focuses on the application of the law to administer discipline and restoration against offenders. The offender is assumed to have committed a wrong against society and the individuals. The use of religious traditions in criminal justice, precisely in restorative justice, seeks to ensure the offender attains internal forgiveness.

Religious traditions are applied in criminal justice to focus on doctrines and beliefs which instructs human interactions and their obligations to God and the people. The Jewish religion is regulated by divine law “Torah,” which is documented in the first five books in the bible. According to Segal (2001), in the Jewish perspective, restorative justice is substantive and focuses on how life should be. Jews believe that their religious laws both written and oral originate from Mosaic laws which were directly communicated By God to Moses. As documented in the book of Exodus restorative justice in the Jewish perspective call for compensation by the offender. Segal (2001), says that “misappropriation or destruction of property requires the restoration of the stolen object or its equivalent value is a clear premise of biblical law.” Equal compensating in value and quantity finds wide application in conventional

restorative justice. However, a significant concern in this approach is how it addresses human dignity. As argued by Segal (2001), Jewish restorative justice often resulted in huge financial loss and physical pain which prevented the offender from full repentance. For example, “an eye for an eye” was wrongly framed because a person had to suffer for restorative justice to be attained. Since restitution was impeding repentance among the offenders, the law was amended calling for the victims not to accept restitution. This approach is in line with modern criminal justice procedures because, as noted by Segal (2001), “In the same spirit, the rabbis encouraged victims to forego their claims to restitution where that would facilitate the rehabilitation of the criminal.”

The Jewish tradition advocates for offender transformation to reduce the incidence of reoffending. Based on the Written Torah, particularly on the repayment of theft, a thief who could not repay the stolen property was sold to the victim. Most thieves stole out of economic hardships (Segal, 2001). Selling them to the victims was the restorative approach for eliminating future reoffending because the offenders are given employment. The primary objective of restorative justice is to transform offenders to former selves and prevent recidivism. In the Jewish perspective, offenders must be treated with dignity to ensure they attain full repentance and transformation. The offender sold to his master should be treated as servitude upon completion of the restoration period (Segal, 2001). Torah recognizes that slavery is inhumane and nobody should be subjected to slavery irrespective of their wrongdoings. "Thou shalt not compel him to serve as a slave" (Leviticus 25:39). Arguably, treating offenders with dignity allows them to repent, seek forgiveness and attain internal peace. Jewish traditions recognize punishment as a form of offender restoration but impose restrictions to ensure punishment is not applied in an inhumane manner. Corporal punishments tried to instill moral discipline

and deter potential offenders. Nevertheless, the need for fair and impartial application of punishment remains critical in the Jewish perspective. “If a person acts compassionately in a situation where cruelty is required, in the end, that person will act cruelly when compassion is required.” (Segal, 2001). Punishment thus must be imposed with moderation to avoid rebellion and unbearable suffering to the offender.

Buddhism traditions emphasize on non-violence and compassion, seeking to repair societal relationships destroyed by conflicts and crimes. Buddhist’s teachings focus more on collective and social wholeness rather than individuality in its approach to restorative justice. According to Pichler (2014) “the key principles underlying restorative practices include the focus on repair, participation, taking responsibility, the transformation of the root causes and social re-integration.” Buddhism advocates for non-legal approaches such as victim-offender mediation, community and family meetings to address conflicts and attain full restoration (Pichler, 2014). In the discourses of Buddhism traditions, handling conflicts collectively is useful in achieving healing and stressing on collective responsibility. Pichler (2014) suggests that humans are equal and should be treated with dignity in the therapeutic process. From this standpoint, Buddhism emphasizes participation, responsibility, repair and transformation in restorative justice. Both the victim and offender are affected emotionally by the crime and should be handled with compassion to achieve collective healing. Pichler (2014) says that unlike conventional criminal justice practices that focus on blame and guilt, Buddhist teachings emphasize offender-victim mediations to attain a win-win scenario and create mutual responsibility. This approach strengthens social interconnectedness and eliminates the causes of crime.

In Buddhism perspectives, mistakes are inevitable, and something must be done to make a right. As argued by Pichler (2014), in Buddhist understanding, punishment annuls evil but

when not moderated may be emotionally and socially destructive. The observance of human rights and human dignity in restorative justice is deeply embedded in Buddhism traditions. In the application of Karma and Restorative Justice (2014), believes that approach to restoration must be dignified to attain dignified outcome since “Like attracts like. Good begets good. Evil begets evil” (2014). Restoration seeks to achieve full transformation, an idea that is supported by Buddhist teachings. “There is no permanent, unchanging entity in anything animate or inanimate.” Offenders thus have the potential to change when the opportunity is granted. Human dignity is attained when the body and soul are at peace. From Buddhism standpoint, ending the suffering transforms the root causes of crime. As earlier argue, crime has emotional and psychological impacts on both offender and the victim and bot must be included in the resolution process. The wholeness created is what Buddhist teachings seek to address and device pathways to practical advice on developing wisdom, morality and concentration to eradicate suffering (2014). This gives the mediator tools to spearhead repentance on offenders and forgiveness from victims to successfully repair destructions done by the crime without unfair treatment of either party.

In conclusion, religion and criminal justice cannot be separated. The concept of spirituality in restorative justice focuses on the offender full transformation. Both Jewish and Buddhist tradition recognize the role of punishment in offenders restoration but believe that punishment should be imposed with moderate to annul evil and institute change. Importantly, people have responsibility to other people and therefore, conflict resolution is both personal and collective responsibility.

References

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