

**What is restorative justice?
Fresh answers to a vexed question**

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When confronted with the question [of] what RJ actually is, a frequent response [is] it 'means different things to different people' or 'all things to all people'. Van Ness and Strong (2010) state that 'it can seem that there are as many answers as people asked'. There is no clear-cut definition of what RJ is, not least because 'it is a complex idea, the meaning of which continues to evolve with new discoveries' (Van Ness and Strong 2010: 41) ... What has become clear, however, is that the outcomes achieved through restorative practices have indeed been very promising ones ... (Dünkel, Grzyna-Holten, Horsfield, and Păroşanu (2015: 177, 180).

Source: *European Research on Restorative Juvenile Justice, Volume 1, Research and Selection of the Most Effective Juvenile Restorative Justice Practices in Europe: Snapshots from 28 EU Member States*, edited by F. Dünkel, P. Horsfield, and A. Păroşanu (2015).

Introduction

- Paper reflects on recurring problem, 'What is restorative justice?'
- My voyage with RJ

First two points

1. Restorative justice is not a type of justice; it is a justice mechanism.
2. Retributive justice is not a type of justice, nor a justice mechanism.

To elaborate

The retributive-restorative justice couplet is a nonsense

- Retributive justice, as a type of justice, does not exist (should be called *conventional* criminal justice).
- Restorative justice, as a type of justice, does not exist (it cannot replace conventional criminal justice because it has no fact-finding mechanism).
- Couplet continues in domestic criminal justice and taken hold in transitional justice.

Different configurations of RJ

- Transitional justice: Tutu and Minow (the South African TRC); UN conventions (reparation separated from 'justice' in international law).
- Domestic criminal justice: 'Justice' re-defined as reparation by RJ advocates; the two are dissolved into one.

3. Restorative justice is one of many justice mechanisms under the innovative justice umbrella.

'Innovative justice' solved several problems:

- Conceptual expansion of RJ
- Feminist critiques of RJ

4. Fresh answers to a vexed question: what is restorative justice?

- RJ is a *contemporary justice mechanism*. It is a *meeting* of affected individuals, facilitated by neutral person, and guided by certain values or principles. Specific practices, purposes, and outcomes vary by context.

To clarify

- RJ is one of many innovative justice mechanisms.
- Conventional and innovative justice are not types of justice, but umbrella terms that refer to justice mechanisms, which reside on a continuum.
- Conventional and innovative justice mechanisms can be combined in one case.

Summing up

Problems of defining RJ stem from

- Its depiction as a *type of justice* in comparison (or opposition) to conventional criminal justice, which is wrongly called 'retributive justice'.
- Conceptual expansion to include all activities that are 'not punitive' in intent or have social justice aspirations.
- Selective take-up of RJ from domestic criminal justice to transitional justice settings.

To conclude

- RJ as a concept too large, aspirational, and not amenable to theoretical or empirical inquiry.
- If conceived as a *type of justice* or *ideal of justice*, RJ will languish and disappear.

- When RJ is defined as a *justice mechanism*, optimal activities and outcomes can be theorised and empirically assessed.
- Conceived as a justice mechanism used in different contexts, RJ has promise.
