

**Restorative Justice:
Directions and Principles –
Developments in Canada**

2002-02

By

**Robert B. Cormier
Department of the Solicitor General Canada**

This document is available in French. Ce rapport est disponible en français sous le titre : *La justice réparatrice : orientations et principes – évolution au Canada*

Also available on Solicitor General Canada's Internet Site <http://www.sgc.gc.ca>

Public Works and Government Services Canada, 2002
Cat No.: JS42-107/2002
ISBN: 0-662-66608-9

Author Note

This paper was presented at the Technical Assistance Workshop of the Programme Network of Institutes at the 11th Session of the Commission on Crime Prevention and Criminal Justice, held in Vienna from April 16 to 25, 2002, under the sponsorship of the International Centre for Criminal Law Reform and Criminal Justice Policy.

Table of Contents

Abstract.....	ii
Introduction.....	1
Restorative Justice in Canada	3
Canadian Research on Restorative Justice.....	8
Emerging Concerns.....	13
United Nations Basic Principles of Restorative Justice	14
Future Directions	16
References.....	17

Abstract

The purpose of this paper is to summarize the directions and developments in respect of restorative justice (RJ) in Canada as well as Canada's efforts in support of the adoption of international principles to guide policy and practice in this emerging field. The summary of RJ in Canada includes a brief account of its roots in Aboriginal cultures, faith communities and non-governmental organizations, the milestone events that led to an expansion of programmes during the 1990s, and an overview of recent activities that have promoted awareness, discussion and education in RJ across the country. The paper also provides a synopsis of the results of research on RJ in Canada, including evaluations of programmes, meta-analyses of the impacts of RJ, victims' perceptions of RJ and public attitudes towards RJ. The policy debate and expressed concerns about RJ are highlighted. This summary of developments and debate, which serves to illustrate the promise and pitfalls of RJ, is followed by an account of Canada's contribution to the elaboration of U.N. Basic Principles of Restorative Justice. The paper concludes with a call for further research to guide future policy and programme development.

Introduction

At the 10th U.N. Congress on the Prevention of Crime and the Treatment of Offenders in Vienna (April 2000), during the discussion of Item 6, Offenders and Victims: Accountability and Fairness in the Justice Process, one of the panelists, Paul Rock, observed that “offenders and victims” was “code” for restorative justice, and restorative justice was the current “big idea” in justice. Indeed, there has been an explosion of interest in restorative justice in recent years in many countries of the world, including Canada. This explosion has brought with it a great deal of excitement as well as uncertainty surrounding the application of restorative justice.

The purpose of this paper is to summarize the directions that restorative justice has taken in Canada, including developments that favour the adoption of international principles to guide policy and practice in this emerging field.

There is no single, universally accepted definition of restorative justice, although a central feature of any definition would include some notion of repairing the harm caused by crime and restoring the parties to a state of wellness or wholeness which was disturbed by the criminal act. A working definition might be the following:

Restorative justice is an approach to justice that focuses on repairing the harm caused by crime while holding the offender responsible for his or her actions, by providing an opportunity for the parties directly affected by a crime – victim(s), offender and community – to identify and address their needs in the aftermath of a crime, and seek a resolution that affords healing, reparation and reintegration, and prevents future harm.

When we say that restorative justice is an “approach” to justice, rather than a programme or set of programmes, we are speaking of the philosophy and values that underpin restorative justice. The values, as reflected in the above definition, include responsibility, inclusiveness, openness, trust, hope and healing.

Restorative justice is often defined by way of contrast with the mainstream, adversarial system of justice in Western countries (Zehr, 1990). For example, whereas crime in the mainstream system is defined as a violation of the state, restorative justice sees crime as harm done to victims and communities. Whereas the victim in the mainstream system is largely prevented from speaking about the real losses and needs resulting from the crime, in restorative justice the victim plays a central role in defining the harm and how it will be repaired. Whereas the mainstream system is operated and controlled by professionals, restorative justice allows the community to play an active role in holding offenders responsible, supporting victims and providing opportunities for offenders to make amends.

Because restorative justice is an “approach” to justice, it has a potentially broad application to the field of justice. It can be applied to prevent crime in the first instance in various contexts, for example, where mediation is used to resolve conflicts before they escalate to reach the threshold of criminal behaviour. Restorative justice has been applied in Canada at every stage of the criminal justice system from police diversion to the post-sentence (incarceration and parole) stage (Department of Justice, Canada, 2000; Latimer, Dowden and Muise, 2001). Although it has been applied more in cases of youth crime, it is also suitable for adults. Similarly, although it has been used more often to deal with less serious crimes, it can be applied in cases of serious crimes (Gustafson and Smidstra, 1989; Roberts, 1995), taking into account the more challenging interpersonal dynamics in these cases.

Restorative Justice in Canada

The starting point for a discussion of restorative justice in Canada is the roots of restorative justice in the cultures of Aboriginal peoples. Although it would not be appropriate to characterize models of justice and healing in Aboriginal communities as restorative justice – clearly, they have a much broader cultural scope – the principles that underlie traditional healing approaches are entirely consistent with the concept of restorative justice (LaPrairie, 1992; Roach, 2000). Accordingly, as these rich traditions have become more well known, they have influenced the development of restorative justice in the mainstream system, particularly evident in the innovation of sentencing circles (Stuart, 1996, 2001).

The beginning of the modern application of restorative justice in Canada is typically given as 1974 in Kitchener-Waterloo, Ontario where the Mennonite Central Committee (Church) introduced victim-offender mediation in the courts (Peachey, 1989). Non-governmental organizations and faith communities have continued to be at the forefront of innovations in restorative justice since that time (Pate, 1990; Church Council on Justice and Corrections, 1996). For example, the Church Council on Justice and Corrections, a national faith-based coalition of eleven founding Churches, has made restorative justice the focus of its work since it was established in 1974.

In 1988, the Parliamentary Standing Committee on Justice and Solicitor General conducted a review of sentencing, conditional release and related aspects of corrections, and published a report titled *Taking Responsibility*, commonly known as the Daubney Report (Canada, House of Commons, 1988). This far-ranging review included a focus on the needs of victims and restorative justice. The committee recommended that the government “support the expansion and evaluation throughout Canada of victim-offender reconciliation programs at all stages of the criminal justice process which: a) provide substantial support to victims through effective victim services; and b) encourage a high degree of participation” (p. 98). The report also recommended that the purposes of

sentencing be enacted in legislation, and that these include reparation of harm to the victim and the community and promoting a sense of responsibility in offenders. The purpose and principles of sentencing were introduced in the *Criminal Code of Canada* in 1996, and the stated objectives of sentencing include “to provide reparations for harm done to victims or to the community” and “to promote a sense of responsibility in offenders, and acknowledgement of the harm done to victims and to the community” [*Criminal Code*, Canada ss. 718 e) and f)].

In the 1990s, restorative justice gained significant momentum in Canada. The National Associations Active in Criminal Justice, an umbrella organization that brings together twenty non-governmental national organizations involved in criminal justice, published a discussion paper that highlighted restorative justice within a “social responsibility approach” to justice (National Associations Active in Criminal Justice, 1990). Consistent with the recommendations of the Daubney Report, there was an expansion of restorative justice programmes across Canada. The approach could be generally characterized as one of exploring ways of applying restorative justice processes to improve the existing criminal justice system. These restorative processes have been understood to be complementary to the mainstream criminal justice system (Department of Justice, Canada, 2000).

Restorative justice programmes have been categorized under three core models: victim-offender mediation, family group conferencing and circles (Department of Justice, Canada, 2000). Victim offender mediation, where the victim and the accused person are brought together with a trained mediator to discuss the crime and develop a resolution agreement, is commonly used as a post-charge alternative measure (Pate, 1990) but is also used post-sentence in serious cases (Roberts, 1995). The family group conferencing model, which originated in New Zealand based on Maori traditions and was later developed in Australia, engages the family in resolving conflicts involving youth. In 1995, the Royal Canadian Mounted Police adapted this model in a programme called Community Justice Forums that are designed to divert cases of less serious crime where the offender admits responsibility (Chatterjee, 1999). The model has since been applied

by other police forces in Canada including the Edmonton Police Services and the Ontario Provincial Police (Shaw and Jané, 1998). Circles are based on North American Aboriginal traditional practices and ceremonies where people sit in a circle and speak in turn to discuss and resolve an issue affecting the community. This model has been used in various forms including sentencing circles (Stuart, 1996), healing circles in the context of community corrections (Solicitor General Canada, 1997a), and community-assisted hearings by the National Parole Board for decisions regarding the conditional release of an offender from prison into the community (Vandoremalen, 1998).

The Federal/Provincial/Territorial Ministers Responsible for Justice endorsed a report titled *Corrections Population Growth* (Solicitor General Canada, 1996) which aimed to address the growth in the prison population in Canada at that time. One of the recommendations of the report was to increase the use of restorative justice and mediation approaches, and share information on the results of demonstration projects based on restorative principles. Jurisdictions reported on activities in response to this and the other recommendations in subsequent progress reports (Solicitor General Canada, 1997b, 1998, 2000). Most Canadian jurisdictions reported having introduced restorative justice policies and programmes.

A national conference on restorative justice, sponsored by the Canadian Criminal Justice Association and the International Centre for Criminal Law Reform and Criminal Justice Policy, was held in March 1997 in Vancouver, British Columbia (Scott, 1997). This conference brought together representatives of government departments and non-governmental organizations, criminal justice practitioners and researchers to explore the implementation of restorative justice initiatives and plan the further expansion of the field. The Vancouver conference was a watershed for restorative justice in Canada. It raised awareness of restorative justice and served as a catalyst for subsequent action in many locations across the country. For example, a major programme of restorative justice with youth in the Province of Nova Scotia was launched in the following year (Department of Justice, Nova Scotia, 1998).

A working group composed of senior officials from Federal, Provincial and Territorial governments was established following the Vancouver conference with a mandate to collaborate in the elaboration of policies for restorative justice, promote and disseminate research, and share information on developments in the various Canadian jurisdictions. In May 2000, the working group prepared a consultation paper titled *Restorative Justice in Canada* (Department of Justice, Canada, 2000). This paper provides an overview of the nature and philosophy of restorative justice and its applications, a brief synopsis of key developments in legislation, policy and programmes in Canada, and a list of consultation questions under five main headings. The consultation questions address the roles of government and community in restorative justice, the effects on victims, appropriate offences for restorative processes, accountability issues, and training and standards of practice.

Restorative justice has been a topic of discussion in Canada in many fora in recent years. The Church Council on Justice and Corrections published a compendium of restorative justice programs in 1996 (Church Council on Justice and Corrections, 1996). This document was instrumental in informing a broad audience about restorative justice initiatives in Canada and elsewhere. The Law Commission of Canada has published a discussion paper titled *From Restorative Justice to Transformative Justice* (Law Commission of Canada, 1999) in order to stimulate a broad debate about how conflicts in society are framed, assumptions concerning the parties to a conflict, and how remedial outcomes are achieved. A video titled *Communities and the Challenge of Conflict: Perspectives on Restorative Justice* (Law Commission of Canada, 2000) has also been produced and disseminated by the Law Commission of Canada. The video describes restorative justice initiatives in Canada and captures the views of various practitioners and informed commentators on key issues surrounding restorative justice. A recent issue of the Canadian Journal of Criminology (July 2000) was devoted to restorative justice.

The Royal Canadian Mounted Police held a symposium, *Achieving Justice with the Community in Canada: Restorative Justice – the Role of Police*, in March 2000 (Chatterjee, 2000). The symposium brought together a wide range of practitioners from

across Canada and invited speakers from abroad to discuss issues in restorative justice with a particular focus on the contribution of the police. Conflict Network Resolution Canada, a non-governmental organization that focuses on the resolution of conflict in all spheres of life, is undertaking a consultation on restorative justice among a wide range of governmental and non-governmental stakeholders, using the draft basic principles produced by the U.N. Experts' Meeting on Restorative Justice held in Ottawa, October 29 to November 1, 2001, as the focal point for the consultation.

The Correctional Service of Canada initiated a restorative justice week that has been held annually in November since 1996. During the week a number of activities are held in various communities across the country to showcase and celebrate work in the field of restorative justice. A wide range of partners from governments, the non-governmental sector and faith communities participate in restorative justice week. Each year, a theme is chosen in order to highlight a perspective on restorative justice and is supported by the publication of resource kits. For example, in 2001, the theme was "Giving Voice to Hope."

There has also been a substantial growth in interest in restorative justice in universities, colleges and institutes across Canada. A compendium of restorative justice and conflict resolution education programmes offered by universities, colleges and other post-secondary or community-based institutions has been published (Correctional Service Canada, 2001). While not purporting to be an exhaustive list of such programmes, it contains thirty-nine entries.

In the absence of an agreed-upon definition of restorative justice it is difficult to produce a definitive inventory of restorative justice programmes in Canada. In addition, since some of these programmes are initiated informally at the community level they are not easily identified when doing a compilation. Notwithstanding these challenges, an inventory of events and initiatives related to restorative justice was produced

(Correctional Service of Canada, 1998), and a *Canadian Directory of Restorative Justice Programs* is posted at the Web site of Conflict Resolution Network Canada (www.crnnetwork.ca).

Canadian Research on Restorative Justice

Various goals have been articulated for different restorative justice programmes. These have included: to better meet the needs of victims; engage communities in the justice process; rehabilitate/reintegrate the offender; reduce recidivism; serve as an alternative to incarceration while providing meaningful consequences and obligations; increase public confidence in the justice system; reduce pressure on the criminal justice system and lower costs by diverting cases. Of course, whether these goals are met in particular programmes is an empirical question, and there is a broad recognition among policy makers and practitioners of the need for ongoing evaluation of programmes.

Notwithstanding the recognition of the importance of research and evaluation, there have been relatively few formal evaluations of restorative justice programmes in Canada. An evaluation was done of the court-based victim offender mediation programmes (VOMP) in four Canadian cities (Umbreit, Coates, Kalanj, Lipkin, and Petros, 1995). These researchers found that victims and offenders who participated in mediation were more likely to be satisfied with the manner in which the justice system responded to their case than offenders and victims who were referred to but never participated in mediation. Satisfaction with the outcome of the mediation was very high among victims (89%) and offenders (91%).

An evaluation of a court-based VOMP in another Canadian city examined the process and outcomes for completed mediation cases but did not include interviews with the victims and the offenders (Nuffield, 1997). Nuffield found that many of the offences which led to a referral to mediation were minor, involving little or no injury and small material losses, and were described by prosecutors as “petty crimes” that should not take up court time. About half of the mediated agreements reviewed in the study called for

restitution to the victim. Victims who had suffered material losses were more than four times as likely to receive restitution through the mediation process than those victims whose cases proceeded to the court. Comparisons of the outcomes for the offenders who participated in mediation with a group of offenders who were referred but did not go through mediation showed no difference in recidivism rates, although the author noted that the mediation group consisted of higher risk offenders (i.e., a larger proportion had a prior record).

The application of a VOMP post-sentence in cases of serious crime, such as aggravated sexual assault, murder and armed robbery has been the subject of a preliminary evaluation (Roberts, 1995). This programme involved extensive screening and therapeutic preparation before a face-to-face meeting was arranged. Interviews were conducted with victims and offenders who participated in the VOMP as well as practitioners who were involved in the programme. The major finding of the study was that there was strong support for the programme from all the victim and offender respondents. Specifically, participants appreciated the “reality of the experience”, the flexibility and absence of pressure, and the caring, supportive staff. The results also showed that the motivation for victims’ participation was twofold: to know about the offence and why it took place and to communicate about the impacts, whereas the motivation for offenders was most often that it was the right thing to do, both for themselves and for the victim. A very high percentage (91%) of the criminal justice practitioner respondents indicated strong support for the programme (Roberts, 1995).

The Community Justice Forums that are operated by the Royal Canadian Mounted Police have been the subject of a preliminary evaluation (Chatterjee, 1999). The results of this evaluation showed high levels of satisfaction with Community Justice Forums among offenders, victims and facilitators. The participants in this study indicated high levels of satisfaction overall as well as with the procedures of the forum and the fairness of the outcome (Chatterjee, 1999).

Bonta, Boyle, Motiuk and Sonnichsen (1983) conducted a study of a programme that involved offenders being released from prison to community resource centres (CRCs) or halfway houses in order to make restitution to their victims. The study found generally positive attitudes towards restitution among victims, with the level of satisfaction related to the amount of money repaid to the victim. Comparison of the recidivism of the group of offenders who had restitution agreements with those who were sent to CRCs without the requirement to pay restitution was complicated by the fact that the restitution offenders constituted a higher risk group at the outset (i.e., younger with more extensive criminal histories). Despite the expectation that the restitution group would have a higher recidivism based on their risk level, the restitution offenders were no more likely to be reincarcerated than the comparison group. Another interesting finding of this study was that the more that the offender repaid the more likely he was to successfully complete his CRC placement.

A programme called Restorative Resolutions was introduced by the John Howard Society of Manitoba to provide a community-based alternative sentencing plan to the court, with input from victims, for offenders who were otherwise likely to be incarcerated. The evaluation showed that victim-offender meetings occurred in a relatively small percentage (i.e., 10%) of cases but there were higher percentages of written apologies (24%), restitution (56%), victim impact statements (79%), and community service (96%) (Bonta, Wallace-Capretta and Rooney, 1998). The results of the evaluation also indicated that the offenders who participated in the programme, which included treatment to address the identified needs of the offenders as well the restorative component, had a lower recidivism rate than matched groups of probationers and inmates.

The Community Holistic Circle Healing (CHCH) Process in Hollow Water First Nation has been evaluated (Couture, Parker, Couture and Laboucane, 2001). The CHCH process, which is founded on Aboriginal teachings and traditions, addresses sexual abuse in an holistic manner involving victims, victimizers (offenders) and their respective families and community. The process, which continues to evolve, involves 13 steps that

begin with disclosure by the victimizer or the victim and ensuring safety and support for the victim, followed by circles with the victim and the victimizer and preparatory meetings with their families, leading to a special gathering/healing circle and ending with a cleansing ceremony. The underlying concept for the process is “healing as a return to balance” (Solicitor General Canada, 1997a, p. 128). Offenders in the community who have been charged (in most cases with a sexual offence), plead guilty and choose to enter the programme, are sentenced to probation with a condition that they participate in the CHCH process. The evaluation included interviews with community members and practitioners involved in the CHCH process, cost comparisons between CHCH and processing through the mainstream justice system, and an analysis of re-offending. The results of the interviews revealed that the respondents attributed significant improvements in the health and wellness of their community to the CHCH process, including an increased sense of safety, improved parenting, children staying in school longer, young people returning to the community to teach, and a reduction in the requirement for substance abuse treatment. A comparison of the resources spent on the CHCH process with the avoided costs of processing these cases through the mainstream justice system and housing these offenders in penitentiaries showed significant savings. The evaluation also found that only 2 of the 107 offenders who had participated in the programme over a period of ten years subsequently re-offended, which is a lower rate of recidivism than generally reported for sex offenders (Hanson, 2001).

Bonta, Wallace-Capretta and Rooney (1998) conducted a meta-analysis, i.e., a quantitative synthesis, of the impact of restorative justice programmes on recidivism. They found 14 evaluations reported in the literature that met their two basic criteria, i.e., the presence of a comparison group and sufficient information to calculate a common statistic or effect size to measure the strength of the relationship between the restorative justice intervention and recidivism. These studies provided 20 effect sizes for the meta-analysis. The overall finding was a reduction of 8% in recidivism attributable to the restorative justice intervention, although the authors noted that some studies reported large decrease while others found *increases* in recidivism. In addition, the authors

commented on the methodological weaknesses in the studies, notably the absence of random assignment and the limited use of matched comparison groups.

A more recent meta-analysis examined the impact of restorative justice programmes on four outcome measures of interest: victim satisfaction, offender satisfaction, restitution compliance, and recidivism (Latimer, Dowden and Muise, 2001). The authors reported on the results of 22 studies that examined the impact of 35 restorative justice programmes, yielding a total of 66 effect sizes for the four outcomes. The results showed a significant positive impact of restorative justice programmes on victim satisfaction. Analysis of the impact of restorative justice programmes on offender satisfaction showed no effect; however, as the authors noted, the results were skewed by the findings of one study. Participation in restorative justice programmes had a significant impact on the likelihood of completing a restitution agreement. With regards to recidivism, the results of the meta-analysis showed a reduction of 7% due to restorative justice intervention – similar to the results of the earlier analysis reported by Bonta, Wallace-Capretta and Rooney (1998).

Wemmers and Canuto (2001) have provided a critical review of the literature on victims' experience with and perceptions of restorative justice. They concluded that the research shows that most victims who participate in restorative justice programmes are satisfied with the experience but there is no clear evidence that participation in such programmes enhances satisfaction relative to the traditional justice system. Further, they found that most victims who participate in restorative justice programmes feel that they benefit from them and meeting with the offender can assist in addressing some of the victim's emotional needs. They also noted that there has been little research on the experiences of victims who choose not to participate in restorative justice programmes.

Research has also been conducted in Canada on public attitudes towards restorative justice, and survey results have shown favourable attitudes (Galaway 1994, reported in Shaw and Jané, 1998; Doob, 2000). For example, Doob (2000) found that when respondents were given a scenario describing a family group conference in the case

of an offender who stole from a store, 65% indicated that it would be appropriate to handle it that way rather than in court if the offender were an adult, and 75% in the case of a young offender. In his survey research, Doob also found that 55% of adults in Ontario were “very interested” or “somewhat interested” in becoming involved in structures outside the formal justice system that are reparative in nature.

Emerging Concerns

While the search for empirical support continues, the debate on restorative justice is unfolding on various fronts. Although restorative justice holds promise to deliver a more healing and satisfying justice, there have been concerns expressed about restorative justice, particularly from victims and victims’ advocates (Canada, House of Commons, 1998). There are concerns that restorative justice programmes will be used inappropriately, and will fail to denounce and deter serious crime. Another concern is that restorative justice programmes are dominated by non-governmental organizations with a primary mandate to assist offenders in their rehabilitation and reintegration, and that the perspective of victims has not been adequately taken into account in the design and implementation of these programmes. In particular, there are concerns about the *ad hoc* approach to restorative justice programmes and the absence of guidelines, especially in relation to victim participation, power imbalances, serious crimes and the training of facilitators. Victims are concerned that there is a lack of services to victims currently within the mainstream system and that basic services to victims will be sacrificed in order to fund restorative justice programmes. Victims advocates have expressed an interest in participating in the process of setting the criteria and parameters for restorative justice programmes (Simmonds, 2000). Quite apart from the concerns of victims, there are also concerns that in the zeal to encourage offenders to participate in restorative justice programs their rights may be compromised (Brown, 1994).

Other concerns have emerged from academics, particularly those focusing on sentencing. Roberts (2002) has argued that restorative justice may undermine the other principles of sentencing. He noted that the criminal law is an instrument of last resort,

and using the criminal law to “do good” runs the risk of widening the reach of the criminal law beyond its intended use. Restorative justice, with its focus on repairing harm in an individualized manner, may also undermine the proportionality principle, i.e., that the severity of punishments should reflect the seriousness of the crime, as well as the principle of equity in treatment. Roberts cautioned that the public will reject sentences with restorative aims that are not sufficiently punitive in cases of serious crimes.

United Nations Basic Principles of Restorative Justice

Against this backdrop of development and debate, Canada has been active in international efforts at the U.N. aimed at establishing U.N. basic principles of restorative justice that would serve to guide policy and practice in this emerging field. In introducing the resolution on basic principles for the use of restorative justice programmes in criminal matters at the ninth session of the Commission on Crime Prevention and Criminal Justice in April 2000, Canada outlined the rationale underlying this initiative. First, it was noted that the resolution continued the work begun by the Commission the previous year with the adoption of a resolution recommending that the Commission consider the desirability of formulating standards in the field of mediation and restorative justice. It also built on the results of the discussion on Item 6 (Offenders and Victims: Accountability and Fairness in the Justice Process) at the 10th U.N. Congress on the Prevention of Crime and the Treatment of Offenders, which concluded that there was consensus on the promise of restorative justice as well as caution regarding the need to safeguard the rights and interests of victims in the implementation of restorative justice programmes. These two conclusions from the Congress discussion on Item 6, i.e., that restorative justice offers promise in our collective efforts to reduce levels of conflict and promote healing, and the concerns about the possible improper implementation of restorative justice programmes, point clearly to the need to develop basic principles to ensure that the rights and interests of all parties are respected.

The purpose of the resolution was to initiate a process that could lead to the adoption of basic principles at a future session of the Commission. These basic

principles would not be prescriptive or normative but rather would provide a framework to guide the development and implementation of restorative justice in Member States. The resolution, which was subsequently passed by the Economic and Social Council as Resolution 2000/14, requested the Secretary General to seek comments from Member States and relevant intergovernmental and non-governmental organizations, as well as institutes of the United Nations Crime Prevention and Criminal Justice Network. Interested parties were to be asked for their views on the desirability and the means of establishing common principles on the use of restorative justice programmes in criminal matters and the advisability of developing a new instrument for this purpose. The resolution also requested that a meeting of experts be convened to review the comments received and to examine proposals for further action in relation to restorative justice.

Canada hosted the meeting of experts on restorative justice in Ottawa, from October 29 to November 1, 2001. There was general agreement among the group of experts that it was desirable to establish an instrument on basic principles of restorative justice. Building from a set of preliminary draft elements of basic principles on the use of restorative justice programmes in criminal matters that was annexed to the resolution (ECOSOC 2000/14), the group of experts produced on consensus a set of “revised draft elements of a declaration of basic principles on the use of restorative justice programmes in criminal matters.” This revised draft includes a preamble that encapsulates the roots, philosophy, goals and flexible application of restorative justice. In the report on the meeting, the group of experts recommended that the revised draft elements be considered and approved by the Commission on Crime Prevention and Criminal Justice and other United Nations policy-making bodies. The group of experts also made other recommendations pertaining to further research, information sharing among Member States, technical assistance and the dissemination of the basic principles. A resolution, titled *Basic principles on restorative justice*, has been drafted and will be tabled at the 11th Session of the Commission. The intention of the resolution is to bring forward the recommendations of the group of experts, including the approval and adoption of basic principles for the use of restorative justice programmes in criminal matters to guide the development and implementation of restorative justice programmes in Member States.

Future Directions

With the adoption of U.N. basic principles, the issues facing restorative justice will not evaporate. Finding a place for healing in a system that is fundamentally punitive will continue to challenge policy makers and practitioners. There will continue to be concerns regarding the application of restorative justice. Nevertheless, internationally accepted principles will assist by providing guidance that, if followed, will help to prevent the misinformed and inappropriate activities that may be undertaken under the rubric of restorative justice but do not conform to its philosophy and values.

The first task will be to promulgate the basic principles, and seek an understanding and broad-based commitment to them. As with any set of principles, their application in specific circumstances is the crucial piece. No doubt, there will be debates regarding their interpretation. Ideally, the principles will serve as a focal point for discussion and examination of issues that will contribute to the growth of restorative justice.

The second task, and perhaps the key to the future of restorative justice, is further research and evaluation of programmes. Restorative justice has a very compelling philosophical basis. It is rooted in fundamental values of respect for human dignity, honesty, openness, responsibility, caring and healing of relationships. Yet, questions regarding whether it works, and how it works, abound. We have barely scratched the surface in the research to date on restorative justice and have just begun to conceptualize the research questions in this field (Nuffield, 1997; Presser and Van Voorhis, 2002). Clearly, restorative justice needs a stronger theoretical and empirical basis if it is to be sustained. Part V of the proposed basic principles addresses the continuing development of restorative justice programmes and concludes with the sentence: “The results of research and evaluation should guide further policy and programme development.” To those who subscribe to evidence-based policy this is a call to action. The future of restorative justice depends on it.

References

- Bonta, J.L., Boyle, L., Motiuk, L.L., and Sonnichsen (1983). Restitution in correctional halfway houses: Victim satisfaction, attitudes, and recidivism. *Canadian Journal of Criminology*, **20**, 140-152.
- Bonta, J., Wallace-Capretta, S. and Rooney, J. (1998). *Restorative Justice: An Evaluation of the Restorative Resolutions Project*. Ottawa: Solicitor General Canada.
- Brown, J.G. (1994). The use of mediation to resolve criminal cases: A procedural critique. *Emory Law Journal*, **43**, 1247-1309.
- Canada, House of Commons (1988). *Taking Responsibility: Report of the Standing Committee on Justice and Solicitor General on its Review of Sentencing, Conditional Release and Related Aspects of Corrections*. Ottawa: Supply and Services Canada.
- Canada, House of Commons (1998). *Victims Rights – A Voice not a Veto: Report of the Standing Committee on Justice and Human Rights*. Ottawa: Public Works and Government Services, Canada.
- Canada, Law Commission of Canada (1999). *From Restorative Justice to Transformative Justice: Discussion Paper*. Ottawa.
- Canada, Law Commission of Canada (2000). *Communities and the Challenge of Conflict: Perspectives on Restorative Justice*. (Video) Ottawa.
- Chatterjee, J. (1999). *A Report on the Evaluation of RCMP Restorative Justice Initiative: Community Justice Forum as Seen by Participants*. Ottawa: Royal Canadian Mounted Police.
- Chatterjee, J (Ed.) (2000). *Proceedings of Achieving Justice with the Community in Canada: Restorative Justice – the Role of Police, a Symposium Sponsored by the Royal Canadian Mounted Police*. Ottawa, March 24-26, 2000.
- Church Council on Justice and Corrections (1996). *Satisfying Justice: A Compendium of Initiatives, Programs and Legislative Measures*. Ottawa.
- Correctional Service Canada (2001). *Canadian Resource Guide to Restorative Justice and Conflict Resolution Education Programs*. Ottawa.
- Correctional Service Canada (1998) *Inventory of Canadian Events and Initiatives Related to Restorative Justice*. Ottawa.

- Couture, J., Parker, T., Couture, R. and Laboucane, P. (2001). *A Cost-Benefit Analysis of Hollow Water's Community Holistic Circle Healing Process*. Ottawa: Solicitor General Canada, Aboriginal Corrections Policy Unit.
- Department of Justice, Canada (2000). *Restorative Justice in Canada: A Consultation Paper*. Ottawa.
- Department of Justice, Nova Scotia (1998) *Restorative Justice – A program for Nova Scotia*. Halifax, NS.
- Doob, A.N. (2000). Transforming the punishment environment: Understanding public views of what should be accomplished at sentencing. *Canadian Journal of Criminology*, **42**, 323-340.
- Gustafson, D.L. and Smidstra, H. (1989). *Victim Offender Reconciliation in Serious Crime: A Report on the Feasibility Study Undertaken for the Ministry of the Solicitor General*. Ottawa: Solicitor General Canada.
- Hanson, R.K. (2001). *Age and Sexual Recidivism : A Comparison of Rapists and Child Molesters*. Ottawa: Solicitor General Canada.
- LaPrairie, C. (1992) Aboriginal crime and justice: Explaining the present, exploring the future. *Canadian Journal of Criminology*, **34**, 281-297.
- Latimer, J., Dowden, C., and Muise, D. (2001). *The Effectiveness of Restorative Justice Practices: A Meta-Analysis*. Ottawa: Department of Justice, Canada.
- National Associations Active in Criminal Justice (1990). *Making Justice Real: Social Responsibility in Criminal Justice*. Ottawa.
- Nuffield, J. (1997) *Evaluation of the Adult Victim-Offender Mediation Program, Saskatoon Community Mediation Services*. Regina, Saskatchewan: Department of Justice, Saskatchewan.
- Pate, K. (1990) Victim-young offender reconciliation as alternative measures programs in Canada. In B. Galaway & J. Hudson (Eds.), *Criminal Justice, Restitution, and Reconciliation* (pp. 135-144). Monsey, NY: Criminal Justice Press.
- Peachey, D.E. (1989). The Kitchener experiment. In M. Wright and B. Galaway (Eds.), *Mediation and criminal justice: Victims, offenders and community* (pp. 14-26). Newbury Park, CA: Sage.
- Presser, L. and Van Voorhis, P. (2002) Values and evaluation: Assessing processes and outcomes of restorative justice programs. *Crime & Delinquency*, **48**, 162-188.

- Roach, K. (2000). Changing punishment at the turn of the century: Restorative justice on the rise. *Canadian Journal of Criminology*, **42**, 249-280.
- Roberts, J.V. (2002). Restorative justice: Some Caveats. *Justice Report (Canadian Criminal Justice Association)*, **17**, 1-3.
- Roberts, T. (1995) *Evaluation of the Victim-Offender Mediation Project, Langley, B.C.* Ottawa: Solicitor General Canada.
- Scott, James (Ed.) (1997). *Achieving Satisfying Justice: A symposium on Implementing Restorative Justice Models*. Vancouver, BC: Canadian Criminal Justice Association, March 20-23, 1997.
- Shaw, M. and Jané, F. (1998) *Restorative Justice and Policing in Canada: Bringing the Community into Focus*. Ottawa: Royal Canadian Mounted Police.
- Simmonds, C. (2000). Victims and “restorative justice”: Are victims re-victimized? *The Caveat Report (Canadians Against Violence)* Langley, BC.
- Solicitor General Canada (1996) *Corrections Population Growth: Report of the Federal/Provincial/Territorial Ministers Responsible for Justice*. Ottawa.
- Solicitor General Canada (1997a) *The Four Circles of Hollow Water*. Ottawa: Aboriginal Corrections Policy Unit.
- Solicitor General Canada (1997b) *Corrections Population Growth: First Report on Progress for the Federal/Provincial/Territorial Ministers Responsible for Justice*. Ottawa.
- Solicitor General Canada (1998) *Corrections Population Growth: Second Progress Report for the Federal/Provincial/Territorial Ministers Responsible for Justice*. Ottawa.
- Solicitor General Canada (2000) *Corrections Population Report: Fourth Edition for the Federal/Provincial/Territorial Ministers Responsible for Justice*. Ottawa.
- Stuart, B. (1996) Circle sentencing in Canada: A partnership of the community and the criminal justice system. *International Journal of Comparative and Applied Criminal Justice*, **20**, 291-309.
- Stuart, B. (2001) Guiding principles for peacemaking circles. In G. Bazemore & M. Schiff (Eds.), *Restorative Community Justice: Repairing Harm and Transforming Communities* (pp. 219-241), Cincinnati, OH: Anderson.

Umbreit, M.S., Coates, R.B., Kalanj, B., Lipkin, R., and Petros, G. (1995) *Mediation of Criminal Conflict: An Assessment of Programs in Four Canadian Provinces*. Center for Restorative Justice and Mediation, University of Minnesota, St.Paul, MN.

Vandoremalen, J. (1998) Pushing the envelope of human rights through innovation and creativity in Aboriginal corrections. *Let's Talk (Correctional Services Canada)*, **23**, 18-19.

Wemmers, J. and Canuto, M. (2001). *Victims' experiences with, expectations and perceptions of restorative justice: A critical review of the literature*. Ottawa: Policy Centre for Victims Issues, Department of Justice, Canada.

Zehr, H. (1990). *Changing Lenses*. Scottdale, PA: Herald Press.